

Killing Murray Darling

By Seth Robinson and Anna Kosovac

Red dirt kicked up from the tyres of Claire's rental as she pulled up to the boat ramp. Maps had seemed sure enough, and the e-mail had mentioned the boat ramp, but there was no-one waiting. All around was the same semi-desert scrub she'd driven through for the last four hours, and a line of trees that hid the river. The sky was a clear, deep azure, so dense in its colour it seemed like one huge, crushing block. It was all so expansive, the land, the sky, the river, it stretched in a way that made it seem like this was all there had ever been. Western New South Wales had spread, a red and green patchwork rash, and now it was the world.

She popped the car door, letting the last vestiges of air-conditioning out. The heat and the smell hit her at the same time, a punch to the face that got her sinuses spasming from nostril to throat.

Her first instinct was to breathe through her mouth, but it was so thick on the air she could taste it, like petrol station sushi left out on a barbeque, fish and plastic melted into a smoking, cancerous glob. It wasn't something a body or brain should have to adapt to. But with every breath, it got a little better. She managed to hold the vomit down. And soon, she pulled herself together, and then out of the car.

Claire knew what she'd see. A smell like that, it didn't take a biologist. The bodies of perch coated the surface of the water. Eyes

bulging, bellies ballooned, platelets forming a clot that stretched from shore to shore, clogging the artery of the river.

She walked down the boat ramp, until she was amongst the fish. They'd been washed up onto the shore, almost to the tree line, how she was unsure, because now there was an uncanny stillness that reinforced the horror. The flotilla was so expansive—the same scope of the land or sky—that it was immovable, set in defiance of the current.

She scanned the banks, wondering if her source was here to meet her, or if they'd just wanted her to bear witness.

Water slapped against the stiff, gleaming leather of her fresh-from-the-box boots and she heard bubbles. The bodies had been forced apart by what looked like a single spa jet, churning up the grey-green, deoxygenated water.

* * *

Claire,

Good to hear from you. Thanks for the pitch. Must admit I'm a little surprised. The fish kills have been covered. If you want to run something new on it, we'd need a new angle. We could maybe slot it in as a human-interest piece? Are there any farmers around you could interview? Is it affecting tourism?

As it is, I don't think the story's got any 'fins', sorry.

You come up with anything else, let me know.

GG.

* * *

Claire drummed her fingers on the trackpad. It was the fifth such e-mail she'd gotten. Graham Gardener was supposed to be a fucking environmental editor, one of the few left in the business. If he wasn't going to bite, she had no idea how to place this thing.

She felt an immediate surge of self-loathing. The pun was almost as bad as GG's 'fins' joke. That was bad writing, on all fronts. Lazy.

But that was the thing: letters, words, language. They were too small, and too big, all at the same time. She hacked at her keyboard and watched the curser skate across the page, leaving behind a trail of serifed squiggles that held no more meaning to her than the pattern of a dead perch's scales or the veins of a eucalyptus leaf.

She closed the document and opened her e-mail. She went through her contacts list again, and then when she was sure she was going to get no further than the giant, cyber wall of colonial incomprehension, she pulled out her phone and opened YouTube. As she watched the upload bar tick over from 1 to 2 per cent, she felt a tidal certainty swell in her.

* * *

Murray Darling – First Meeting

@ClaireHaur

1,017 Subscribers

197,298 Views 18 hours ago

903 comments

@EmmaLGilmour91

The FISH!!!! why are we like this?! We need to take better care of our ecosystems!

@ChocoLonelyboy
wtf is this? Hoax right?

@LadBr0ke
woke joke

@ElloLawrasaur5
What's that coming out of the water...??

@Seeeaaannnn
Me see sashimi

@Cavoodleism
Is there seriously someone swimming in there? This is how the next pandemic starts.

@AVivA333
The planet is going to out survive us all. Climate change is just a way for us to kill ourselves. Like we're all smoking a pack-a-day. Maybe it decided to start fighting back sooner rather than later.

@joe8756
Bro here sounds like hes been vapiin hard. Got the lung plug.

@SnopeEntropy
This is some creature from the black lagoon shit. Seen better though. There a chupacabra clip from 2010 – fuckin realest.

@ghilthuy22573901
So thankful so giving back 5k to first 5 ppl comment me 'blessed'

* * *

Claire's phone buzzed on the night stand, dancing dangerously close to the edge of the laminate and a tumble into the wastepaper basket. Blue-white light flashed, illuminating the wallpaper peonies. Calls, texts, e-mails. Every journo and editor from Melbourne to Alice Springs suddenly wanted to get in touch with her. Ninety per cent of them were calling to see why she was throwing her career away with some B-grade horror movie hoax.

But the other ten per cent were interested. For real. They were the ones who knew the difference between bullshit and real shit, who weren't too cynical to realise there was something here. And even if they were the only ones who turned up, ten per cent of everyone was still a good chunk.

* * *

Claire,

Saw your video. I've called in some favours and got a TV crew on the way from Adelaide. Write your story. Can you give us an exclusive? Have you done on-air before?

Call me when you get this,

GG.

* * *

The first news teams beat the sunrise. Their drive time had still only numbered in the single digits. Any of the major talent coming from Sydney or Melbourne wouldn't make it until close to lunch.

Vans multiplied in the motel parking lot, looking to grab rooms and set up a base of operations before it all booked out. They'd need somewhere to file from later. Claire was quietly anticipating the screams of frustration when they realised how bad the wi-fi was.

She opened GG's e-mail and tapped out her reply, attaching her first piece and sending it before the network got too jammed up. Once the video had been out there, the words had begun to make sense again. She'd needed other people to have seen it, to have that context. The scope of the thing had been so big before, it had been nearly unseeable, a 'forest for the trees' situation. Only in this metaphor, she supposed, she was standing on high ground, while at the edges of the forest there was flooding, and fire, and land clearing, and strip mining, and fucking acid rain, all going unnoticed. Now, everyone had seen the video, and, if she might allow herself another lazy analogy they hadn't just heard the trees falling, they'd seen it. In fact, they may have just avoided it falling on their heads.

She stopped briefly by the town's only café for a too-hot coffee and a still-thawing blueberry muffin. A woman with straw hair and a lifetime tan squinted at her suspiciously through the takeaway window.

'You all journos? What're you doing out here?'

'Fish kills,' Claire said. She didn't think she had time to cut this long a story short.

'Right. 'Bout bloody time. Somebody gonna clean it up?'

Claire shrugged and took her scalding coffee as another news van passed on its way to the boat ramp.

A gang of blue and grey suited journalists had set up in the fast-shrinking strip of shade by the tree line, hoping to make their breakfast news crosses before the glare grew too intense and they sweated through their polyester blends. As she watched, a reporter, his hair both luminous and voluminous with equal parts hair gel and sweat, made an effort to relax his face, pretending there was no rancid fish smell as he rehearsed his monologue.

'The tragic sight of fish kills has become a—' he broke off mid-sentence, clearing his throat and blotting his brow. 'Christ on a

bike. Can we get an icepack or something? I'll stick it down my bloody jocks.'

Claire didn't stay to hear the answer. A titter of sound had gone up at the top of the boat ramp. She wriggled through the crowd, all of whom were jockeying to line up the best shot. Something hard connected with her back, knocking her off balance in the same moment her heel hit something slick on the concrete.

Claire went down, taking a one of the local(ish) affiliates with her. The woman screamed as she slid down the ramp, the innards of heat-burst perch lubing it up like a Slip 'N Slide. She and Claire splashed into the shallows together. Claire miraculously, kept her hand up and her iPhone raised, so for the second day in a row, she had the best shot of Murray Darling.

The water roiled, the fish on its surface shifting and shimmering, each body a scale on the skin of something much larger. Water surged up the boat ramp as a huge bubble—like the body of breaching whale—rose at the end of the ramp.

And then they saw the face. First, there were eye sockets, as if it were peering at them from over the surface of the water, before rising higher, a nose and a mouth emerging for breath, the face itself ten metres high.

It was solid water, but it wasn't pure. It swirled with mud, and weeds, and the bodies of fish, so even though the face was human in shape, there was no denying the state of the river that had formed it. It was a nightmare visage, now being broadcast live, across the country, and the world.

When the mouth opened and the words emerged, Claire knew what they'd sound like—she'd spoken to the river yesterday—but even still, their voice made something primal inside her quake. It was the

sloshing, gargling sound she thought a man might make drowning, only the river was choking on something else entirely.

‘We need to talk.’

* * *

The scene cuts from the river to the studio, where a pair of news-readers sit at the desk, eyes wide, smiles tight. The lead anchor has missed his cue. When his co-reader speaks, the words come too fast as she hurries to catch up and fill the dead air.

‘Incredible footage, coming to us live from the town of Menindee, where we have reports of some kind of strange weather phenomenon. To find out more, we cross to Jacob Mulvey. Jacob, tell us, has there been any explanation given to the footage we’re seeing this morning?’

Jacob Mulvey, hair still voluminous, but now shiny with a coat of sweat that can’t be ignored, stares down the barrel of the camera like a roo down a scope. He opens his mouth, stammers something about dead fish and giant faces, then a silver Camry pulls up in the background. A man gets out, his white collared shirt already patchy with sweat, and walks up to Mulvey. Live on air, he hands him a yellow envelope and flashes a smile for the benefit of the camera.

‘Saved me a trick here, thanks mate. You’ve been served.’

In the background, another car arrives, and a man on a motorbike. They all seek out journalists, handing them the same yellow envelopes. At the same time, papers arrive in the studio. They land on editor Graham Gardener’s desk, and in every newsroom of every network. Later, they’ll say it was the single largest co-ordinated effort of process servers on record.

* * *

IN THE FEDERAL COURT OF AUSTRALIA

No. Proceeding no.

BETWEEN – Murray Darling – and The Australian Media (all networks and agencies)

SUMMONS

Date of Document: 12 August, 2024

Solicitors Code: [REDACTED]

Filed on behalf of: [REDACTED]

Prepared by: [REDACTED]

[REDACTED], you are summoned to attend before the Court on the hearing of an application by the plaintiff for accessory to attempted murder resulting in ecocide. The application will be heard by the Federal Court, on Monday, 30 September at 10 a.m. or so soon afterwards as the business of the Court allows. This summons was filed by Lucas Ford of Wade, Ford and Waterson, solicitor for the plaintiff.

* * *

The media scrum at the bottom of the courthouse steps surged with an unprecedented violence. No-one was sure who was supposed to be out there, and who was supposed to be inside. Cameras spun in 360-degree arcs as they tried to capture the full range of defendants. Journos attempted to deliver their own crosses, while the competition shoved mics at them, hoping for a quote. It didn't take much for it to escalate. A boom mic in someone else's shot. A blocked light. A shove, a torn collar, and soon it came to blows.

And all of this, was playing out live-on-air.

Claire watched from the fringes. She hadn't received a summons, so she felt it best to avoid the melee on the steps. As such, she once again had the best view when the black BMW pulled up in front of the courthouse.

The car door opened, and a wash of river water spilled over the footpath. Murray Darling had solidified somehow, taking on the form and body of a person. Their flesh was made of mostly compacted silt, with oyster shell eyes and a complexion mottled by fish scales. They were leaking river water, as if sweating profusely. This was what had filled up the inside of the sedan, ruining the leather seats, and soaking the black suit the avatar had donned for their day in court.

Murray Darling squelched forward, and the frenzy on the steps parted—a human sea in a reverse of roles—before falling into their wake, and trailing them through the courthouse doors.

* * *

IN THE FEDERAL COURT OF AUSTRALIA

Murray Darling v the Australian Media (Trial Judgment) [2024]

OWENS B:

A OPENING REMARKS

1 This lawsuit has been brought before the court on behalf of the entity known as Murray Darling, acting as avatar on behalf of the interstate river system, associated land within 'the basin', and all inhabitants of the complex ecosystems therein.

2 What has been apparent from the outset is that this case is one without clear precedent. This unparalleled uniqueness has, of course, been somewhat exacerbated by the media furore surrounding the trial, and the way in which those reporting on the case have conducted themselves.

3 I wish to stress this latter point, as given exactly *who* is on trial in this instance, the nature of this reportage and the associated attempts to sway public discourse on the issue have been troubling. As noted in the transcripts, over the course of the trial I have been required to take disciplinary steps on more than one occasion, which will be actioned following the release of this judgment.

4 In deliberating on this case, the court has understood and accepted the legal personhood of Murray Darling, in the same way that New Zealand's Whanganui and India's Ganges is granted personhood status. This allows Murray Darling to sue and to be sued, and to take legal action to protect themselves. Due to this, I allow for the accusation of accessory to attempted murder to stand. In this context, it's clear that the risk of harm on the part of the media was *reasonably foreseeable*.

5 In all the media's reporting on the Murray Darling basin, and the associated environmental impacts of climate change, a focus was placed on the human voice and experience. In particular, this human voice was positioned to give precedence to those that seek to profit from the extraction of river waters: irrigators. This anthropocentric mode of reportage has created harm, through the omission of the river system's needs and prompting the increasing overextraction and damage caused by human activity. Indeed, it is worth noting that even with the introduction of previous river buyback schemes, the Murray Darling basin itself was more commonly reported on in a negative tone, rather than positive, with the majority of discursive power being given to water extractors, and little to no mention of climate change and its associated impacts ever being made.

6 In the few instances where the environmental impacts of climate change were reported on, this was done through a lens of exploitation. A prime example of this is seen in the reporting that led up to this trial. While the initial fish kills were covered, testimony suggests that the media no longer considered this story to "have fins", until new public interest was generated by the emergence of Murray Darling (the plaintiff). It seems to me the media was all too happy to return to the scene as events increased in drama. To use a cinematic parlance that was recently popularised in our legal system, this strikes me as the media 'going back for their [collective] hats'.

7 This, it seems to me, is reflective of a general attitude we, as humans have held as a collective towards our environment. As noted by expert Dr Erin O'Donnell: "We, and the rivers, lakes, aquifers and wetlands we depend on, are trapped in a relationship of exploitation and dominance, in which waterways suffer and suffer again, until they occasionally exert sufficient power to remind us of our dependence on them, through drought or flood. It seems that it is only at these times, when the mutual reciprocity of our relationship is made clear, can we glimpse our own full humanity as embodied beings: interdependent with the rivers who generate food, water, beauty, culture, and who in turn rely on us for their care and wellbeing."

8 What has become apparent in this case, is the power of the media to sway and shape the opinions of its viewers. As overarching public sentiment is a key requisite in combating the effects of climate change and its requisite Government policies, it is clear there is a significant responsibility associated with this power. One that has not been fulfilled or respected to date.

9 It is this court's opinion, that in all future reportage, the balance of harm should be weighed, in providing transparency as to the state of environmental damage, without proving exploitative. Reporting must also cover areas of harm reduction, demonstrating the relationship between human activity and environmental reparations. This might be viewed as an agency building lens, for both the environment, and human efforts in combating climate change.

10 There is little doubt that we expect more from our journalists today, at a time when the sector is being constrained by difficulties of maintaining financial viability. In addition to this, journalists are increasingly expected to counteract the onslaught of inaccurate reporting that is becoming more prominent on social media platforms. Having said this, there is no excuse for journalists not offering a balanced view on climate change, and this means giving the environment, those such as the Plaintiff, a voice on such issues. As such, I rule that the named journalists have contributed to the death of much flora and fauna in the river, and consider them an accessory in the crime against the plaintiff.

11 Given the above, the case for the accessory to attempted murder, is clear.

* * *

Claire closed her laptop. It was her third read through of the judgment, and while she appreciated the judge's narrative flourishes, it was still dense stuff.

A trial update played silently on the evening news. Cameras hadn't been allowed in the courtroom, and in the confusion on the steps no-one had filmed Murray Darling's arrival. All they had to show of them was a courthouse sketch. It didn't do the river justice, rather, it was a drawing of a tall, gangling person, who looked like they'd come to court direct from the day spa.

It was a signifier for the problem she thought. Words, drawings, even video, didn't capture the significance of the thing. They had been misrepresenting them for years. To the point of negligence, according to the court.

The image on screen changed, and Claire lost the tail end of the thought. She felt the muscles in her jaw go slack.

Another figure stood outside the courthouse. Their skin was powdery, dried red earth, cracked in the places it should have crows' feet and smile lines. Their features were studded with opals, so that as they gesticulated, they flashed rainbow under the camera lights. Behind them, another suit had been stuffed full of foliage, like a tropical scarecrow. They hadn't attempted to sculpt a face, rather, a single red ginger flower bloomed in its place. The final figure had a skeletal body that hadn't been able to be clothed. It was all branching limbs and jagged edges, a rainbow of coral scaffolding. Like the river, it leaked water, but even through the screen, Claire thought she could smell the salt.

A super had been inserted at the bottom of the screen, the words 'class action' spelled out in capitals.

A changing tide for the Australian media

Opinion | Claire Haur

'If it bleeds it leads'

It's been the credo of news desk editors since William Randolph Hearst coined the phrase in the 1890s. The top of the hour has long been the territory of crime and disaster. These are the stories that sell papers and get clicks. But this way of thinking isn't without criticism. Experts both within and external to the industry have suggested that this kind of sensationalism has led to a toxic culture, and a loss of public trust in media outlets. In a time of disinformation and informal journalism, many outlets seem to have doubled down on this kind of reporting to maintain audience share.

But if the last few weeks have taught us anything, it's that blood is not the beginning and end of how we understand harm. Tree sap, ocean currents, even the groundwater beneath our feet all flow and have been spilled. The iron rich earth of the desert is as red as any blood, and for the first time, we, as journalists, find ourselves compelled to tell stories that have long gone ignored.

Since *Murray Darling v. the Media* set precedent, we've seen the emergence of a larger, class action lawsuit led by Ningaloo, Nullarbor and Daintree lodged against the Commonwealth, seeking to redefine not only how stories are reported and what can be classified as negligence or ecocide, but a redefinition of personhood. If successful, this class action would move away from humancentric perspectives, not only in the media, but in who is allowed to vote, run for office, and represent our nation. The implications this would have for land ownership, and the Australian property market remain unexplored.

For the time being, we journalists must reflect on the way we tell stories. As noted in the *Murray Darling* trial, the effects of climate change (which may in future be reclassified as assault and battery upon an environmental entity, attempted murder, or as raised in the trial, 'ecocide') require an evolution in reporting. Not only is transparency required, but, as delivered in summary

judgement, a need for ‘agency building’. This redefines reporting as an active role within the scope of addressing climate change, shifting away from the ‘if it bleeds it leads’ mode of storytelling, and requiring journalists to showcase not only disaster, but innovation. These laws require us to focus not only on tragedy, but on hope.

This is underpinned by research from the Australian Psychological Association, which has noted the paralysing effects of negative climate reporting, and the associated sense of despair this has built within the public [...]

Continued page 3.

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Water slapped against the side of the dingy, bringing with it a steel-drum beat. The river was still semi-opaque with silt, but Claire could see the shadows of fish and eels darting below the surface.

Above, the sky was still a shocking, almost electric shade of blue. The fields were endless, and she was on the only boat in sight. The immensity of the place remained, but now she saw it for what it was. Not something to be intimidated by, but to connect with. This was breathing space. The tight streets and laneways of the city, the narrow strips of sky between high rises, before that buzz had felt normal to her. Now, she wasn’t so sure. It was an ecosystem unto itself, uniquely human, and fine in its own right, but what she thought of as alien had been inverted. Now, she cherished the smell of salt, the rich, tangy scent of mud mixed with algae, daisies and mint. It hit her in the same way the fish had, all those months ago, bringing with it a wave of warmth that filled her chest.

She heard a brolga trumpeting somewhere in the distance. Overhead, a flock of magpie geese cut a striking shape across the azure. Ducks quacked on the far bank, and somewhere in the water just ahead of her, some curious, aquatic creature broke the surface, just long enough to cause a ripple that careened to the shoreline.

Claire had been at the centre of the story. She was famous now, not just nationally, but *everywhere*. Heads turned when she walked down the street, the gaze of phone cameras following her. But she couldn't remember the last time she'd made eye contact with someone. Out here, sitting in the little boat, she felt more connected than she ever had in the city.

No-one had seen Murray Darling since the trial. They had, it seemed, returned to the river, leaving the limelight to their contemporaries. As Claire sat, breathing that air, and listening to the animals around her—their solos played against the ebb and flow of the water against the hull—she realised Murray Darling hadn't gone silent. They had never been silent. It had just taken this long for most of us to start listening.