

Submission on the National Water Act of 1998 for Water Portfolio Committee

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The National Water Act(NWA) of 1998 seeks to deal with the issues of Water Resources and how these resources (both ground water and surface water) are protected, used, developed, conserved, managed and controlled in an integrated way.

The Act changed the rules of how water was allocated under the Water Act of 1956, now ten years later what has changed?

The NWA is far reaching in vision of promoting Suitability, Equity and Efficiency, but has this happened. Our Water Resources have continued to be impacted upon by pollution, demand for more water and issues such as Climate Change which are going to have major impact on water in South Africa in the future. It should be noted that while we made a similar submission in August very little has happened since then. We were told that the Act was going to be reviewed but we have received no time frame or indication of a process despite assurances that this would happen from DWAF officials present.

To understand what has happened in the last ten years we need to review first what has not happened.

Water Resources have not been adequately protected from impacts of pollution from mining, industry and poorly managed waste water treatment works. This has been highlighted in the hearings on Water Quality and one just has to look at DWAF internal reports to see that there are serious problems.

What needs to change is to be able to give DWAF the ability and the Capacity to be enforce compliance and to be able to ensure that Municipalities are able to be compliant with their waste water treatment works and that another sphere of government takes over the role of support for municipalities and DWAF enforces.

This should not apply to municipalities alone but also to ensure that other sectors of government are no longer the dominant player i.e. Department of Mineral and Energy (DME) often approves an EMPR but the monitoring and compliance aspect is neglected. This cannot always be enforced by DWAF and has had major impacts on water quality. Acid mine drainage is but one but often it is the accumulative effect of these operations and their associated activities that has the impact on a catchment including ground water..

Pollution and water quality have continued to plague the sector even as we speak, issues in KZN are causing problems:

The Bynspruite stream in Msunduzi pollution by neighbouring industry in KZN is remain a serious concern for community that is using stream for sustainable food agriculture at KZN Sobantu Pietermaritzburg. The issue has been raised with DWAF over the years and through this committee in the past but nothing has been done even the community staged a protest march to highlight these issues.

The lack of compliance in terms of Water Regulation, DWAF as a regulator is failing to ensure that the compliance is taking place within the Municipalities. DWAF is not policing and follow up on the areas where there is a hot sport for example the Sobantu case.

Mercury pollution in the Inanda area was reported by the MRC to DWAF in November 2007 and this was only brought to the attention of the public a nearly a year later by the provincial Department of Agriculture and Environment Affairs MEC who issued a warning to communities living around the dam not to eat the fish and vegetables as result of high levels of toxic mercury being found in sediment in the dam and surrounding environment. The water of the dam has revealed levels that are acceptable within the WHO standards. But no communication with communities or CSO NGO took place by the intergovernmental task team until we raised the issue in the Catchment Management Forum last week and as we speak communities are still fishing and eating produce grown there.

The Act also made provision for Catchment Management Agencies the idea while noble this activity has not had the desired effect. The agencies have been slow in being proclaimed and they appear to have been a slow development in capacity within those that have been proclaimed. The process is now being changed mid stream and we are have been informed by DWAF that the number CMAs are to be reduced. While this might seem practical given the human resource and skills shortages that DWAF is facing at the moment, but noble idea of localized management of the resource is now being lost again. Further attention should be given to how catchments are augmented and linked to ensure that that there is management of the resource and not just the needs of particular activity or region but that the holistic need of both social and environmental issues are addressed.

On this issue it has come to our attention that the ecological reserve is not being applied as this would lead to possible water restrictions being applied earlier in some regions and that if the ecological reserve were applied then development or actives would have to be restricted. This is happening it makes a mockery of the National Water Act.

A case in point is the KZN Water Reconciliation Strategy Study for KZN Coastal Metropolitan areas. In 2005 the Province held a Provincial Water Summit and the issues of WDM alternatives and the recommendations of the SA Initiative on the

WCD were raised by CSOs and the that the WATSAN committee for the KZN be broadened to incorporate CSO advocacy groups and service delivery groups. This has not happened and in 2008 the study is indicted that in 2009 we will be possibly be facing level 1 water restrictions in the study area. The one recommendation is that study steering committee is retained to advise and be consulted on the future management in this area in the absence of CMA. Our question what happened between 2005 and 2008 to the recommendations of the KZN Water Summit, because in Umgeni Catchment the ecological reserve is not being applied.

The National Water Resource Strategy is due for review and this has been slow in getting of the ground, (needs to have been completed by 2010) what we don't want to see is mad dash to do this with too little time for proper consultation, while the first strategy was developed at the same time as the World Commission on Dams was taking place we as civil society don't want to see lip service to the WCD but more emphasis on alternatives and options assessments.

One of the worrying factors is that high cost engineered solutions are being sought to provide additional infrastructure, but issues such as Rain Water Harvesting are still not receiving a high priority even though pilot projects being rolled out by the eThekweni Municipality are delivering additional water outside the "Urban Edge" for food security projects and inside the Urban Edge for additional household water for washing and hygiene together with door sized food gardens for food security.

The other emerging scenario is that water reuse in this study and here Civil Society is pleased to note that this process must be developed to its full potential and this includes taking the water to potable water standards. This will be a first for coastal areas. A brief survey under taken in eThekweni by UKZN has shown that there are no objections on religious or cultural grounds to this,

On the same note the draft "*A Response to the challenges facing the water sector – Report to the ASGISA IMC*" highlights the fact that illegal water use of raw water in the Vaal system is currently resulting equivalent the entire annual yield of the Mohale Dam of the Lesotho Highlands Water Project and a lack Water Demand Management by Jo'burg Water where thousands of liters of water are lost and this NOT in low income areas but also in areas such as Lydhurst as reported in the Star 01/08/08.

The low income areas are often targeted with prepaid meters and cost recovery, and limited to 6kl FBW which totally inadequate.

This brings us a more positive contribution in the draft two of *Water for sustainable Growth and Development* (with a small S) is highlighting many of the concerns of CSO groups , we would like to see more use of Strategic Environmental Assessments being carried to review the development initiatives such as Provincial Growth and Development Strategies this will again take some serious inter governmental

discussions but it essential if we are ensure that the NWA is implemented to its full potential.

Lastly Water Resource Regulation has been much slower in getting off the ground all we have seen is the situational analysis of this strategy and it is envisaged to have this process complete by next yea but how can this happen if there is no engagement by the water resources section. The Water Sector approach to regulation has seen Civil Society playing an active role in the Water Services CSO Regulation reference group. This needs to strengthened from a water resource point of view. At local level there also needs to be a better understanding of water resources by political leadership, ward committees and Civil Society Organizations and to this end the “Citizens Voice” project is an essential in capacity building in the understanding of the Water Cycle and where water comes from, and the associated responsibilities as citizens towards our environment.

Recommendations

1. Should the National Water Act be reviewed it must be done in a consultative manner and that this process must have fixed time lines that are communicated well in advance. That attention needs to given not to Act as on a whole it is progressive legislation but rather what has not been implemented
2. The portfolio committee must ensure that that Water Resource Regulation are done in an open, consultative way and that unreasonable timelines are not applied.
3. That the DWAF seeks to ensure that relevant stakeholders from Civil Society are kept informed of developments in regard to emerging problems of water quality and supply issues rather than us having to knock on the door continuously.
4. That National Water Resource Strategy is reviewed with proper due process and that SA Initiative on the WCD is used as a checklist for this review.

Lastly we would like to thank the portfolio committee for the privilege of briefing the committee and while this legislation review process is important a concern was raised on the tight timelines for consultations.