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CSOs Inputs on the National Water Resources Strategy

Dear Reader

A consultative workshop between the Department of Water Affairs (DWA) and representatives from water sector civil society organizations was held on the 3rd of December 2012.

The workshop formed part of the DWA's consultative process with stakeholders on the National Water Resources Strategy (NWRS), and was a follow –up meeting to a consultative one held with CSOs in Cape Town in August just prior to the release of the first draft of the NWRS.

This CSO Bulletin covers some of the group discussions highlighting key inputs made by civil society representatives and the immediate reactions or responses made by the representatives of the DWA. Noting the consultation process was still underway some of the comments were to encourage further deliberations and refined inputs into the NWRS2 consultation process.

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NOTE: The culminations of these discussion and inputs was tabled in January 2013 in the form of a formal submission made to the NWRS 2 team and a copy is available from DWA or the CSOSP.

Introduction

On the 3rd of December 2012 the Department of Water Affairs (DWA) convened a workshop with representatives from civil society organization. The workshop formed part of the DWA's consultative process with stakeholders on the National Water Resources Strategy (NWRS), and was a follow –up meeting to a consultative one held with CSOs in Cape Town in August just prior to the release of the first draft of the NWRS.

There were several key issues identified by the representatives attending the meeting and discussions on the key thematic areas were championed by the following CSO representatives in break-away sessions:

- WCWDM: Thabang Ngcozela EMG and Hamedat Deedat
- Water Boards: Lance Veotte, SAMWU Group
- Regulations & enforcement Melissa Fourie, CER
- CMA's and CMF's: Samson Mokoena, VEJA, Victor Munnik
- Water resource allocation and water trading Mashile Phalane and Bryan Ashe and Owen Ndidi
- Water quality and fracking : Judith Taylor, Earthlife Africa, Liane Greef, Mariette Lieferink, FSE



Proceedings

1. Water Conservation and Water Demand Management

Several representatives of various CSO's and communities partook in the discussions on WCWDM. Some of the key issues raised were:

For the Free State

- issue of drinking water quality,
- sewerage spills
- Dumping by mines especially in the areas of Allan Ridge, more specifically the Machebeng, Lebei Ledswadi municipalities.

Direct consequences for communities have been bouts of illness as a result of consuming this water. Furthermore, the Odendal Plant was not working and there are problems in the area of Tenus and Virginia. Another point of concern is that dams which were used for drinking water since 2005, have now become dumping sites. In Tenus, poor communities are experiencing water cut-offs or intermittent water supply with no communication from their municipalities. The intermittent supply appears to only be in former "black" and "coloured" areas while water supply remains uninterrupted in the city. Although the municipality has dispatched trucks into the area the water provided is not suitable for drinking. These contributions were made by community representatives from the Free State, with special acknowledgement to comrade Tshabalala for his input.

Rainwater harvesting and the need for the DWA to take up the issues more vigorously in its WDM strategy and the NWRS2 was raised by Lianne Greeff and was supported by other representatives like Hameda and Mazo.

"RWH was a sustainable way of doing water demand. There are several techniques which one could employ which ranged from soil techniques to roof harvesting, replenishing of ground water or aquifers - Lianne Greeff

The group members unanimously implored department to strongly advocate for RWH and to see rain water harvesting tanks as viable opportunities to augment domestic water supply.

Concern was also raised about the current application of WCWDM which seemed to be equated with cost recovery, which in turn presented communities, especially poor communities with challenges. Reference was made to several initiatives and advocacy efforts taken up by the Coalition for Environmental Justice, Centre for Water and Sanitation Research (CPUT) and the Environmental Monitoring Group.

"Key to the strategy and to the approach to WDM would be for DWA through the NWRS2 strategy to define WCWDM: is it conservation or demand and how do the two relate in relations to differentiated user" - Hameda





She further added that “this was imperative if the NWRS2 strategy was serious about addressing issues of equity”.

The discussion then became quite comprehensive with CSO inputs touching on issues such as:

- Water pricing, particularly domestic vs. industrial, agricultural and or commercial users,
- Governance and regulation – DWA as the sector regulator particularly with regards to local government
- Tariff structures
- Illegal mines and closure of water supply by mines (fracking)

DWA’s response:

The issues raised by the CSO group were acknowledged by the DWA team headed by Fred van Zyl. Thereafter he agreed that: “a dedicated program to address WCWDM was need and that the principles that govern the practice would be critical.”

Participants were encouraged to enhance the submission made by civil society representatives thus far and to do so by presenting options and solutions that were concrete and feasible, and cognisant of the challenges faced by DWA, the municipalities and poor communities.

Some of the key responses he looked forward to were on the matters of:

- how WCWDM must be addressed by the strategy,

looking at both the service side and RWH

- how to address the issues of municipal by-laws (as pointed out by Hamed) mechanisms for dialogue, moving towards a common position and awareness raising
- How to tackle leaks or non-revenue water through a partnership is also critical and examples of this are needed and must be advocated for as a priority.
- Noting the concern expressed by the group on the issue of fracking, DWA’s indicated that they have appointed their own expertise on the issue of fracking.

The assessment will consider/determine:

- How much of water will be used and what the source of the water would be.
- Options for the usage of recycled water is also being explored, or
- The possibility of reusing the water used in the fracking process

“While a key consideration had to be the tradeoffs and whose interest they are, the DWA is the as the custodian of our water resources” - Fred van Zyl

He added:

“this is a new area and DWA at this point does not have all the answers and that reconciliation studies are underway to assess the very things being raised. DWA as the custodian has to juggle many interests and while they are supportive of water as an input for development it has to be good development with sustainable water use and this will be the consideration”.

In his closing remarks on this matter, he reiterated the commitments to the principles of equity which had to be considered in relation to growth.

“For DWA it was Equity through water for growth and development, with water as the impetus to achieve equity and development, and job creation.” - Fred van Zyl



2. Regulations and Enforcement

The presentation made by the Centre for Environmental Rights addressed the following issues:

- **Role of the NWRS**
 - Framework for the protection, use, development, conservation, management and control of water resources for the country as a whole (Chapter 2)
 - “Gameplan” for implementation of the NWA – to be compared with Air Quality Framework under NEM:AQA and National Waste Management Strategy under NEM:WA
 - Minimum requirements for contents of NWRS in s.6.
- **Stop Treading Water: What civil society can do to get water governance in SA back on track (March 2012)**
 - Lags in implementation of statutory tools
 - Procedural and substantive challenges in water use authorisation
 - Need to devolve and democratise water governance
 - Water service delivery
 - Need for strategic compliance monitoring and enforcement program

- Challenges with Water Tribunal
- Empowering citizens and incentivising compliance through transparency
 - Unlock the Doors Report
 - Non-compliance with PAIA
 - Unwillingness to make information available voluntarily
 - Online, publicly accessible database of authorisations (NWA s.139(2)(d))
 - Requirement in WULs to keep license on site, put on company website, give it out for free to anyone who asks
 - Two benefits:
 - Empower citizens, communities, civil society organisations to assist the DWA in detecting non-compliance, and even take steps to address those
 - In itself promotes more compliant behaviour: Water users who know that they’re being watched make different decisions
- **Administrative penalties**
 - If you do what you’ve always done, you’ll get what you’ve always had.”
 - Encouraging signs in NWRS2, but much remains to be done
 - Limited punitive measures to criminal prosecution – difficulties, and penalties too low
 - While necessary for worst offenders, need to expand tools to disincentivise violations
 - Civil/administrative penalty system akin to that imposed by Competition Act
 - Requires law reform, new institution and expansion of existing institutions like the Blue Scorpions and the Water Tribunal
 - Easier, quicker and much more significant penalties
 - 20 percent of the regulated population will automatically comply with any regulation, 5 percent will attempt to evade it, and the remaining 75 percent will comply as long as they think that the 5 percent will be caught and punished.”
 - Chester Bowles, 1971

- Rethinking the Water Tribunal
 - Not in the draft NWRS2, yet key aspect of NWA architecture
 - At a standstill
 - Opportunity to grow Tribunal into body like the Competition Tribunal that can levy civil/administrative penalties, and to settle disputes in a cheap, accessible way, avoiding courts where possible

Recommendations:

- Civil society coordination, empowerment and strategy development, and opportunities for input into law reviews and strategies like NWRS2
- institutional stability within DWA
- Cooperative governance: support to local authorities and asserting water mandate in mining and agriculture
- Improved access to information and oversight
- Roll-out and empowerment of participatory water governance institutions
- implementation of statutory tools – simplification, greater use of compulsory licensing
- Suggestions for improving quality of water use licenses’, and for law reform
- Suggestions for improved CME, including through administrative penalties

3. Extract From Research and Seminar by Victor Munnik: “The Potential of Civil Society Organisations in Monitoring and Improving Water Quality.”

- Lessons From the Research
Our research has produced a number of insights that form the foundation of an argument that citizens do have the potential to monitor water quality – but that potential needs to be nurtured.

i. “Forums are driven by citizens’ energy”

Citizens energy drives both participation in forums and



public (media) discussion of water quality issues. In many cases, such as the Blesbok and the Rietspruit, the founding energy for forums to emerge was a big and conflictual issue that had no simple solution and had to be solved through a multi-stakeholder, deliberative process in which mutual understanding would be built in order to reach solutions.

Big problems in themselves do not lead to effective forums – for example the Harties forums that do not seem to be functional now. Top-down spaces into which citizens are invited, lack citizens involvement and endurances, and have collapsed. On the other hand, new forums emerge where citizens are motivated to take up water quality issues – for example the Ngwathe forum in Parys.

The first lesson is thus that attention needs to be paid to citizens’ energy that it needs to be understood, accepted in its own terms, and that catchment managers need to work with it. Citizens’ energy can be confrontational and show more or less technical understanding of issues (although many scientists are joining in citizens movements). Specific conditions need to be created and maintained to make optimal use of the resource of citizens’ energy, including an understanding on the side of government officials and environmental managers of how to work with this energy in the most productive way. Pressures to do this will increase, not decrease (see for example the UN CEO Mandate on Water process). Fundamentally citizens, the regulator and all water users including industry and municipalities share or can share the same goal: sustainable use and therefore protection of water resources.



ii. Citizens involvement in the form of citizens monitoring is possible and desirable

Research into international citizens monitoring shows that it is feasible, provides cheaper than normal monitoring, and extends the regulator’s ability to cover a larger area. Citizens monitoring can mobilise local knowledge and thus enhance monitoring and understanding of water resources and their conditions. It has additional beneficial effects such as encouraging informed participation in regulation and encouraging broader awareness in communities, schools and people living near rivers and lakes. Simple and tested institutional models for citizens monitoring are available. These rely on an alliance between active citizens’ groups, educational institutions like universities and technikons, and the willingness of the regulator to support citizens monitoring. According to our literature review (report 1 of this research, Moore et al, 2010), these approaches are particularly effective in building capacity and participation.

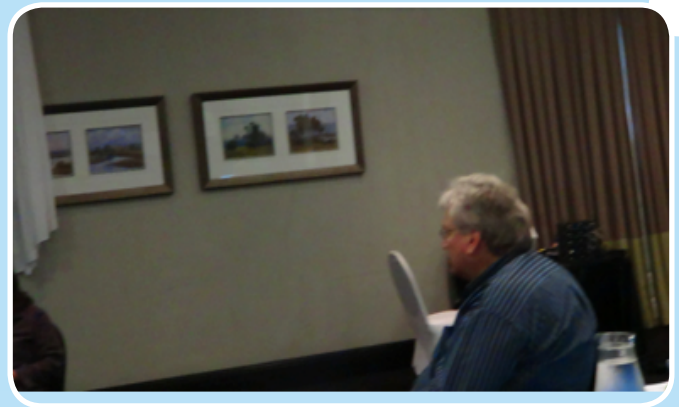
4. Catchment Management Forums

“I make a passionate plea to DWA please come and investigate what is happening in our region”
– December from Buskuckridge

“I will facilitate the participation from CSO’s on Catchment Management Forums in the Vaal” – Samson from the Vaal.

“Let that the water board provide R14 billion towards solving the water related problem in KZN” - CSOs from KZN

“DWA needs to ensure the involvement of CSO’s since participation and involvement are not the same thing”



– Bongani, KZN

The collective view was that representation by CSOs is currently hampered by the Water Act, which does not allow for report backs to constituencies. DWA - Institutional Oversight needs find ways to address this matter. The situation has created instances where CSO representatives have shown conflict of interest between their constituency and being on the CMF .

The way forward that was adopted by DWA was for a draft chapter is to be written by DWA’s Thoko Sigwaza, in collaboration with CSO’s and other stakeholders, including irrigation boards. The meeting agreed that Ms Sigwaza and her team to drive this process.

“The involvement of CSO’s in the NWRS2 strategy and on these issues is a definite step in the right direction illustrated by them (CSO’s) facilitating CMF’s as a platform to address local issues and that of rural women and small scale farmers.” – Fred van Zyl



Rainwater harvesting also came up in the plenary discussion with the overall view being that to date the DWA and the NWRS2 does not have an integrated approach to RWH and that when RWH is addressed it is somewhat limited to productive water use.

‘Poor under resourced farmers seem to be the target but I, together with as the drivers of this group will make a substantial contribution regarding RWH.’ – Added Bryan Ashe

Bryan Ashe indicated that he together with Owen Ndidi from the Eastern Cape, have tabled a comprehensive submission into the NWRS2 consultation process.

Additional comments on the issue of water quality was made by Judith Taylor, from Gauteng. Reference was made to the breakdown of municipal wastewater treatment plants, which was of great concern in Gauteng.

She added: “the lack of the enforcement of regulations in this regard was of grave concern.”

She then urged DWA to enforce the Polluter pays principle and added: “we want to work with DWA but

need DWA’s assistance. Communities and CSO’s need DWA’s support”.

“there are several mines that have been operating with water licenses that are polluting and the fines are so cheap that they simply pay and continue to pollute. DWA needs to ensure that no mine can operate unless DWA has assessed that its operations do not negatively impact communities or that they are not operating without licenses”, added – Lianne.

“the experience in Mpumalanga is that mines are not being held accountable: the department needs to hold licensed mines accountable and for damage by making them invest in the rehabilitation of water resources that they have polluted and land that they have damaged and/ depleted in the name of development. It is really painful to hear that mines can continue to operate despite fines given, and therefore appeals for hefty fines which in itself becomes the disincentive for pollution” – Philip Mpumlanga.

“please can DWA make it compulsory that companies must be licensed”

“we know of mines who are operating in Sasolberg without licenses”

“license processes must include a process whereby



communities are informed about the license application, and the allocation being applied for”.

“water quality of the Orange River was getting worse due to dumping which is destructing the habitat and natural environment.”

5. Water Resource Allocations

This issue received quite a bit of attention in plenary. Issues raised:

- Access to water particularly by small emerging farmers.
- A need for a social audit and an investigation of the social issues pertaining to equitable water use in the Breede River for example needs to be undertaken.
- Here like in many other catchments, communities either have access to land but no water or have no permits to draw water from rivers – KZN and W Cape need particular attention.
- The creation of forums for emerging farmers was recommended.
- The need to review and reallocate the 66% of water allocation currently going to agriculture is a matter

of urgency, and will, impact on current agricultural practices.

- The need to advocate for new and innovative farming methods needs to be taken forward.

Particular attention was drawn to plantations and forestry:

Allocation of water to plantations is seemingly prioritized above the needs of smaller users,

‘While some get massive allocation of water others are water thirsty and the Bushbuckridge is a case in point’, was highlighted by Philip from Mpumalanga.

He added that “traditional healers were struggling since they no longer have the traditional plants with medicinal properties at their disposal. In Maritzkop all the water is directed to the plantations and the impact is severe in this area. DWA needs to urgently intervene: appeal by the communities and traditional healers”

DWA’s Response:

Fred indicated that DWA: “was very concerned about



the destruction of habitat, pollution, negative impact on the environment by mines in particular, as pointed out by community representatives present and it would have to be looked into” .

‘Since there were many issues that were catchment related the key question would be to see how Catchment management forums in the various provinces should be used as a vehicle to address some of these issues”.

He also put forward a recommendation “for a water footprint which would evaluate the water plan and life cycle of mines and the impact their operations are having on the environment and water resources, towards developing water use efficiency in the industry.”

He added “I am quite positive to see the seriousness with which inputs were made by CSO’s in the strategy, and added that this energy needs to be channeled towards a nationwide campaign on how to look after our water resources. He stressed that these programs be aimed at schools and community level. Furthermore since the issues straddle departments DEA would also have to be brought on board.”

To illustrate how serious the problems are facing the country reference was made to the failing Brummer Lake facility and the issue of sewerage spills in various parts of Gauteng.

A key challenge identified by Mr. van Zyl, was the issue of dumping and he placed emphasis on the need for CSO’s to become involved in education at the community level he

added: “our municipalities should allow communities to be educated - DWA must monitor them and they should be the leading examples.”

6. Water Boards

“Institutions reform and realignment process has developed a framework and the talk is to turn Water Boards into regional utilities. However amendments to the Water Services Act and National Water Act must first be amended. “

With regard to tariffs-

“DWA notes the request for a review of the pricing strategy and /financing model and added that there is a need for smarter management, a stronger link between water services and water resources, adherence to guarding water from the source to tap principle”

In closing he recapped some of the key consideration that will be taken up in the strategy based on this engagement: ‘functionality vs. the water crisis, economic livelihoods, the investment framework, capacity building and institutional development.”

Interesting Publications

1 FSM2: 2nd International Faecal Sludge Management Conference Report.

In March 2011, the first Faecal Sludge Management Seminar was held in Durban, South Africa, with the theme: What Happens when the Pit is Full? Developments in On-site Faecal Sludge Management. The seminar was attended by 120 local and international delegates from four continents. The Second International Faecal Sludge Management Conference was held in Durban from the 29th to the 31st of October 2012, attended by some 320 delegates from around the world, representing more than 30 countries and five continents. This report is a summary of the proceedings and presentations of the conference.

2 SANITATION JOB CREATION: Learning From Alfred Nzo DM's Zonal Distribution Approach.

Alfred Nzo DM commenced a district-wide sanitation provision programme in 2004, using the zonal distribution approach and adopting the Ventilated Improved Pit Latrine as the standard. WIN-SA documented the Alfred Nzo District Municipality Sanitation Job Creation Project in 2005, under the WIN-SA Lessons Series, with the aim of sharing the way the municipality had managed to integrate planning and implementation across various government departments. This lesson is an update of the 2005 lesson, and aims to share the lessons and challenges the Alfred Nzo Sanitation Job Creation Project has generated over the intervening years.

3 MEETING THE ECOLOGICAL RESERVE TO ACHIEVE SUSTAINABILITY OF FRESHWATER SYSTEMS IN SOUTH AFRICA: Exploring Enablers & Constraints Within the Context of Integrated Water Resources Management (IWRM) in the Catchments of the Lowveld.

The Olifants River ceased flowing in 2005, prompting widespread concern and calls for an integrated focus on all of the easterly-flowing rivers of the lowveld of South Africa (the Luvuvhu, Letaba, Olifants, Sabie-Sand, Crocodile and Komati Rivers). In response, the Shared Rivers Initiative (SRI), an action-research programme funded through the Water Research Commission, was initiated in 2007. The study aimed to answer the central question: 'What factors enable or constrain achieving environmental flows in the Lowveld Rivers?' This lesson aims to present summarised findings of the study and also presents some lessons from case studies that were analysed to elucidate what lay behind the successes or constraints found.

4 SANITATION FOR ALL: Four Innovative Sanitation Projects in Zambia - Faecal Sludge Management Aspects and General Lessons.

Zambia's Devolution Trust Fund (DTF) was established by the national water services regulator as an instrument to assist Commercial Utilities to improve water supply and sanitation services for the urban poor. In 2009, the DTF initiated implementation of four sanitation projects in collaboration with four Commercial Utilities. This fieldnote captures the DTF's sanitation implementation approach and

experiences during the implementation of these projects, focusing on faecal sludge management

5 Sanitation Matters Magazine (Issue 4).

Issue 4 of Sanitation Matters covers some of the developments, research and innovations in Faecal Sludge Management (FSM) in Africa, as presented at the recently held 2nd International Faecal Sludge Management Conference (October 2012). The conference attracted both continental and global speakers, an indication that there is a lot of knowledge and experience to be shared in this critical area of Faecal Sludge Management.

6 ACHIEVE GREEN DROP – Using a Wastewater Risk Abatement Plan (W2RAP) to Secure ACIP Funding and Achieve Green Drop Status: Lessons from Buffalo City Metro Municipality

The 2012 WIN-SA Green Drop Lessons focused on the use of a Wastewater Risk Abatement Plan (W2RAP) to identify and manage risks successfully on the road to Green Drop status. This lesson looks at how Buffalo City Metro has used W2RAP to secure ACIP Funding and improve its Wastewater management.

7 ACHIEVE GREEN DROP: Using a Wastewater Risk Abatement Plan (W2RAP) to Achieve Green Drop Compliance: Lessons from Drakenstein Local Municipality.

The 2012 WIN-SA Green Drop Lessons focused on the use of a Wastewater Risk Abatement Plan (W2RAP) to identify and manage risks successfully on the road to Green Drop status. This lesson looks at how the Drakeinsten LM identified human resources as its greatest risk and therefore used W2RAP to address this and improve its Green Drop standing.



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