



MINISTRY OF WATER AND IRRIGATION

THE WATER ACT (No. 8 of 2002) PUBLIC CONSULTATION

THE NATIONAL WATER RESOURCES MANAGEMENT STRATEGY

IN EXERCISE of the powers conferred by section 107 (2) of the Water Act, 2002, the Director of Water Resources Management notifies for the information of the general public that the Minister for Water and Irrigation intends to publish a national water resources strategy for the management of the water resources of Kenya.

In fulfillment of the provisions of section 11 of the Act, the Minister wishes to consult with the public on the contents of the strategy.

A summary of the proposed strategy is set out in the schedule hereto:

The full text of the draft strategy may be obtained from:

- (a) The Ministry of Water and Irrigation Headquarters, Maji House, Nairobi.
- (b) The Water Resources Management Authority Office, N.H.I.F House, Nairobi; and
- (c) The Water Resources Management Authority Regional Offices at Kisumu, Nakuru, Kakamega, Embu, Nanyuki and Machakos.

Members of the public are invited to inspect the said draft strategy and forward their views and comments thereon to: The Director of Water Development, Ministry of Water and Irrigation, P.O. Box 49720, Nairobi, not later than (30) days from the date of this notice.

Preamble

Water is an important natural resource to all forms of life and their existence; for mankind, it is the backbone of growth and prosperity. The growing demands for it against the limited temporal natural endowment and its increasing scarcity could result in conflicts and catastrophes.

The hydrological variability causes significant economic losses and the country has to develop the buffering capacity to deal with the shocks of floods and droughts. This buffering capacity can be provided by a mixture of measures including structural ones like dams/pans, dykes, retention basins and boreholes or non-structural ones like catchment, wetland and floodplain management, agricultural policy and land use policy. Impacts of past and present disasters in the form of the El Nino floods and the La Nina drought were so severe that within a few months, they destroyed years of economic growth, devastating an already fragile economy, thus exacerbating poverty.

Against this background, the Government has designed a comprehensive sector development strategy with clear division of roles and partnerships between the government, the private sector and the beneficiaries. The elaborate legal and institutional framework detailed in the Water Act 2002 is aimed at accommodating the new operational environment.

The decentralized water administration approach will create incentives for the private sector and communities to play an active role in water resources management at the national, catchment and sub-catchment levels. Indeed, the World Summit on Sustainable Development (WSSD) held in Johannesburg, South Africa, in 2002 recognized water as a core focus area towards sustainable development contributing to raising awareness to the public and further in placing water high on the international political agenda. It was in this conference that the UN Secretary - General proposed the five key areas of action towards sustainable development: water, energy, health, agriculture and bio-diversity which have been brought together under acronym WEHAB.

Given that Kenya faces serious challenges with regard to the management of its water resources to satisfy sectoral demands, the first National Water Resources Management Strategy (NWRMS) provides a clear, accountable and transparent road map for assessing, maintaining, enhancing, developing and managing the limited available, renewable, fresh water resources using an integrated approach and on a sustainable basis. The low level development of this resource estimated at less than 20% (1.6 billion cubic metres (BCM) per annum) against the surface water potential of 7.4 BCM and groundwater potential of 1.0

BCM per annum calls for extensive investment to achieve maximum utilization of the renewable fraction of the freshwater resources. This will require reversing catchment degradation and controlling pollution.

The country's water scarce category of 647m³ per capita against the global benchmark of 1000m³ is reason enough to implement this Strategy which will be in force until amended or revised as provided under section 11 of the Water Act 2002 which shall be initially 3 years after gazetting and 5 years thereafter. The Government has embarked on a structured effort to sensitize the stakeholders and recipient communities on the principles of water governance for the sustainable management of the finite resource to ensure the fulfillment of Economic Recovery Strategy for Wealth and Employment Creation.

Policy Guidelines

1 Water Resources Availability

Water resources are unevenly distributed both in space and time. This is due to the variability in rainfall and the diverse climatic and geological conditions. As a result of this, the flow regime of rivers and groundwater potential vary considerably. Encroachment into water catchments areas has resulted into degradation with increased threats to the country's water resources, not only in respect of siltation, but also run-off, water balance and groundwater recharge. The effect of this has been the diminishing of the available water resources, some of which have disappeared or dried up thus complicating further the water availability problem.

The basic solution to these problems lies in the sustainable management and development of national water resources within acceptable standards. This calls for an effective river basin management, which takes full recognition of the role, which environmental management plays in the conservation of water resources. Water catchments areas need therefore, to be identified and delineated and programmes instituted in collaboration with the relevant ministry in-charge of forestry. In addition, groundwater conservation zones need to be identified and effectively managed.

The Government will, therefore, make every effort to conserve water resources and regulate its use for the benefit of all. Water tariffs will be introduced where necessary and applicable for water utilization. Such tariffs will be used in ensuring good quality water and support relevant research. Further emphasis will be given to the protection and development of non-conventional sources.

2. Roles and functions at different management levels

The decision making process in respect to water resources has now been decentralized by adopting three water resources management levels at National, Catchment and Sub-catchments levels. Also included in this process is the setting up and strengthening of institutions and defining the roles and responsibilities. These include identifying and initiating the gazettement process of water catchment areas.

3. Integrated water resources management

Water resources development contributes to economic productivity and social well-being of the people. With the increasing growth in population and the subsequent socio-economic pursuits such as industrial, tourism and agriculture, demand for water is ever increasing. These competing uses often result into conflicts hence the management approach should aim at integrating both natural and social systems together with stakeholder involvement.

4. Legal Framework

The legal issues touching on the water sector are contained in the Water Act 2002. There are, however, a total of twenty-six other Acts of Parliament, which have a bearing on issues concerning water. For instance, the Agriculture Act, Cap. 318 define the watercourses and catchment areas in relation to crop production and related activities.

It is necessary to have a mechanism for ensuring that legislation and bye-laws concerned with utilization and management of water resources is regularly reviewed, rationalized, enacted and enforced as appropriate. This requires an appropriate institution with the necessary capacity to enforce the legal framework.

On the international scene, Kenya still has a lot of shared water resources with her neighbours. In the absence of national laws governing the utilization of these waters, it is necessary to examine the requirements of international treaties on water resources and adopt those that are appropriate to the needs of the country.

5. Impact of Water Resources Development on the Environment

Water development will be geared towards improving the environment on which its sustenance depends and will not be expected to adversely affect the quality of water resources in particular and the environment in general. An Environmental Impact assessment Report will, therefore, be made mandatory for all major water developmental activities.

6. Water Quality Issues

The long-term objective of the Government is to ensure access to clean and potable water for all. This is only possible, if water resources are protected from pollution. Thus strict stream effluent discharge standards will be developed for managing waste discharges into water bodies. To this effect, water abstraction and disposal permits can be made dynamic and used as economic instruments for water pollution control.

A process of water quality monitoring of all water bodies and pollution control inspection of potential polluting sources will be put in place. In this regard all factories and other waste water generating concerns will be required to incorporate in their designs the waste water treatment facilities.

7. Water Resources Assessment, Monitoring and Information System.

The Ministry of Water and Irrigation will endeavor to establish water resources databases at all the management levels. These databases will contain updated water resources data together with systems for water resources assessment and monitoring in collaboration with relevant agencies. Funding for the procurement and establishment of Water Resources Assessment tools will be stepped up to ensure that modern equipment is obtained.

Goals and Objectives

1. National Water Resources Management Strategy Formulation

The overall principles adopted in the formulation of the National Water Resource Management Strategy are:

- (i) To achieve equitable access to water, that is, equity of access to water services, to the use of water resources, and to the benefits from the use of water resources.
- (ii) To achieve sustainable use of water by making progressive adjustments to water use with the objective of striking a balance between water availability and legitimate water requirements, and by implementing measures to protect water resources.
- (iii) To achieve efficient and effective water use for optimum social and economic benefit.

2. Goals and objectives of the National Water Resources Management Strategy

The overall goal of the National Water Resources Management Strategy is to eradicate poverty through the provision of potable water for human consumption and water for productive use. The fundamental objectives for managing Kenya's water resources are to achieve equitable access to water resources and their sustainable and efficient use.

3. Institutional Framework

The main thrust of the reform is to separate water resources management from water services delivery. The institutional arrangements for water resources management include Ministry of Water and Irrigation (MWI), Water Resources Management Authority (WRMA), Catchments Area Advisory Committees (CAACs), Water Resource Users Associations (WRUAs) and Water Appeal Board (WAB). The roles and responsibilities of these institutions are as follows:

- (i). MWI: Development of legislation, policy formulation, sector coordination and guidance, and monitoring and evaluation.
- (ii). WRMA: Planning, management, protection and conservation of water resources. Planning, allocation, apportionment, assessment and monitoring of water resources. Issuance of water permits. Water rights and enforcement of permit conditions. Regulation of conservation and abstraction structures. Catchment and water quality management. Regulation and control of water use. Coordination of the IWRM Plan.
- (iii). CAACs: Advising WRMA on water resources issues at catchment level.
- (iv). WRUAs: Involvement in decision making process to identify and register water users. Collaboration in water allocation and catchments management. Assisting in water monitoring and information gathering. Conflict resolution and co-operative management of water resources
- (v). WAB: Arbitration of water related disputes and conflicts.

4. Strategies

The Strategies as outlined in NWRMS provide the direction for overall sustainable management of water resources at national level and at catchment level through Catchment Management Strategy (CMS). The strategies include the following:

- (i) Improving Water Resources Assessment. i.e. Classification of water resources nationally and observing reserve water requirements.
- (ii) Putting in place mechanisms that promote equal access to water for all Kenyans. These include Legal and Institutional Provisions together with stages for water allocation
- (iii) Gender in Water Resources Management
- (iv) Putting in place mechanisms for an integrated approach to land and water resources planning and management such as Integrated Catchment Planning, Legislative measures and Pollution prevention
- (v) Measures that enhance the availability of water resources of suitable quality and quantity. These include Market based strategies such as Water Pricing and Effluent Charges and Technology-based Strategies namely Reduction of Unaccounted for Water (UFW), Recycling of Water, Conjunctive use of water and Water Demand Management in the Agriculture Sector. Other measures include Public Awareness and Development of Water Resources
- (vi) Production of accurate data on water use and demand for both surface water and groundwater
- (vii) Developing water pricing policies and mechanisms which recognize water as an economic good. In this context consideration is given to Average Cost Pricing that takes into account National Average Price (National Blend Price), Catchment/River Basin Specific Blend Price and Site Specific Pricing. The pricing policies also take cognizance of Targeted Subsidies, Levies and Fees
- (viii) Developing strategies for flood and drought disaster management including landslides
- (ix) Promoting integration of sector and regional water policies (trans-boundary waters)
- (x) Support mechanisms for implementing the strategy. These include capacity building, applied research and technology, and financing requirements

(Photo caption:- Charcoal burning in Mau forest, one of the few remaining water catchments)

