

# CHAPTER ELEVEN

## WATER<sup>1</sup>

*Everyone has the right to have access to sufficient water. The state is obliged to respect, protect, promote and fulfil this right and should thus take reasonable legislative and other measures within its available resources to achieve the progressive realisation of this right.<sup>2</sup>*

### POLICY MEASURES

#### Summary of Response

The Department of Water Affairs and Forestry (hereinafter DWAF) reported that the Water Services Capital Programme, based on the 1994 White Paper on Water Supply and Sanitation and the Water Services Act 108 of 1997, was established as policy to *protect, promote, respect and fulfil* the right to have access to sufficient water.<sup>3</sup> The programme was aimed at serving rural people and did not give special consideration to any other vulnerable or previously disadvantaged groups. The programme provided people with basic water at the beginning of the project and thereafter provides for 'sufficient water' over time, thereby ensuring the *progressive realisation* of the right.

Since its inception in 1994, the Water Services Capital Program had provided 3,524 447 rural people with access to water to the RDP standard. Also, approximately 61 204 jobs 'in person years' had been created. Women accounted for 34 206 of these jobs, and 16 231 youth were employed.

#### Commentary

The report on policy measures by the DWAF was not satisfactory. The Department failed to provide policy measures that were instituted within the period under review. Furthermore, the policy measure of the Water Services Capital Programme was not described in sufficient detail.

Whilst the Water Services Capital Programme is aimed at serving people in the rural area, it would have been useful if the DWAF indicated what criteria were utilised in the selection of areas (villages, towns) to be serviced. Other anomalies in the Department's submission include:

---

<sup>1</sup> The analysis of the responses is based on information received from government departments, and thus it sometimes differs for the provinces.

<sup>2</sup> Section 27 (1) (b) and section 7 (2) of the Constitution, Act 108 of 1996.

<sup>3</sup> Details of the actual policy measures instituted for the reporting period were not outlined, but the DWAF referred the Commission to the Water Services RDP 4 Business Plan on the Department's website at <http://www.dwaf.pwv.gov.za/directorate/waterservices/>

- the concept of ‘basic water’ used in the Capital Programme was not defined or differentiated from the Constitutional provision of ‘sufficient water’.
- the DWAF did not indicate how the provision of ‘basic water’ would *progressively* lead to the ‘sufficient water’ being made available by the programme.
- although over 3,5 million people have gained access to water in the past five years, the Department did not indicate whether *all* of these people still benefit from this service. Are all of the projects being *maintained* and *functional*?

Even though programmes such as the Working for Water programme are not directly aimed at providing access to sufficient water, the impact of such programmes and the consequential effect of community participation have a bearing on the sustainability of services. The indirect effects of the Working for Water and similar projects are thus relevant to the right to access to sufficient water, and the Department should have included these measures in its submission.

### **Recommendation**

- Policy measures should be provided in detail with a clear explanation as to what the project entails, an outline of the objectives, and how it relates to the right to access to sufficient water.

## **LEGISLATIVE MEASURES**

### **Summary of Response**

The DWAF has reported that the Water Services Act 108 of 1997 was promulgated in December 1997, and came into force within the reporting period in 1998. Articles 2 and 3 of the Act state that the purpose of the Act is to provide for the right to basic water supply and basic sanitation necessary to secure sufficient water and an environment not harmful to human health or well-being.

Another piece of legislation that was instituted was the National Water Act 36 of 1998. The purpose of this law is to provide protection for national water resources and control their usage in a way that will ensure equitable access to water and meeting the basic human needs.

### **Commentary**

The report by the DWAF is not detailed in providing objectives of the stated legislative measures. For example, one of the objectives of the Water Services Act of 1997 is to ensure and define the rights of access to basic water supply and basic sanitation services.<sup>4</sup> The Department should have mentioned this objective to demonstrate an understanding of the content and obligations of the right of access to sufficient water.

---

<sup>4</sup> D Burger (ed) “*South Africa Yearbook 1999.*” (1999) 62.

The report has generally provided satisfying responses to the questions, except those that deal with the vulnerable and formerly disadvantaged groups.

The objectives of the above mentioned measures are sufficient to meet the constitutional obligations, provided that these measures are fully implemented to achieve their outcomes. In instituting legislative measures, the DWAF should not overlook the needs and special considerations for the vulnerable and previously disadvantaged groups according to their various plights.

The general understanding of the right of access to sufficient water is prevalent in the report. However, the information is not provided in sufficient detail with respect to the obligations to *respect, protect, promote and fulfil* the right.

## **Recommendations**

- South Africa is a water-stressed country where water planners and managers are faced with increasingly complex issues.<sup>5</sup> It is therefore imperative that the DWAF should formulate more laws that will address these issues as well as the challenges outlined in the National Action Plan for the Promotion and Protection of Human Rights.
- The legislative measures should be in line with the newly developed multi-disciplinary approach to managing the country's scarce water resources that is based not only on technical considerations, but also on economic, social, political and environmental considerations.

## **MONITORING**

### **Summary of Response**

The DWAF stated that the criteria established to define adequate access to water, particularly in the rural areas is 25 litres per capita per day. Concerning the distance of tap from home, a uniform standard of a maximum distance of 200 m away from any household had been set and implemented as policy.

The quality of rural drinking water was based on SABS 241 'Specification for Water for Domestic Supply.' The Department stated that there was not much control that could be exercised by the DWAF from the 'supply side' on the affordability of water. From the 'demand side', the question of affordability is relative and was addressed by negotiation between the community and the DWAF. The community used its representative structure, the Project Steering Committee to negotiate on its behalf.

Direct and indirect statistics were collected. Project Management procedures, which monitor and evaluate engineering designs and specifications, were used as a means of 'hands-on project management'. Allocations, distance to taps, and cleanliness were

---

<sup>5</sup> Ibid. 61.

addressed. These statistics were reported to the DWAF and corrective measures were issued on site. The DWAF also made use of indirect methods to monitor the right of access to water, including key performance indicators (KPIs) and milestones. KPIs address issues such as:

- Adequacy of water source.
- Delivery of water.
- Water quality.
- Sustainability.
- Assurance and reliability of supply.
- Cost effectiveness.
- Customer satisfaction.
- Level of user commitment (ability) to pay.

These statistics were collected and reported to the DWAF and included information on the progress of the project, discrepancies and corrective measures. For generic monitoring and evaluation, a comprehensive list of KPIs was provided on a monthly basis by a project 'Implementing Agent' to the Department. Technical and social consultants were tasked with collecting these indicators. Thus, the DWAF received up-to-date information on all projects. By means of these two methods of collecting data on projects, the Department believes it can direct and institute corrective measures to projects more decisively.

## **Commentary**

The DWAF submission on the quality of rural drinking water does not really inform the Commission about the quality of water except that the standards are based on SABS standards. These standards should have been outlined. Research has shown that the main thrust in protecting health hazards has been by means of water treatment.<sup>6</sup> The tests used to assess characteristics of waters for public water supplies measure turbidity, microbiological quality, ionic chemical composition, measures of acidity/basicity, hardness and radioactivity.

These are some of the standards that the DWAF should have provided, or alternatively details of what the SABS standards entail. As mentioned in another report,<sup>7</sup> the SABS Specification No. 241 of 1984 lays down the minimum physical, chemical and bacteriological requirements for 26 determinants for the purity of water for domestic supplies. The three-tier system for drinking water quality guidelines (i.e. Physical and organoleptical; Microbiological; and Macro-elements) is based on recommendations by the CSIR. The first level is the recommended or working limit, which is the goal or ideal. This limit is said to follow the recommended levels set by international standards and the SABS. Hence water conforming to these levels is considered to be safe for lifetime consumption. The second level is the maximum permissible level or maximum

---

<sup>6</sup> M B van Ryneveld "An Introduction to the Provision of Physical Infrastructure, Water Quality." (1997).

<sup>7</sup> See M J Pieterse "Drinking-water quality criteria with special reference to the South African experience." *Water SA*, (1989) Vol 15, no 3, 169-178.

allowable level, whilst the third limit is called the crisis limit, the limit at which extreme action must be taken. If the foregoing standards are what the DWAF defined, then a thorough report should have been provided.

In understanding affordability, the DWAF should have indicated how the costs are incurred from the vulnerable groups. These are defined as 'ability to pay' and 'willingness to pay'. It has been reported that householders may be able to pay, but unwilling; alternatively they may be willing to pay, but unable to do so.<sup>8</sup>

### **Recommendation**

- Standards used by the DWAF on the quality of water must be provided for in detail.

## **BUDGETARY MEASURES**

### **Summary of Response**

The DWAF reported that R1,451,805 000 was budgeted for the realisation of the right of access to water. The allocation per capita was R798. The Department provides water to informal settlements that are in the rural and peri-urban areas, whilst these groups living in urban areas are serviced by the Department of Provincial Affairs and Local Government. Information on the other disadvantaged or vulnerable groups cannot be provided because the programmes do not differentiate between the groups.

### **Commentary**

The DWAF did not provide complete information as requested in the protocol. Information on the allocation as a percentage of the Departmental spending was not provided. Measures taken to address the right of access to water for the disadvantaged or vulnerable groups were not outlined because the Department stated that it does not cater for such groups separately.

In May 1998 the DWAF allocated an amount of R210 million to the KwaZulu-Natal province for the implementation of the rural water-supply projects.<sup>9</sup> It also contributed R35 million to the R105 million scheme to provide for domestic water supplies.<sup>10</sup>

Although the DWAF reported that the budgetary allocation for the realisation of the right to have access to water was R1,451,805 000 for 1998/1999, the expenditure survey showed that for 1998/1999, the Department spent R2,919,900 000, about twice the figure provided in the DWAF's report to the Commission.

---

<sup>8</sup> See M B van Ryneveld "Costs and Affordability of Water Supply and Sanitation Provision in the Urban Areas of South Africa." *Water SA*, (1995) Vol. 21 No. 1

<sup>9</sup> D Burger (ed) "*South Africa Yearbook 1999.*" (1999) 64.

<sup>10</sup> *Ibid.* 65.

## Recommendations

- A complete report with accurate figures is necessary for proper analysis; where information cannot be provided, this should be explained with appropriate reasons.

## OUTCOME MEASURES

### Summary of Response

In response to questions on outcome measures on the right of access to sufficient water, the DWAF reported that the number and percentage of persons, households and communities relying on unsafe water was not known. The Department also stated that its capital cost programme 'did not place a ceiling' on the cost per capita for the provision of sufficient water for rural people. A total of 3,524 447 people had gained access to water from 1994 until March 1999. The figure is only for people living in rural areas, and differentiation of data into other categories as requested was not available.

### Commentary

The DWAF did not respond sufficiently to all the questions on outcome measures. Although the Department stated that it could not provide categorised information as requested by the Commission, it failed to provide information on questions that could have been answered. Instead, it referred the Commission to Departmental documents where such information is available. This is not acceptable as the obligation rests with the DWAF to respond to the questions in their entirety, so that the Commission can focus its work on evaluating whether the right to have access to sufficient water is being *progressively realised*.

Whilst the DWAF reported that over 3.5 million people have gained access to water since 1994, it failed to provide information on a provincial basis. Table 1 provides a detailed provincial breakdown of this total, as well as the respective programmes used to provide access to water. The data contained is only for programmes providing access to water in rural areas. All of the presidential projects were completed by March 1999, except for one project in the North West that would have provided access to water to a further 210 000 people upon completion in December 1999.

The data in Table 1 shows that the Eastern Cape has received the bulk of water service delivery with 34% of the total people gaining access to water coming from that province. This is in keeping with the prioritisation of delivery to areas that are most in need, as the Eastern Cape had the least amount of households with piped water (53.4%) of all the provinces.<sup>11</sup> Other sources suggest that the amount of people that do not have access

---

<sup>11</sup> Statistics South Africa "Census in Brief, The People of South Africa, Population Census, 1996." at <http://www.statssa.gov.za/census96/HTML/CIB/Population/21.htm>

to piped water is even greater. The Poverty and Inequality report<sup>12</sup> states that in rural areas, more than 80% of households have no access to piped water or sanitation.

**Table 1: Provincial breakdown of number of people who have gained access to water as at 31 March 1999<sup>13</sup>**

PROVINCE	PRESIDENTIAL LEAD PROJECTS	WATER SERVICES			TOTAL
		PROGRAMME 2	PROGRAMME 3	PROGRAMME 4	
Eastern Cape	112 000	482 612	237 539	378 148	1,210 299
Free State	90 000	65 386	24 800	13 500	193 686
Gauteng	-	-	-	-	0
KwaZulu-Natal	246 000	166 843	22 800	-	435 643
Mpumalanga	-	271 817	90 807	118 309	480 933
Northern Cape	-	11 408	13 524	-	24 932
Northern Prov.	190 000	279 063	41 730	108 982	619 775
North West	250 000	23 612	42 198	121 762	437 572
Western Cape	-	6 670	108 487	6 450	121 607
<b>PROGRAMME TOTAL</b>	<b>888 000</b>	<b>1,307 411</b>	<b>581 885</b>	<b>747 151</b>	<b>3,524 447</b>

Notes: Presidential Lead Projects commenced in the 1994/95 year.

Water Service Programmes 2, 3 and 4 commenced in the years 1995/96, 1996/97 and 1997/98 respectively.

Amongst rural Africans, 74% of all households need to fetch water on a daily basis, of which 21% have to travel more than 500m to fetch water. The provinces with the largest percentage of rural people are the Northern Province (88.1%), North West (65.2%), Eastern Cape (62.7%) Mpumalanga (61.7%) and KwaZulu-Natal (56.5%).<sup>14</sup>

In the same way as the Eastern Cape, other provinces with a low percentage of piped water were prioritised for service delivery. Those provinces that received preferential delivery were the Northern Province, Mpumalanga, KwaZulu-Natal, North West and the Free State.

It is disappointing that the DWAF did not provide information on service delivery of water in all areas, including urban areas and informal settlements. The need for piped water in informal settlements is as great as that for rural areas. In fact, recent evidence

<sup>12</sup> J May (ed) "Poverty and Inequality in South Africa." (1998) 139.

<sup>13</sup> Adapted from 'Department of Water Affairs and Forestry. Progress Report March 1999' at <http://www.dwaf.pwv.gov.za/directorate/waterservices/pds/progrep/reports/March99.htm>

<sup>14</sup> Statistics South Africa "Census in Brief, The People of South Africa, Population Census, 1996." at <http://www.statssa.gov.za/census96/HTML/CIB/Population/21.htm>

suggests that service delivery of water in some informal settlements has actually deteriorated. For example, the proportion of people in Khayelitsha that did not have access to water has increased from 2.9% in 1995 to 5% in 1999.<sup>15</sup>

### **Recommendations**

- The onus is on the DWAF to categorise data into provinces, rather than referring the Commission to source documents.
- Information on service delivery for all areas especially informal settlements must be provided.

---

<sup>15</sup> Cape Metropolitan Council “*Cape Metropolitan Area State of the Environment*” at [http://www.cmc.gov.za/peh/soe/water\\_2.htm](http://www.cmc.gov.za/peh/soe/water_2.htm)

## LIST OF ABBREVIATIONS

CSIR	Council of Scientific and Industrial Research
DWAF	Department of Water Affairs and Forestry
KPIs	Key Performance Indicators
RDP	Reconstruction and Development Programme
SABS	South African Bureau of Standards
WHO	World Health Organisation

## BIBLIOGRAPHY

1. Burger, D (ed) "*South Africa Yearbook 1999.*" (1999).
2. May, J (ed) "*Poverty and Inequality in South Africa.*" (1998).
3. Pieterse, M J "Drinking-water quality criteria with special reference to the South African experience." *Water SA*, (1989) Vol 15, no 3.
4. van Ryneveld, M B "*An Introduction to the Provision of Physical Infrastructure, Water Quality.*" (1997).
5. van Ryneveld, M B "Costs and Affordability of Water Supply and Sanitation Provision in the Urban Areas of South Africa." *Water SA*, (1995) Vol. 21 No. 1.