

**PROPOSAL FOR THE ESTABLISHMENT OF A SINGLE CATCHMENT
MANAGEMENT AGENCY IN TERMS OF SECTION 78(3) OF THE NATIONAL
WATER ACT**

SUBMISSION BY BUSINESS UNITY SOUTH AFRICA (BUSAS)

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INTRODUCTION

BUSAS welcomes the opportunity to comment on this important proposal. It is common cause that attempts over the last number of years to implement the Catchment Management Authority concept as contemplated in the National Water Act has not been successful. The decision by the Department to seek another route to achieve sound national water resource management is therefore supported.

Establishment of yet another state-owned entity (SOE) in the absence of the implementation of the recommendations from the review report on SOEs is however not supported for a number of reasons as set out below.

LEGAL BASIS FOR THE PROPOSAL

BUSAS believes that not only there is currently no legal basis to establish a national catchment agency, but the proposal is in fact in conflict with the National Water Act and the current National Water Resource Strategy which is binding on all entities exercising powers in terms of the National Water Act and which currently contemplates the establishment of 9 CMAs.

The National Water Act includes an obligation on the Minister to promote the management of water resources at the catchment management level.

Chapter 7 of the National Water Act states the purpose of establishing catchment management agencies as being to delegate water resource management to catchment level and to involve local communities, within the framework of the national water resource strategy. One of the key objectives of establishing a CMA at catchment level is therefore to ensure involvement of communities. Establishment of a single national CMA makes the achievement of this objective more difficult and appears to result only in replacing the department with an SOE called a Catchment Management Agency.

GENERAL COMMENTS

The proposal to establish a National Catchment Management Agency, which ultimately will take over most if not all of the functions of the department is a significant change in the way in which water resources will be managed. Given that the current management



of water resources at all levels is currently far from satisfactory, a compelling case needs to be made as to the soundness of this proposal, which is a significant change from the status quo. In general, the business case provides insufficient information to allow stakeholders to make an informed decision on its feasibility.

A proposal that fundamentally changes the clear intention of the National Water Act and therefore, the whole basis of water resource management in South Africa needs to be subjected to socio-economic impact assessment before being released for public comment. It is not clear that this document was approved by the cabinet or was subjected to the required socio-economic impact assessment.

Given that no legal basis exists for the establishment of this entity, BUSA has not undertaken a detailed analysis of the document but wishes to make some high-level comments on the following issues:

- Functions
- Governance
- Finances
- Impact on water users

FUNCTIONS

One of the key functions of a Catchment Management Agency is to undertake the development of a catchment management strategy at catchment level where the unique characteristics of the specific catchment are generally understood. That is why the National Water Act contains provisions for delegation and the different approaches that can respond to the unique characteristics of a specific catchment.

It is not clear how centralising these functions at the national level will improve the current situation, particularly in cases where A Catchment Management Agency is already doing some of this work.

It is particularly concerning that the intention appears to be that the new entity will not employ any of the staff currently employed by DWS. In all the recent documents released by DWS, reference is made to the shortage of skills in the water sector. There is no indication in the proposal as to how this will be addressed. Certainly, there appears to be the risk that the department and the new entity will be undertaking the same functions and that the taxpayer (as opposed to the water user) will be paying for the department and the water user for the new entity.



GOVERNANCE

There is a significant difference in the composition of the board, which is intended to provide for representation by different water use interests and one that is required to manage the annual expenditure of almost R 1 billion in terms of the PFMA. The Business Case appears to conflate the two and does not clearly distinguish the characteristics of the two different types of the governance structure. There is no reference to the government framework for the appointment of people to the boards of SOEs, which is currently being developed.

FINANCES

It appears that the new entity will be funded primarily by water use charges but if the anticipated operating costs and estimated revenue amounts provided are compared there is a significant shortfall. It is not clear how this shortfall will be funded. Given the current significant drain on the fiscus from existing state-owned entities, BUSA cannot support any proposal that will result in the establishment of an entity which will clearly place a further burden on the fiscus.

It seems ridiculous to establish a new entity that is supposed to address all the challenges faced by the department in respect of water resource management and then allow the department which in terms of the challenges set out in 3.1 including financial management to continue to undertake that task for the new entity.

There is no evidence that a sound financial feasibility investigation, which is an essential element of a business case, has been carried out.

IMPACT ON WATER USERS

BUSA does not believe that the challenges identified in 3.1, which are generally supported as needing to be addressed will be adequately addressed by the establishment of a new entity. This means that although there will be an additional cost to water users it is unlikely that the current challenges being experienced will be addressed.

CONCLUSIONS

Although BUSA agrees that the current approach to water resource management is not satisfactory, this does not mean that any change to the status quo should be attempted without a much more compelling business case than it is presented here.

In a country like South Africa with a shortage of water, the risks of any change to the status quo must be much more carefully considered.

BUSA therefore, recommends that no effort must be spared to address the key challenges that currently plague the department and only when that has been done should any significant changes to the institutional arrangements be considered.