



Honourable Nomvula Mokonyane
Minister of Water and Sanitation
Pretoria

Attention: Ms Sandy Thomas

Personal assistant to the Minister of Water and Sanitation

By email: thomass@dws.gov.za

Cc:

Mr Sifiso Mkhize Director-General Department of Water and Sanitation By email: mkhizes@dws.gov.za mdakanep@dws.gov.za	Mr Anil Singh Deputy Director-General: Water Sector Regulation Department of Water and Sanitation By email: SinghA3@dws.gov.za
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8 November 2017

URGENT

Dear Minister Mokonyane

THE PROPOSED CONSOLIDATION OF THE CATCHMENT MANAGEMENT AGENCIES INTO ONE NATIONAL CATCHMENT MANAGEMENT AGENCY

1. The South African Water Caucus (SAWC) is network of more than 20 community-based organisations, non-government organisations and trade-unions active in promoting the wise, equitable and just use, protection and provision of water. It was formed in the lead up to the 2002 World Summit on Sustainable Development.
2. It has recently come to our attention that the Minister of Water and Sanitation (Minister) has taken the decision to commence the process of consolidating the nine catchment management authorities (CMAs) into a single national CMA. We strongly object to such a decision as it would fly in face of existing national water policy that provide for the decentralisation of and public participation in water governance. We therefore call on her to keep the nine CMAs intact.

Background

3. There has been a strong emphasis on public participation in and decentralisation of water resource governance in South African water policy and law since democratisation in the mid-1990s. The sentiment that South Africa must move away from centralised water resource governance and focus on a more participatory, inclusionary approach has been carried through from 1997, when the White Paper on a National Water Policy for South Africa, to the more recent revised National Water Resource Strategy, published in June 2013 (NWRS2).

4. The establishment of CMAs is central to the decentralisation drive. The explanatory note at the commencement of Chapter 7 of the National Water Act, 1998 (NWA) provides that the purpose of establishing CMAs is to “... *delegate water management to regional or catchment level, and to involve local communities...*”
5. The SAWC supports national policy for the decentralisation of water resource governance in South Africa as it affords ordinary South Africans space to participate in water resource governance. In SAWC’s experience, the delegation and assignment of certain functions to the existing CMAs has translated into a more participatory approach to water governance. Through the establishment and running of catchment management forums (CMFs), which are linked to the CMAs and proto-CMAs, SAWC members have been able to engage with decision-makers and other role-players in the water sector more meaningfully.
6. The consolidation of the legally established CMAs into a single CMA would result in water resource governance to revert to the pre-democratic position where ordinary South Africans could not participate in decisions that involved water resource governance. It would erode trust in water management institutions and undermine the relationships many of the SAWC members have built with the existing CMAs and proto-CMAs.
7. We understand that the DWS regional offices will take over the reign of “catchment-level” water management in the absence of CMAs. We do not believe that such an institutional arrangement will translate into decentralisation as regional offices are essentially extensions of central government.

No public participation in relation to the Minister’s decision

8. The Minister has conducted no public participation in relation to her decision to consolidate the 9 CMAs into a single national CMA. Her decision therefore flies in the face of the public administration principle in the Constitution of the Republic of South Africa, 1996 that people’s needs must be responded to, and the public must be encouraged to participate in policy-making. The decision is also misaligned with the principles in the National Environmental Management Act, 1998, which provide that the participation of interested and affected parties in environmental governance must be promoted.
9. We appreciate that the Minister will in all likelihood still publish a notice of her intention to consolidate the 9 CMAs into a single CMA and officially call for comment on her intention. However, in our experience, the notice and comment procedure does not amount to meaningful participation. Written comments from civil society organisations and activists typically have little impact on policy-making.
10. Given the importance of CMAs to a more inclusionary approach to water resource governance, we submit that it is crucial that the Minister engages meaningfully with SAWC on this issue. In anticipation of such engagement, **we respectfully request that the Minister provides us with cogent reasons for her decision to consolidate the 9 CMAs into a single CMA and to give us a detailed plan for catchment-level water resource governance in the absence of CMAs.**

Legal and policy considerations

11. As you are no doubt aware, section 7 of the NWA provides that the Minister, the Director-General, an organ of state and a water management institution **must give effect to** the national water resource strategy when exercising any power or performing any duty in terms of the NWA.

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12. The NWR2 is clear that 9 CMAs must be established and brought into operation as soon as possible. It also states that CMFs are to be developed to assist CMAs to fulfil their functions under the NWA.
13. We therefore submit that the consolidation of the existing 9 CMAs into a single CMA would be contrary to section 7 of the NWA and therefore unlawful.

Conclusion

14. The SAWC calls on the Minister to abandon her intention to consolidate the CMAs and to reinvigorate capacity-building in CMAs to ensure that they are fully functional as soon as possible. The SAWC also respectfully requests a meeting with the Minister and/or senior DWS management to discuss its concerns.
15. Kindly acknowledge receipt of this letter, and provide us with a response by **no later than close of business on 17 November 2017**. Should we not receive a response from the Minister by that date, the SAWC would have no choice but to raise this issue with the Portfolio Committee on Water and Sanitation to request it to exercise its powers of oversight to call the Minister and the DWS to account.
16. The SAWC's rights to take other appropriate political or legal action remain expressly reserved.

Yours sincerely



SOUTH AFRICAN WATER CAUCUS

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