

CONTINUATION OF INKOMATI CATCHMENT WATER USE VERIFICATION

The Inkomati-Usuthu Catchment Management Agency (IUCMA) has delegated responsibility for water resources management by the Minister of Human Settlement, Water and Sanitation in the Inkomati and Usuthu Water Management Area. One of the delegations, is the validation and verification of the extent and lawfulness of an existing water use under section 35, as prescribed by sections 32 and 33 of the National Water Act, (Act 36 of 1998, [henceforth referred the Act]). The validation and verification process for existing water use shall be limited to water use(s) that have been in existence prior the promulgation of the Act and were exercised lawfully under any law which was in force immediately two years before the date of commencement of the Act.

The determination of lawfulness and extent of existing water use(s) will be done in terms of sections 32 and 33 of the Act which can be found on www.dws.gov.za, which read as;

- ss32.** (1) An existing lawful water use means a water use –
- (a) which has taken place at any time during a period of two years immediately before the date of commencement of this Act; or
 - (b) which has been declared an existing lawful water use under section 33, and which –
 - (i) was authorised by or under any law which was in force immediately before the date of commencement of this Act;
 - (ii) is identified as a stream flow reduction activity in section 36(1); or
 - (iii) is identified as a controlled activity in section 37(1).
- (2) In the case of -
- (a) a stream flow reduction activity declared under section 36(1); or
 - (b) a controlled activity declared under section 38, existing lawful water use means a water use which has taken place at any time during a period of two years immediately before the date of the declaration.

- ss33.** (1) A person may apply to a responsible authority to have a water use which is not one contemplated in section 32(1) (b)(i), (ii) or (iii), declared to be an existing lawful water use.
- (2) A responsible authority may, on its own initiative, declare a water use which is not one contemplated in section 32(1)(b) (i), (ii) or (iii), to be an existing lawful water use.

(3) A responsible authority may only make a declaration under subsections (1) and (2) if it is satisfied that the water use -

- (a) took place more than two years before the date of commencement of this Act and was discontinued for good reason; or
- (b) had not yet taken place at any time before the date of commencement of this Act but - (i) would have been lawful had it so taken place; and
- (ii) steps towards effecting the use had been taken in good faith before the date of commencement of this Act.

(4) Section 41 applies to an application in terms of this section as if the application had been made in terms of that section.

To ensure redress and equitable access to water resources, the IUCMA has to confirm the lawfulness and extent of existing water uses. Additionally, the IUCMA has to determine how much water is available in the system to allocate as part of the water allocation plan to previously disadvantaged persons and future water requirements including environmental flows and domestic water use for areas that were previously deprived of this right. Since 2014 till 2019, the IUCMA undertook the project with a Professional Service Provider (PSP) to process validation and verification of existing water uses. Unfortunately, some water users did not adequately respond to the letters sent due to various challenges. Hence the IUCMA once again requests water users to participate in the project to continue the verification of the unverified properties. This project is imperative as the IUCMA will be undertaking the process of compulsory licensing soon. The ongoing verification is confined to the following water uses:

- a) Section 21(a) which is taking water from any water resource, resource being a dam; a river, a wetland or groundwater via a boreholes;
- b) Section 21(b) which is the storing of water by a dam, a weir or any facility within the regulated area of a watercourse;
- c) Section 21(d) which is the engaging in a stream flow reduction activity contemplated in section 36 of the Act.

The IUCMA has validated and determined the existing water use(s). This process entails consultation/ engaging water users to verify the determined validation outcomes. Water users are welcome to dispute the outcomes by furnishing factual proof in the form of **old water use permits, Water Court Orders, property specific aerial photos, legible remotely sensed images, etc.** The images and photos should not be older than year 1999. Additionally, any water users that are outside Irrigation District but intend for ss33(2) verification, need to furnish factual proof that meets the terms of ss33(3) (a) (b)(i) and (ii).

During this process of water use verification consultations, IUCMA employees will physically visit water users on their respective properties on pre-arranged dates via the respective existing local water use management structures or contacts. Water users are therefore requested to avail themselves/ representatives to engage and verify the validated water uses outcome with the IUCMA employees. The visits will occur on sub-catchments basis, i.e **Upper Kwena; Elands River, White River; etc, starting upstream of each catchment and on tributary sub-catchments like Stads River.** At this consultation meetings the IUCMA personnel will make available and present the water user with the validated water uses outcome for examination and concurrence by the water user. Where there is no concurrence the process described on the latter paragraph ought to be observed, for furnishing factual proof.

Water users are advised to please note the following, that in terms of,

1. **ss 151(1)(a)** of the Act, no person may use water otherwise than as permitted under this Act;
2. **ss 151 (1)(f)** of the Act no person may fail or refuse to give data or information, or give false or misleading data or information when required to give information under this Act;
3. **ss 151 (1)(g)** of the Act no person may fail to register an existing lawful water use when required by a responsible authority to do so;

Due to COVID-19 restrictions, a maximum of five (5) IUCMA personnel, when necessary would physical visit respective property(s) or identified venue. Enquiries can be directed to Ms. Felicia Nemathaga (nemathagaf@iucma.co.za/ 0827660035), Ms. Vutlhari Matsane (matsanev@iucma.co.za/ 0622345050) and Mr. Sampie Shabangu (shabangus@iucma.co.za/ 0629079061), Ms. Gugu Motha (mothag@iucma.co.za/ 0784590349) alternatively call the office at telephone number 013 753 9000.

NB: Water users are welcome to send any water use validation and verification enquiries to the above contacts for assistance. Furthermore, all water users that have verified their existing water use(s) can ignore this notice.

WATER USE VERIFICATION IS ONE FORM OF PERMISSIBLE WATER USE AUTHORISATION UNDER SS22(1)(a)(ii)

www.iucma.co.za

