

**AN INVESTIGATION INTO THE  
PROGRESS FOR THE  
MANAGEMENT OF RETICULATED  
WATER SERVICES PROVISION IN  
THE BUSHBUCKRIDGE AREA**

Thulani Castro Mhlanga • Phillip Walker

WRC Report No 958/1/00



Water  
Research  
Commission

#### **Disclaimer**

This report emanates from a project financed by the Water Research Commission (WRC) and is approved for publication. Approval does not signify that the contents necessarily reflect the views and policies of the WRC or the members of the project steering committee, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.

#### **Vrywaring**

Hierdie verslag spruit voort uit 'n navorsingsprojek wat deur die Waternavorsingskommissie (WNK) gefinansier is en goedgekeur is vir publikasie. Goedkeuring beteken nie noodwendig dat die inhoud die siening en beleid van die WNK of die lede van die projek-loodskomitee weerspieël nie, of dat melding van handelsname of -ware deur die WNK vir gebruik goedgekeur of aanbeveel word nie.

**AN INVESTIGATION INTO THE PROGRESS FOR THE  
MANAGEMENT OF RETICULATED WATER SERVICES  
PROVISION IN THE BUSHBUCKRIDGE AREA**

**Report to the Water Research Commission**

**by**

**THULANI CASTRO MHLANGA AND PHILLIP WALKER**

**Association for Water and Rural Development (AWARD)**

WRC Report No.: 958/1/00  
ISBN No.: 1 86845 702 8

## **EXECUTIVE SUMMARY**

In 1994 the new Department of Water Affairs and Forestry (DWAF) determined to build a 160 million cubic metre dam, known as Inyaka Dam, in the Sabie-Sand water catchment. The primary purpose of the dam is to provide domestic and agricultural water to the communities of Bushbuckridge, Nsikazi North and Hazyview. Following the decision to construct the dam DWAF recognised that a water management vacuum existed in the area. Subsequently, in early 1995 an institutional development project as a Presidential lead project under the RDP was launched. This had three key tasks, namely i/ to maintain existing operations and maintenance, ii/ to establish a water board as a bulk supply agent, and iii/ form an appropriate structure for local government management of reticulated water services. The relevant local governments, elected in November 1995, are the rural Transitional Local Councils of Bushbuckridge North, Bushbuckridge Midlands and Bushbuckridge South (all in the Northern Province), the Transitional Rural Council of Nsikazi North and the Transitional Local Council of Hazyview (Mpumalanga).

### **Aim of the Research**

This research was commissioned to the Association for Water and Rural Development (AWARD) by the South African Water Research Commission (WRC) to undertake research into the Bushbuckridge institutional development project initiated by the Department of Water Affairs and Forestry (DWAF). Specifically, the intent of the research was to concentrate on the formation of an appropriate management structure for the provision of reticulated water services as this pertained to local government. The envisaged research period was to have been from January till December 1998.

As the institutional development project was one of the first in South Africa to be undertaken by DWAF, it was felt that there were many important lessons that could be disseminated to others throughout the country undertaking similar schemes. The lessons could also assist DWAF and other government departments (such as the Department of Constitutional Development) in policy formulation and revision, and in coordination around such initiatives.

### **Delays**

Following approval of the grant problems were encountered in that project initiation was delayed. There were a number of factors behind the delay in the launch of the project, and these are raised in the report. Whilst project implementation was being delayed, its framework was being restructured, which changed the envisaged process as indicated in the original research proposal to the WRC. Due to the delays in the project the research grant was extended for an additional six months (till June 1999), and the research was re-oriented to also include the history of the project and formation of a water board. In addition, it was agreed to prepare a 'Best Practice Guide' for the formation of a water services institution. In January 1999 AWARD was appointed to manage the project, and this raised a conflict of interest in that members of the implementation team were also members of the WRC funded research team assessing the implementation. This was resolved by bringing in an outside consultant to participate in the research team, and by neutrally interviewing other stakeholders and basing the report upon their attitudes.

Given the project delays this report has been structured to provide the following information:

- a historical background of the project,
- an assessment of the short period of implementation of the project, in relation to relevant government

- legislation and policies,
- the relationship between the IDP and other existing and emerging water service institutions;
- an understanding level, expectations and degree of satisfaction of councillors and other role players with the IDP project,
- capacity level of role players to assume their legislative responsibilities, and
- lessons and experiences learnt and to make informed recommendations that could be considered when and if implementing similar projects are implemented in other areas.

### **Methodology**

In undertaking this study, a questionnaire guide for a face-to-face in-depth interview was designed and conducted with individual councillors and officials from various water supply and management institutions. The interviews were conducted in two phases over a period of approximately ten months. Initial interviews were done by AWARD during the course of 1998, and in 1999 the independent consultant performed follow up interviews and prepared the draft report.

The questionnaire was semi-structured but, given the research technique, different follow-up probing questions were asked to get clarity and more information. Interviews were tape-recorded and later transcribed for processing, analysing and interpretation. Interview arrangements were made electronically and supplemented by physical visit to respective offices and workplaces. The list of those interviewed, and the types of questions asked, is attached as Appendix A.

### **Results and Conclusions**

The result has shown that from the outset there was a high degree of confusion about the project objectives. In order to accommodate stakeholders desiring to participate the steering committee continually expanded till it got to a size where it became incapable of making decisions. The implementing agent was perceived as urban-centric and arrogant. Tensions and conflict arose, both within the steering committee and between the steering committee and the implementing agent.

These deadlocks were eventually broken and a bulk supply authority, known as Bushbuckridge Water, was gazetted into existence in December 1997. The delays in the local government institutional development component has created a disjointed situation with Bushbuckridge Water struggling to find a suitable authority with whom to sign a water services agreement. Without technical support local councillors have been negotiating with DWAF, District Councils and Bushbuckridge Water from a position of weakness on issues such as transfer of infrastructure, management responsibilities, and cost recovery. Many councillors remain confused about local government's role and responsibility for service provision.

Despite these setbacks, progress has been made and a good working relationship between the main stakeholders has developed. Government legislation (such as the Water Services Act) that has occurred since the project inception has clarified many questions and issues.

For the local community this report serves as a record of their project. Interested readers can follow the project as it develops, twists and turns, and finds its feet. Based upon the experience of the project there are a number of recommendations, applicable at a local, regional and national level and directed towards different institutions. These are listed in Chapter Four.

The main recommendation from the report is that the three Bushbuckridge TLC's come together, and the Hazyview TLC and Nzikasi TRC unite (as envisaged by the Local Government Demarcation Board) and determine management models jointly. In this regard different models could pertain to different areas: such as clusters of villages adopting a community based management option, the private sector or public utility performing provision functions in the former R293 townships. A particular emphasis is placed upon exploring the potential for a partnership with the Bushbuckridge Water Board. The models should be tested and then adapted or changed as lessons are learned. This approach allows for different models to suit each circumstance, but it is dependent upon strong management capacity within the Water Services Authority.

### **Further Research**

There are a number of areas where, as the new institutions develop, further research could yield interesting information for both the participants and at national governmental level. These include:

- Assessing the process of transfer of assets and implementing cost recovery schemes,
- The evolving interlinkage between water services institutions,
- The process and effectiveness of the devolution of powers to lower tier authorities,
- The relationship between locally based water services institutions and the regional DWAF offices,
- The coherence and effectiveness of the DWAF and DCD approaches,
- The successes and failures of the water services provision models that are adopted,
- The appropriateness of the project models used to establish and build these new institutions.

## ACKNOWLEDGMENTS

The research in this report emanated from a project funded by the Water Research Commission and entitled:

“ THE INSTITUTIONAL STRUCTURE FOR THE MANAGEMENT OF A RURAL WATER AND SANITATION SUPPLY SCHEME INVOLVING FIVE LOCAL AUTHORITIES”

The Steering Committee responsible for this project, consisted of the following persons:

Dr. N Mjoli	Water Research commission (Chairperson)
Ms. U Wium	Water Research Commission (Secretary)
Mr. C. Mhlanga	Association for Water and Rural Development
Mr. P. Walker	Association for Water and Rural Development
Mr. A van Schalwyk	Water Systems Management
Mr. D. Smith	Rand Water
Mr. E. Maani	Umgeni Water
Dr. A. Shaker	National Community Water and Sanitation Training Institute
Dr. G C Pegram	Pula Strategic Resource Management
Mr. P Ntsime	Department of Water Affairs and Forestry
Ms. A. van Schoor	Department of Constitutional Development
Mr. M P Mutshinya	The Mvula Trust

The financing of the report by the Water Research commission and the contribution of the members of the Steering Committee is acknowledged gratefully.

This report was compiled by Thulani Castro Mhlanga of AWARD and Busani Selabi of Research and Development Institute. Thanks to Melanie Naidoo of Mvula Trust for her inputs on Chapter One. The report was reviewed and edited by Phillip Walker of AWARD.

The authors wish to thank all the councillors and officials from the following institutions - the local authorities from Bushbuckridge North, Midlands and South, Hazyview and Nsikazi North; Local Reconstruction and Development Committees; Lowveld and Escarpment District Council, Bushbuckridge Water Board, the Sabie River Working Group, Rand Water, the National Community Water and Sanitation Training Institute, and the Department of Water Affairs and Forestry who took time from their busy work schedules to share their opinions and experiences.

Whilst the input and suggestions from all those interviewed was invaluable, responsibility for the report and its recommendations lie with the authors.

## ACRONYMS

AWARD	Association for Water and Rural Development
BIDP	Bushbuckridge Institutional Development Programme
BPWP	Provisional Bushbuckridge Water Board
BWB	Bushbuckridge Water Board
CBO	Community Based Organization
CBPD	Community Based Project Department
CRDC	Community Reconstruction and Development Committee
DC	District Council
DWAF	Department of Water and Forestry
EHP	Environment Health Project
IDP	Institutional Development Project
LEDC	Lowveld Escarpment District Council
L-RDC	Local Reconstruction and Development Committee
NBWF	Nsikazi-Bushbuckridge Water Forum
NGO	Non-Governmental Organisation
O&M	Operations and Maintenance
PSC	Project Steering Committee
RDC	Reconstruction and Development Committee
RDI	Research and Development Institute
RDP	Reconstruction and Development Programme
RSC	Regional Service Councils
RW	Regional Service Council
RWD	Retail Water Distribution (the IDP renamed in March 1999)
SRWG	Sabie River Working Group
TLC	Transitional Local Council
TP	Transfer Process
TRC	Transitional Representative Council
US AID	United States Agency for International Development
WCF	Water Committee Forum
WCF	Water Council Forum
WRC	Water Research Commission
WSA	Water Service Authority
WSP	Water Service Provider

## TABLE OF CONTENTS

EXECUTIVE SUMMARY .....	-ii-
ACKNOWLEDGMENTS .....	-v-
ACRONYMS .....	-vi-
CHAPTER ONE: INTRODUCTION .....	1
CHAPTER TWO: POLICY AND LEGISLATIVE FRAMEWORK .....	3
2.1 THE RECONSTRUCTION AND DEVELOPMENT PROGRAMME .....	3
2.2 THE SOUTH AFRICAN CONSTITUTION .....	3
2.3 WHITE PAPER ON WATER AND SANITATION SERVICES OF 1994 .....	4
2.3.1 Role-players .....	4
2.3.1.1 National Government .....	4
2.3.1.2 Provincial Government .....	5
2.3.1.3 Local Government .....	5
2.3.1.4 Water Boards .....	5
2.3.1.5 Private Sector and Civil Society .....	5
2.3.2 Payment .....	5
2.4 THE WATER SERVICE ACT OF 1997 .....	5
2.4.1 Water Service Authority .....	5
2.4.2 A Water Service Provider .....	6
2.4.3 Water Service Committee .....	7
2.4.4 Water Board .....	7
2.4.5 Water Service Authority and Water Service Provider .....	7
2.4.6 Water Service Authority and the Water Board .....	8
2.5 NATIONAL WATER ACT OF 1998 .....	8
2.5.1 Catchment Management Agencies .....	9
2.6 LOCAL GOVERNMENT TRANSITIONAL ACT OF 1993 .....	9
2.7 THE WHITE PAPER ON LOCAL GOVERNMENT OF 1998 .....	10
2.7.1 Development Local Government .....	10
2.7.2 Co-operative Governance .....	11
2.7.3 Institutional Systems .....	11
2.7.4 Demarcation .....	11
2.7.5 Political systems .....	11
2.7.6 Municipal elections .....	12
2.7.7 Administrative Systems .....	12
2.7.8 Local Government Training .....	12
2.7.9 Municipal Finance .....	12
2.7.10 Local Government Transformation .....	12
2.8 THE MUNICIPAL DEMARCATION ACT (1998) .....	13
2.8.1 The Criteria .....	13
2.8.2 Consultation .....	13
2.9 THE MUNICIPAL STRUCTURES ACT .....	14
2.9.1 Categories and Types .....	14

2.9.1.1	Municipal Categories	14
2.9.1.2	Municipal Types	14
2.9.1.3	Executive Systems	14
2.9.1.4	Participative Systems	15
2.9.2	Establishment Procedures	15
2.9.3	Electoral Procedures	16
2.10	MUNICIPAL SYSTEMS BILL (1999)	16
2.11	COMPARISONS BETWEEN WATER AND LOCAL GOVERNMENT LEGISLATION	16
2.11.1	Bulk Service Providers	17
2.11.2	Service Provision	17
2.11.3	Subsidisation for basic levels of service	17
2.11.4	Conclusion	18

<b>CHAPTER THREE: THE HISTORY OF THE BUSHBUCKRIDGE INSTITUTIONAL DEVELOPMENT PROJECT</b>		<b>19</b>
3.1	INTRODUCTION	19
3.2	BACKGROUND	19
3.2.1	Injaka Dam	19
3.3	THE PROVISIONAL BUSHBUCKRIDGE INSTITUTIONAL DEVELOPMENT PROJECT	20
3.3.1	Formation a Project Steering Committee (PSC)	20
3.3.2	Preparation of a Project Business Plan	21
3.3.3	A Name for the Steering Committee	22
3.3.4	Appointment of the Implementing Agent	22
3.4	REPRESENTIVITY ISSUES	22
3.4.1	Local Government	22
3.4.2	The Project Steering Committee	23
3.5	REALIGNING THE PROJECT	23
3.5.1	The 'Rees Report' of September 1996	23
3.5.2	Broad Consultative Meeting	24
3.6	THE INSTITUTIONAL DEVELOPMENT PROGRAMME	26
3.6.1	The April 1997 Strategic Planning Workshop	26
3.6.2	Visit by the Environment Health Project (EHP) Team	27
3.6.3	Meeting Between Local Councillors and Parliamentary Portfolio Committee	29
3.6.4	National Responsibilities	30
3.6.5	Second and Third Visits by the EHP Team February - March 1998, October 1998	30
3.6.6	Water Councillors Forum	31
3.6.7	Bushbuckridge Water Board - Local Government Forum	31
3.6.8	Combined Water Services Workshop	31
3.6.9	The Sanbonani Accords	31
3.7	CONCLUSION	32

<b>CHAPTER FOUR:</b>	<b>THE BASELINE STUDY OF THE INSTITUTIONAL DEVELOPMENT PROGRAMME</b>	<b>33</b>
4.1	INTRODUCTION	33
4.2	TLC/TRC KNOWLEDGE OF IDP	33
4.3	COUNCILLORS' UNDERSTANDING OF THEIR CONSTITUTIONAL OBLIGATIONS	35
4.4	CONFUSION OVER WATER SERVICE AUTHORITY STATUS	35
4.5	TRANSFER PROCESS	36
4.6	CONDITION OF EXISTING INFRASTRUCTURES AND WATER SERVICE INSTITUTIONS	37
4.7	STAFFING	38
4.8	THE FULL- AND PART-TIME COUNCILLORS DEBATE	38
4.9	TRAINING AND CAPACITY BUILDING	39
4.10	CURRENT INITIATIVES: THE RETAIL WATER DISTRIBUTION CAPACITY BUILDING PROJECT	40
	4.10.1 Introduction	41
	4.10.1.1 Appointment of the project coordinator	43
	4.10.1.2 Project Activities and progress to date	43
	4.10.1.3 The Local Government Liaison	43
	4.10.1.4 Cost Recovery System	43
	4.10.1.5 Public Awareness Campaign	43
	4.10.1.6 Activities Associated with Water and Sanitation Services	43
4.11	TOWARDS ESTABLISHMENT OF AN APPROPRIATE ORGANIZATION FOR EFFECTIVE MANAGEMENT OF RURAL WATER SUPPLY SCHEMES	44
	4.11.1 The Institutional Relations Chain	45
	4.11.2 Operational requirements for water supply chain	46
	4.11.3 Refurbishment and establishment of new infrastructures	47
	4.11.4 Common vision with community	47
4.12	MODEL ORGANIZATION FOR THE BUSHBUCKRIDGE AND NSIKAZI NORTH LOCAL AUTHORITIES	48
4.13	FINANCING THE INSTITUTIONAL DEVELOPMENT PROGRAMME	50
<b>CHAPTER FIVE:</b>	<b>LESSONS AND RECOMMENDATIONS</b>	<b>52</b>
5.1	LESSONS FROM THE STUDY	52
5.2	RECOMMENDATIONS	53
	5.2.1 General	53
	5.2.2 Recommendations to DWAF, national, provincial /regional	54
	5.2.2.1 The transfer process	54
	5.2.2.2 Refurbishment	54
	5.2.2.3 New water schemes	54
	5.2.2.4 Consultation	54
	5.2.2.5 Infrastructure development	54
	5.2.3 Recommendations to IDP/RWD	55
	5.2.4 Recommendations to IDP/RWD And Local Authorities	55
	5.2.5 Recommendations Pertaining to The Department of Constitutional Development	56
	5.2.5.1 Part-Time/Full-Time Councillors	56

5.2.5.2	Restructuring local governments	56
5.2.5.3	Monthly allowances	56
5.2.6	Recommendation to District Councils	57
5.2.6.1	Recommendations to District Councils	57
5.2.6.2	Jurisdictional Confusion	57
5.2.7	Recommendations to local governments	57
5.2.7.1	Water shortage	57
5.2.7.2	Regular inter-local governmental meetings	58
5.2.7.3	Effective operation	58
5.2.8	Recommendation to IDP/RWD, DWAF, BWB, and DCD	58
5.2.8.1	Training and capacity building	58
<b>CHAPTER SIX:</b>	<b>CONCLUSION</b>	<b>60</b>
6.1	RECOMMENDATION ON APPROPRIATE MANAGEMENT MODEL	61
<b>APPENDIX A:</b>	<b>REFERENCES</b>	<b>63</b>
<b>APPENDIX B:</b>	<b>PEOPLE CONTACTED AND INTERVIEWED</b>	<b>65</b>
<b>APPENDIX C:</b>	<b>OPTIONS FOR GOVERNANCE STRUCTURES</b>	<b>66</b>
<b>APPENDIX D:</b>	<b>THE PUBLIC/PRIVATE PARTNERSHIPS FOR INFRASTRUCTURE AND SERVICE DELIVER OPTION</b>	<b>71</b>
<b>APPENDIX E:</b>	<b>DWAF GUIDELINES ON INFRASTRUCTURE TRANSFER</b>	<b>73</b>

## **CHAPTER ONE: INTRODUCTION**

### **Background**

In 1994 the Department of Water Affairs and Forestry (DWAF) decided to build a 160 million cubic metre dam, known as Inyaka Dam, in the Sabie-Sand water catchment. The primary purpose of the dam is to provide domestic and agricultural water to the communities of Bushbuckridge, Nsikazi North and Hazyview. Following the decision to construct the dam, DWAF recognised that a water management vacuum existed in the area. Subsequently, in early 1995 an institutional development project known as a Presidential lead project under the RDP was launched. This had three key tasks, namely: i) to maintain existing operations and maintenance, ii) to establish a water board as a bulk supply agent, and iii) form an appropriate structure for local government management of reticulated water services. The relevant local government, elected in November 1995, are the rural Transvaal Local Councils of Bushbuckridge North, Bushbuckridge Midlands and Bushbuckridge South (all in the Northern Province), the Transitional Rural Council of Nsikazi North and the Transitional Local Council of Hazyview (Mpumalanga).

### **Aim of Research**

The Association for Water and Rural Development (AWARD) was commissioned by the South African Water Research Commission (WRC) to undertake research into the Bushbuckridge institutional development project initiated by the Department of Water Affairs and Forestry (DWAF). Specially, the intent of the research was to concentrate on the formation of an appropriate management structure for the provision of reticulated water services as this pertained to local government. The envisaged research period was to have been from January till December 1998.

As the institutional development project was one of the first in South Africa to be undertaken by DWAF, it was felt that there were many important lessons that could be disseminated to others throughout the country undertaking similar schemes. The lessons could also assist DWAF and other Government departments (such as the Department of Constitutional Development) in policy formation and revision, and in coordination around such initiatives.

The establishment of the Institutional Development Project for Local Government Support (the IDP, although its name has now changed to Retail Water Distribution Project - RWD), that follows the recommendation by the Environmental Health Project (EHP) team assigned by the United States Agency for Internal Development (US AID), is extremely important as it coincides with a number of arrangements being sponsored by the Department of Water Affairs and Forestry (DWAF) pertaining to water supply, management and servicing that are currently being established in the project area. The scope of activities does not cover infrastructural development.

As the project was originally envisaged to be one of the first projects in South Africa to build the capacity of new and predominantly rural local governments to manage water and sanitation services, the motivation behind this research project was to document the progress, successes and difficulties encountered so as to provide lessons to other, similar, initiatives.

The structure of the report provides an overview of the current legislative and policy frameworks that impact upon local government responsibilities, particularly in the water and sanitation arena; and then provides a descriptive history of the project from inception in late 1994, initially known as

the Bushbuckridge Institutional Development Project. A survey of key stakeholders involved in the process is provided as well as an analysis of the status of the project at the time the report was written; a proposed organisational structure is presented as well as lessons and recommendations for various tiers of government.

The bulk of the research and writing was performed during 1998 and the early part of 1999. Where feasible, during the stage of editing this document, more recent developments were included. For the purposes of this report the terms 'institution' and 'organisation' are used interchangeably.

## **CHAPTER TWO: POLICY AND LEGISLATIVE FRAMEWORK**

This section outlines some policy framework pertaining to local government on provision of basic services such as water supply and sanitation and the institutional arrangements of those service providers. These include the South African Constitution of 1996, the Water Services Act of 1997, the National Water Act of 1998, the White Paper on Local Government of 1998 and the Department of Water and Forestry policy on Transfer of Government Water Works. The latter is attached to this report as Appendix D.

### **2.1 THE RECONSTRUCTION AND DEVELOPMENT PROGRAMME**

The Reconstruction and Development Programme (RDP) is a policy document encouraging sustainable development through the mobilisation of the country resources both human and materials, redressing the ills of apartheid and the subsequent consolidation of democracy based on the precepts of non-racism and non-sexism. Drafted in 1993 by the Tripartite Alliance (African National Congress, South African Communist Party, Congress of South African Trade Unions) it effectively became the ANC manifesto for the 1994 elections. The RDP is based on six main principles:

- integrated and sustainable development,
- people driven processes,
- peace and security for all,
- nation-building,
- linking reconstruction and development, and
- democratising the Republic of South Africa

Inherent in the RDP document are five vital programmes constituted to kick-start the delivery process. The programmes are:

- meeting basic needs
- developing our human resources,
- building the economy,
- democratising the state and society, and
- implementing the RDP.

The vision embodied in the RDP advocates for community participation and active involvement in their own development, and in this regard community based project steering committees are formed to oversee and monitor development projects.

### **2.2 THE SOUTH AFRICAN CONSTITUTION**

The Constitution of the Republic of South Africa mandates local government to:

- provide democratic and accountable government for local communities,
- ensure the provision of services to communities in a sustainable manner,
- promote social and economic development,
- promote a safe and healthy environment,

- encourage the involvement of communities and community organisations in the matters of local government,
- the constitution also mandates local government responsibility to put structures in place for administration, budgeting, and planning processes, to give priority to basic needs of the community. The Local Government Transitional Act 1993 grants responsibility for provision of water to consumers to the local government.

## 2.3 WHITE PAPER ON WATER AND SANITATION SERVICES OF 1994

The White Paper on Water and Sanitation's most important theme is that all South African's are entitled to at least a basic and adequate level of services, defined as:

- Potable water supply of 25 liters per person per day;
- 200m cartage distance; and
- Ventilated improved pit latrine.

Additionally, other policy principles are denoted, including:

- Development should be demand driven and community based;
- Basic services are a human right;
- Some for all rather than all for some;
- Equitable regional allocation of development resources;
- Water has economic value;
- Users must pay;
- Integrated development; and
- Environmental integrity

### 2.3.1 Role-players

The three tiers of government, as well as other structures, are all identified role players.

#### 2.3.1.1 National Government

With regard to water and sanitation services, national government manages the nation's water resources to ensure that all citizens have access to basic services, and provides a supportive and enabling environment for community-based development. It is also to provide national policy, guidelines and standards, and to monitor and audit progress. Only where there is a lack of capacity will it intervene.

#### 2.3.1.2 Provincial Government

Whilst water issues are a national and local competency, the provincial government effects national policy around water and sanitation within its own borders, and supports and enables local government to do so as well.

### 2.3.1.3 Local Government

Provides services to residents. Statutory local government associations may be established where local government does not exist. Local communities are therefore the point at which implementation, operation and maintenance of services will take place. Training and capacity building for communities is therefore an important part of government strategy.

### 2.3.1.4 Water Boards

Water boards will be democratised and rationalised and their mandate extended to include sanitation and provision of services direct to consumers in the absence of functioning local authorities.

### 2.3.1.5 Private Sector and Civil Society

The private sector and NGO's play a significant role in serving the public sector.

## 2.3.2 **Payment**

Services should be self-financing at local and regional levels, with the exception of poor communities that are unable to pay for services, in which case government may subsidise the capital cost of infrastructure. Such grants will be provided directly to local municipalities. Communities will therefore need to find the means to cover the costs of operating and maintenance expenses.

## 2.4 **THE WATER SERVICE ACT OF 1997**

The Water Services Act deals specifically with the supply of water and sanitation services institutions. These are the Water Boards, Water Services Authorities, Water Services Providers, and Water Service Committees. Following below are the primary objectives of the Act, which are to provide for:

- the right of access to basic water supply and sanitation
- the accountability of water services providers
- a regulatory framework for water service institutions
- promotion of effective water resource management and conservation
- financial assistance to water services institution
- the preparation and adoption of water services development plans by water services authorities.

### 2.4.1 **Water Service Authority**

The Water Services Authority is, in terms of this Act, any local government body, which, in terms of the law is responsible for ensuring access by every citizen to water supply and sanitation services. Every Water Services Authority has a duty to all consumers or potential consumers in its area of jurisdiction to progressively ensure efficient, affordable, economical and sustainable access to water services. However the responsibility is limited to:

- the availability of resources,
- the need for equitable allocation,
- the duty of consumers to pay reasonable charges,
- the duty to conserve water resources,
- the situation of land in question,
- the right of Water services authority to limit or discontinue water supply if reasonable conditions are not complied with.

In terms of this Act all WSA are required to provide a draft water service plan for its area of jurisdiction and the summary by December 1998. The plan must descriptively indicate how service is going to be provided to all citizens and how their needs are going to be met. A water services development plan is a development plan for water services that has been approved by WSA and published in the provincial government gazette.

Every draft services development plan must contain the following details:

- physical attributes of the area to which it applies,
- the size and distribution of the population within that area,
- a time frame for the plan, including the implementation Programme following five years of the existing water services,
- existing industrial water use within the area of jurisdiction of relevant water services authority,
- existing industrial effluent disposed of within the area of jurisdiction of relevant Water Services Authority,
- the number and location of persons within the area of jurisdiction who are not being provided with a basic water and basic sanitation,
- the number and location of persons to whom water services cannot be provided within the next five years,

It is the duty of the WSA to take reasonable steps to bring its draft water services development plan to the notice of consumers, industrial users and water services institutions within its area of jurisdiction and potential consumers, invite public comment thereon to be submitted within a reasonable time, and send copies of the draft water services development plan and comments received thereon to the Minister, the relevant province and all neighboring water services authorities.

WSA must establish by-laws to control technical standards of infrastructure and conditions for supplying water. A WSA can form a joint venture with another water services institution to provide water.

#### **2.4.2 A Water Service Provider**

A WSP services provider is the organisation responsible for the physical and organisational arrangements to provide water and sanitation services. It is the organisation, which manages water services infrastructure. The WSP operates under contract from the WSA. Where local authorities are WSA's, they can also act as WSP's if it is in their interest to do so. A water board is a bulk provision WSP, and can act as a reticulation WSP if it is requested to do so by local government, and if it does not impact negatively upon its primary function.

### **2.4.3 Water Service Committee**

The Water services Committee is a committee established by the Minister to provide water services, when the water services authority is unable to do so effectively. The main function of the water services committee is to provide water services to consumers within its area, however it may not unreasonably exclude any person within its services area from those water services.

### **2.4.4 Water Board**

The Minister of Water Affairs and Forestry appoints the Water Boards. The primary activity of the water board is to provide bulk water services to other water services institutions within its area. Other activities of the water board are to perform other activities if:

- it is not likely to limit the board's capacity,
- perform its primary function,
- it is not likely to financial prejudice itself,
- it is in accordance with board's policy,
- It is in the board business plan.

The Board may also perform the following activities:

- provide management services, training and other support to water services institutions,
- provide catchment management services,
- provide water services in a joint venture with water services authorities,
- with approval of relevant water services authority act as a water services provider,

Powers, functions and duties of the water board are to:

- give priority to its primary function,
- prepare a policy statement,
- prepare business plan,
- enter into written contracts,
- provide bulk water services to water services institutions,
- set conditions for the provision of services including technical standards and tariffing structure,
- use available resources optimally,
- be financially viable,
- promote the efficiency of water services authorities,
- act in an equitable, transparent and fair manner.

### **2.4.5 Water Service Authority and Water Service Provider**

As provided in the Water Services Act, local government as a municipality is responsible for the provision of water supply and sanitation, therefore it will appoint a Water Services Provider to perform the work on its behalf and authority and approval. An agreement should be reached between these two parties providing that:

- No person operate as WSP without the approval of the WSA in the area,
- WSA may, by itself, perform the functions of WSP,

- When a WSA performs the functions of WSP, it must manage and account for those functions separately.
- A WSA may only enter into a contract with private sector services after it has considered all known public sector water service providers who are willing and able to perform relevant functions.

#### **2.4.6 Water Service Authority and the Water Board**

The responsibility of the Water Board in the provision of the water supply and sanitation will be take water out of river, clean, check quality, pump, store and sell water to local government (WSA). Then the local government will buy bulk water supply from the water board and sell the water to consumers. The WSA may in this case tasked the Water services provider to do these on their behalf. The Water Board may also acts as Water Services Provider of behalf of the Water Services Authority.

### **2.5 NATIONAL WATER ACT OF 1998**

The overall objective of this Act is to:

- Meet the basic human needs of present and future generations;
- Promote equitable access to water;
- Address the results of the past racial and gender discrimination;
- Promote efficient sustainable and beneficial use of water in the public interest;
- Facilitate social and economic development;
- Provide growing demands for water;
- Protect aquatic eco-systems; and
- Reduce and prevent pollution and degradation of water resources.

This is done through the creation of a comprehensive national water strategy which provides for the:

- Requirements of the reserve;
- International rights and obligations;
- Actions to meet projected future water needs and strategic water needs;
- Establishment of water management areas and their boundaries;
- An estimation of present and future water needs;
- Stating of the quantity of water available in each water management area;
- Stating of water management area surpluses or deficits;
- Provision for inter-catchment water transfers; and
- Setting out principles of water conservation and demand management.

In addition the acts describes water management institutions which are: a catchment management agency, a water user association, a body responsible for international water management, the national water utility, and the office of the DWAF Director-General.

### **2.5.1 Catchment Management Agencies**

A Catchment Management Agency is a body corporate, responsible for the allocation and management of water resources within an area defined by a catchment, or basin. The "original functions" of CMA's are listed in Chapter 8, section 84 of the National Water Act. These are to:

- investigate and advise on the protection, use, development, conservation, management and control of the water resources in its water management area
- develop a catchment management strategy
- co-ordinate the related activities of the water management institutions in its water management area.

Further, Schedule IV specifies the powers, functions and duties that a CMA may exercise under delegation from the Director-General. In particular Schedule IV, section 2 states that a CMA may:

- manage and monitor permitted water use ...
- conserve and protect the water resources and resource quality ...
- do anything necessary to implement catchment management strategies .....

In relation to this a CMA may determine (Schedule IV, section 3 (2): ... the manner in which - (a) the times when; (b) the places where; (c) the manner in which; and (d) the waterworks through which, water may be used.

At the time of writing a process is underway to form a Catchment Management Agency covering the Komati, Crocodile and Sabie-Sand catchments. The Sabie-Sand catchment covers the area under survey in this report, and steering committee members include the local government water desk councillors and the Bushbuckridge Water Board.

### **2.6 LOCAL GOVERNMENT TRANSITIONAL ACT OF 1993**

The Local Government Transition Act (LGTA) was created in 1993 to provide interim measures with a view to promoting the restructuring of local government. It provided for :

- The establishment of provincial committees for local government in respect of the various provinces;
- The establishment of forums for negotiating such restructuring of local government;
- The establishment of appointed transitional councils in the interim phase;
- The issuing of proclamations concerning the powers and functions of the various transitional councils by the administrator for the various provinces; and
- The establishment of local government demarcation boards for the various provinces.

The LGTA was in fact a bridging legislation that created the opportunity to "deracialise" local authorities by combing previously defined "White" areas with previously defined "Black" areas, and creating the basis and regulation which governed the first ever non-racial local government election in South Africa.

This election brought into being a range of new transitional municipalities, according to the system created by the LGTA, which were divided along metropolitan (urban) and non-metropolitan (rural) lines, by provincial local government demarcation boards. These boards have since been dissolved.

It was amended various times, in order to take better account of local government outside of metropolitan and urban areas. Many parts of this Act have been made redundant by the Municipal Structures Act and the Municipal Demarcation Act, but others are still in operation until such time as the relevant parts of the Structures and Demarcation Acts respectively come into place.

This white paper is the brain-child of the LGTA of 1998 in which transition is outlined. The White Paper outlines the current situation in South Africa pertaining local government and discusses the specific strengths and weakness of different models of transitional municipality. Section B of the paper puts forward a vision of a developmental local government, which centers on working with local communities to find sustainable ways to meet needs and improve the quality of their lives. It urges local government to focus on realization of developmental outcomes, such as provision of household infrastructure and services. It also provides three approaches which can assist municipalities to become more developmental such as integrated development planning and budgeting, performance management, and working together with local citizens and partners.

Transitional Local Council model has been applied to most urban areas ranging from major cities to small rural towns, with very different economic realities. In terms of the White Paper, local governments are responsible for the provision of household infrastructure and services, as an essential component of social and economic development. This includes services such water and sanitation, local roads storm water drainage etc.

## **2.7 THE WHITE PAPER ON LOCAL GOVERNMENT OF 1998**

The White Paper on Local Government, launched in 1998, was the end product of lengthy negotiations about the new shape of post transitional local government. It first maps out the relatively dismal state of local government today – the interim phase (as dictated by the LGTA) of a transitional system beset with:

- Inequalities of wealth between and amongst both communities and their municipalities;
- Politically negotiated but delivery-styming municipal boundaries and systems of representation; and
- New municipalities struggling with both the financial and administrative obligations associated with serving expanded areas that incorporate both historically disadvantaged and overdeveloped areas.

The White Paper highlights the following key aspects:

### **2.7.1 Development Local Government**

In order to address the inequalities and service backlogs of the past, and ensure that everyone's right to access to basic services is fulfilled, a developmental local government that works with all role-players to promote sustainable economic and social development is needed. To do so, local government needs to improve leadership and strengthen local democracy, promote social and economic well-being, and co-ordinate and integrate all development and planning interventions within a particular area. Two essential tools are noted as:

- *Integrated Development Planning (IDP)*, the multi-year municipal service and development plan which takes into account, and works with, existing planning and infrastructure initiatives being managed by other role-players, including other spheres of government; and
- a *national system of performance management* which looks at measurements, targets and reporting on a minimal uniform set of key performance indicators for the sphere as a whole.

### **2.7.2 Co-operative Governance**

Here, an enhanced relationship between national, provincial and local government is proposed to ensure greater co-operation and service delivery across sectors and spheres of government. Some principles include:

- National and Provincial departments should work directly through and with municipalities;
- National and Provincial programmes should be built into municipal IDPs; and
- The local government MINMEC (local government's co-ordinating forum comprising of the Minister for Provincial and Local Government, the provincial MECs for Local Government, and SALGA) should co-ordinate any decentralisation of powers and functions to local government to avoid "unfunded mandates."

### **2.7.3 Institutional Systems**

Specific structures needed to facilitate the operation of local government in a way that meets its developmental, post-transitional obligations are outlined. Taking the constitutional mandate for wall-to-wall municipalities comprised of one of three categories, municipalities after the next local government elections will be one of three general types:

- *Metropolitan municipalities* (or Category A municipalities that have sole executive and administrative power in their area of jurisdiction);
- *Local municipalities* made of amalgamated urban-rural and/or urban and/or rural municipalities (or Category B municipalities that share executive and administrative authority with a Category C municipality); and
- *District municipalities* (or Category C) that oversee a regional area comprised of primary local municipalities.

### **2.7.4 Demarcation**

The political framework to the new municipal demarcation process is justified, in order to reduce the number of municipalities and enable municipalities to fulfill the requirements of developmental local government. It proposed that one municipal demarcation board be set up to determine both the outer and inner/ward municipal boundaries.

### **2.7.5 Political systems**

This section proposed specific remedies to the current executive and political systems operating within municipalities, in order to ensure that in future they are characterised by principles of democracy, efficiency, and accountability.

### 2.7.6 Municipal elections

A combination of the Ward and Proportional Representative voting systems will be continued, though it proposed that a "mixed" instead of a "parallel" system be utilised. This is meant to be more representative, as it allocates seats to parties in a way that ensure that the total representation of parties on the council corresponds to the total votes cast for any party.

### 2.7.7 Administrative Systems

A range of approaches to improve municipal administrative capacity for service delivery are proposed, including:

- Capacity building such as management reform, and worker empowerment;
- Corporatisation (service units managed along commercial lines which are separate but accountable to councils);
- Municipal partnerships with the private sector, CBOs and other stakeholders;
- Contracting, leasing, and concessioning out services with private companies; and
- Transfer of ownership by selling municipal assets to a private company.

### 2.7.8 Local Government Training

A national local government sector education and training authority (SETA) will replace the existing training system. This body will regulate local government training and manage an education and training fund. The South African Local Government Association (SALGA) will play a major role in councillor training, including the lead-up to the next elections.

### 2.7.9 Municipal Finance

Three key areas are addressed:

- **Improving Revenue** via a uniform property rating system throughout the country, payment of former Regional Services Council (RSC) and Joint Services Boards (JSB) levies, allocating part of the national fuel levy to local government for road maintenance, and charges for services.
- Improving the intergovernmental transfer system, including streamlining all national operating grants into one total payment directly to municipalities under local government's equitable share of nationally raised revenue. Capital grants and agency payments will continue to be disbursed via the particular national and/or provincial governmental departments responsible.
- The need to utilise **private sector investment** better by improved borrowing methods and capacities, and concessional loan financing of infrastructure by the private sector.

### 2.7.10 Local Government Transformation

This section outlined the steps towards post-transitional local government, including processes such as demarcation of municipal and ward boundaries, establishment of new municipalities and elections, and the necessary legislation providing for their implementation: Municipal Demarcation Act (1998), Municipal Structures Act (1998), and the Municipal Systems Bill (1999).

## 2.8 THE MUNICIPAL DEMARCATION ACT (1998)

The Municipal Demarcation Act provides for one, independent Municipal Demarcation Board that must demarcate along criteria and objectives that are set down in the Act itself. This makes the process relatively free from political bias.

Broadly, the Act defines the Demarcation Board, as well as the procedures for establishing it, and its powers and functions. It then sets out demarcation objectives, and criterion upon which to meet those objectives. Finally, it details the measures of consultation that must take place, and makes clear who will decide when new boundaries take effect and how.

### 2.8.1 The Criteria

The overall objectives of demarcation result in three clusters of criteria within the Act itself:

- Firstly, municipal boundaries need to *integrate* areas that functionally belong together. Criteria within this cluster include taking into account:
  - Interdependence of people and communities vis a vis their use of amenities and infrastructure,
  - existing and proposed functional boundaries such as those of magisterial, health and transport districts,
  - existing and expected land use, social, economic and transport planning, and
  - the need for co-ordinated municipal, provincial and national programmes services.

Additionally, the Municipal Structures Act (1998) gives district councils a new set of bulk-service powers. The Demarcation Board will need to draw boundaries in a way that accommodates these new powers. District boundaries, for example, will need to be aligned with national and provincial planning areas such as water catchment management areas.

- Secondly, boundaries need to facilitate municipalities that are *financially viable and have administrative capacity*. Criteria within this objective cluster include the need to share financial and administrative resources and rationalise the numbers of municipalities, and to take into account the administrative consequences of the boundary decision on administrative capacity and municipal creditworthiness.
- Finally, all boundary decisions need to ensure *effective local democracy and governance*. For example, criteria include the need to take into account areas of traditional rural communities, and to generally respect the "softer" elements of interdependence of recreation, time-use, transport and cultural ties of functionally integrated human settlements.

### 2.8.2 Consultation

The Act requires the Demarcation Board to take effective consultative measures during both the investigation and decision-making stages of its work. It must first post notice of the fact that it is engaged in a particular boundary decision, and invite written representation from any person or parties, then publish a final boundary decision in the relevant Provincial Gazette, and respond to requests for reconsideration or an objection.

## 2.9 THE MUNICIPAL STRUCTURES ACT

The Municipal Structures Act is an omnibus piece of legislation, providing in detail the framework of options for the institutional restructuring of post-transitional local government.

It details:

- Procedures and criteria for determination of which areas require a Category A municipality;
- Municipal categories and types that will be possible for local government MECs to determine within their province;
- Establishment procedures, including procedures for determining the categories, types, powers and functions of new local government structures within each province; and
- Electoral procedures for new local government elections, as well as a code of conduct for councillors.

### 2.9.1 Categories and Types

#### 2.9.1.1 Municipal Categories

The bulk of the Act is related to municipal categories and types. It first indicates that the Minister for Provincial and Local Government will determine which areas in the country are metropolitan areas, after consultation with relevant role-players. Those areas must then be governed by a Category A municipality.

The rest of the country will be governed by the dynamic combination of Category B and C municipalities, or local and district municipalities, with one exception. In areas determined by the Minister for Provincial and Local Government unable to sustain a viable municipality, only a district municipality will govern. These areas will be known as "district management areas."

District municipalities are given a stronger role in region-wide planning and service delivery than they currently have. They will be responsible for a district-wide IDP, as well as assisting local municipalities with their IDPs. They also have additional powers related to bulk service infrastructure, new facilities for the district as a whole, and providing and maintaining service delivery in local municipal areas where the municipality is unable to do so. Importantly, however, a local municipality is not prohibited from performing one or more of the functions now directly allocated to district councils. For example, a local municipality may administer its own bulk infrastructure for water and sanitation. But if that infrastructure serves more than one municipality, the district council must take responsibility for it.

#### 2.9.1.2 Municipal Types

The Act details five systems of municipal government (three executives, two participatory) that can be combined in a limited number of ways within each category of municipality, to form particular municipal types.

#### 2.9.1.3 Executive Systems

Recognising that each municipality has different needs, capacities, and performs different sets of powers and functions, the Act provides for the local government MEC in each province to determine the appropriate form of executive leadership within each municipality. It indicates that these systems are the best to ensure that the internal political leadership of each municipality is

such that it meets the challenges of developmental local government.

These systems are:

- **Plenary Executive System**, in which executive powers and decisions are exercised by the entire municipal council in plenary. This system is most likely appropriate in a small municipality, with limited service delivery functions.
- **Collective Executive System**, in which the municipal council elects an executive committee, which as a whole exercises executive powers. This system is already common in South Africa, and is appropriate for a range of municipalities.
- **Mayoral Executive System**, in which the municipal council elects an executive mayor, and delegates its executive powers to him or her. He or she may appoint a mayoral committee to whom he or she further delegates some sets of powers, but decisions are taken with the Mayor. This system might be appropriate in either a small council, or a large metropolitan council, in which a recognised and charismatic "face" of local government might be desirable.

#### 2.9.1.4 Participative Systems

The Act notes that it is important to facilitate a good participatory system within municipalities that are large enough to have wards, or that are metropolitan municipalities. It provides for a **ward participatory system**, which allows for the establishment of ward committees. The committee consists of the councillor who represents that ward, and a maximum of 10 other persons who live in the ward. They are mainly advisory committees, but a municipal council may delegate additional powers and duties to the committee.

It also provides for the **subcouncil participatory system** in metropolitan municipalities. Subcouncils consist of areas of clustered wards, represented by a committee of the metropolitan council through a metropolitan by-law. They can either be advisory, or be delegated significant powers and functions, depending on metropolitan needs. They are comprised of all the councillors who represent the wards in the subcouncil, plus additional councillors to ensure political proportionality.

#### 2.9.2 **Establishment Procedures**

Establishment refers to the process of legally creating and establishing post-transitional local government structures across the country, in newly demarcated areas. It entails consultation by the local government MECs, the national Minister for Provincial and Local Government, the Demarcation Board, effected municipalities, and other role-players to legally redefine each municipality through an Establishment Notice.

The Establishment Notice contains information specific to each municipality, including details about the structure of the municipality, and its powers and functions. Each Notice must indicate which category the municipality is, its type, its outer boundaries, its name, number of councillors, powers and functions it performs, and so forth. It must also contain information about the transfer of staff, assets, and any other changes that need to be effected if, for example, a new municipality is created out of an amalgamation process, etc.

The powers and functions listed in a municipality's Establishment Notice are permanent until amended by the local government MEC.

### **2.9.3 Electoral Procedures**

Significant changes in electoral procedures are defined in the Act's schedules, and include, inter alia:

- The utilisation of a "mixed" versus the "parallel" voting systems;
- Providing for 40% of district municipal councillors to be voted directly by PR vote by constituents (currently all councillors are nominated from their council to represent the municipality at district council);
- The opportunity for citizens living in "district management areas" (areas without a primary level of municipality) to vote for district-level representation by PR vote; and
- A 50-50 PR/ward voting system, as opposed to the current 40-60 system.

### **2.10 MUNICIPAL SYSTEMS BILL (1999)**

The Systems Bill is the third major piece of legislation to give effect to the outcomes of the White Paper on Local Government. This Bill is aimed at enabling municipalities to move towards a more performance-oriented Batho Pele ("People First") approach to service delivery, and facilitate the progressive build up of municipal capacity to perform its constitutional responsibilities. It:

- Clarifies the nature of a municipality by including residents and communities within the municipal area into the definition of a municipality, and establishes a system for internal relationships;
- Establishes the basic requirements for public accountability and participation which are essential to the long term sustainability of a municipality;
- Assigns powers of general competence to local government and manages the process of decentralisation;
- Provides for the regulation and promulgation of municipal by-laws and the determination of procedures to support service provision;
- Rationalises the system of municipal planning into a single, comprehensive five-year cycle;
- Establishes a system for monitoring and evaluating performance;
- Establishes a set of principles around tariff setting for municipal service delivery; and
- Provides for the empowerment of municipalities to implement tough and effective credit control and debt collection strategies to deal with non-payment.

It will take effect after the next local government elections.

### **2.11 COMPARISONS BETWEEN WATER AND LOCAL GOVERNMENT LEGISLATION**

The comparisons listed here entail largely to the Water Service Act, Municipal Structures Act and the Systems Bill, the central pieces of current legislation which are responsible for regulating and impacting upon the water and sanitation services provided through local authorities.

In general, the principle within the local government sector of developmental local government is compatible with current DWAF policy around community-driven water services. Performance management of services and monitoring are also deemed by both sectors to have the same importance, and follow the same process of target setting, monitoring and intervention by provinces as defined by section 139 of the constitution.

However the legislation stemming from DWAF and DCD do differ on a number of levels.

### **2.11.1 Bulk Service Providers**

According to the Municipal Structures Act, municipalities will fall into one of three categories, which will determine, inter alia, its powers and functions. All municipalities, with the exception of metropolitan municipalities, will operate within a district government system, where a district council operates in a district, along with primary local councils. The district council is meant to act as a bulk supplier of water to its local council areas, either through the local council or directly to communities. At present bulk water supply is provided to many municipalities by various Water Boards. Water Boards are obliged to respond to the request of a municipality by the Water Services Act; however, under the Systems Bill, a municipality is unable to request the provision of services from a Water Board. Services, including some rendered by public partners as in the case of Water Boards will be awarded through a competitive procurement process.

### **2.11.2 Service Provision**

Both the WSA and the Municipal Systems Bill discuss the importance of including private sector involvement and investment in service delivery. However the WSA defines that public partners ought to obtain preference as service providers, whereas the Systems Bill declares a system of competitive bidding as an appropriate means of selection for service providers. This system of competitive bidding applies generally and does not differentiate between types of NGO's and CBO's and the range of services that will be contracted out. This will most likely undermine village committee and other community-based models of service rendering, in favour of a private sector involvement in service delivery.

Public partners as defined in the WSA refer to the entire range of "public" organisations (including parastatals and CBOs, for instance). The Municipal Systems Bill, on the other hand seems to differentiate between public partners, which seem necessarily to be organs of state, and NGOs/CBOs etc.

### **2.11.3 Subsidisation for basic levels of service**

The WSA and the Systems Bill both discuss the need for the provision of at least a basic level of service to all citizens. The need, therefore, to subsidise the poor by allowing for the subsidisation of capital costs of infrastructure is dually supported. Both pieces of legislation; however, emphasise the need for all individuals to pay for some level of services received.

The WSA proposes the need for national tariff setting, whereas the Systems Bill allows tariffs to be set by the relevant municipality, with the emphasis on financial viability of the service. The Minister for Provincial and Local Government; however, may prescribe guidelines.

Service providers in the Systems Bill can administer subsidies allocated for service rendering to a community, whereas such subsidies in the WSA will be administered through the water service authority or local water committees, which are statutory bodies.

Two new aspects that are reflected in the Systems Bill are:

- The specification of an internal municipal service district, wherein policy on tariffs and services etc will be managed in a manner which is exclusive to this district, and
- A multi-jurisdiction service district, wherein two municipalities can declare a common service boundary and a common governing body to manage the services provided within this boundary.

The Systems Bill defines a significant role for community participation in planning, through the construction of IDPs. This role is vacant in the WSA, which sees a stronger role for community participation in the implementation of services, through giving preference to public and community partners.

#### **2.11.4 Conclusion**

The Municipal legislation has taken local government much further than the white paper in attempting to define into practice the vision of developmental local government. The approach adopted in the two major restructuring legislation, the Structures Act and the Systems Bill, has focussed upon creating financially viable municipalities which are empowered to provide efficient and appropriate services to all citizens. This is a tremendous challenge to attain, however what the legislation appears to be steering away from, is the strong emphasis on community participation and local economic development aspects being central to service provision in local government. The legislation (Systems Bill) focuses strongly upon community participation in IDP's but prefers the involvement of private sector organisations in service provision. This impacts quite a bit on water provision, which is implemented in largely rural communities, and require a high level of community involvement in service provision to ensure appropriate levels of services and the possibility of cost recovery.

## **CHAPTER THREE: THE HISTORY OF THE BUSHBUCKRIDGE INSTITUTIONAL DEVELOPMENT PROJECT**

### **3.1 INTRODUCTION**

This chapter is intended to provide a descriptive background history of the Bushbuckridge Institutional Development Project (BIDP), that was initiated in 1995 as a Presidential Lead Project under the Reconstruction and Development Programme, and of the process leading to the formation in 1997 of the BWB. Particular emphasis will be placed on the establishment, in terms of the constitution, of local government units and the emergence of the Institutional Development Programme (IDP) as a component of the BIDP, which has the objective of assisting local government in forming an appropriate institution for the management of the provision of reticulated water supplies.

The initiation of the project was based upon the 1994 White Paper on Water and Sanitation, and preceded adoption of the Water Services Act (1997) and the National Water Act (1998). The lack of a clear legislative framework in part contributed towards some of the confusions and dissensions that occurred; on the other hand, the project assisted DWAF personnel in drafting legislation to suit the new political environment.

### **3.2 BACKGROUND**

#### **3.2.1 Injaka Dam**

During the 1980's representatives of the major industries (in particular commercial agriculture) began to advocate for an improvement to water supplies along the Sabie River. In response the then Department of Water Affairs commissioned Chunnet, Fourie and Partners to undertake a feasibility study. Their report (1991) recommended building of a dam on Injaka farm at the confluence of the Maritsane and Marite Rivers. These are tributaries of the Sabie River, and situated about 18 km north of Hazyview and 26 km east of Graskop. The subsequent dam has become known as Injaka Dam, and the design for the dam was done by Mr. Frans Druyts, Chief Civil Engineer at the Department of Water Affairs.

Advocating for the construction of the dam were commercial agricultural estates, the private forestry sector, and members of the tourism/conservation industry. During the drought season in 1992 these members coalesced into the Sabie River Working Group (SRWG) and took responsibility to control abstractions from the Sabie River. Since then the SRWG has managed to attract some local community representatives to its meetings, and has recently become oriented towards the formation a catchment management agency.

With the advent of the new political dispensation, and in recognition of the urgent needs of domestic consumers, the new Department of Water Affairs and Forestry (DWAF) determined to shift allocations in favour of domestic consumers. With a design already available tenders were issued in 1994, with the contract being awarded to the Group 5 Roads. The dam is due for completion in late 1999, although it will take up to three years to fill. It will have a capacity of 123 million cubic metres, of which 57.8 million cubic metres can be annually released. The dam will service downstream users at the villages of Marite, with other extraction points situated along the Sabie River, including the Hoxane pumping station that services Bushbuckridge South and Nzikasi North. In addition, an intra-basin transfer pipeline, from the dam site to the Sand River sub-catchment has been constructed. It has the capacity to supply up to 17 million cubic metres per annum which, with potentially can supply the major communities and a number of villages in Bushbuckridge North and Bushbuckridge Midlands.

### **3.3 THE PROVISIONAL BUSHBUCKRIDGE INSTITUTIONAL DEVELOPMENT PROJECT**

Concurrent with the construction of the Injaka Dam, DWAF at a national level was beginning to investigate appropriate institutional arrangements for the management of water in line with democratic principles. It was recognised that in terms of Injaka Dam there was an institutional vacuum and accordingly the Bushbuckridge Water Board and Institutional Development Project (BWBIDP) was launched in 1995 as a Presidential Lead Project under the RDP.

In order to take forward the process leading to a management institution, and in accordance with RDP principles, it was necessary to form a community based Project Steering Committee. The intention was for the steering committee to co-ordinate the project and to ensure that all stakeholders and role players were accommodated, and to give the communities the decision making opportunity in issues that affect their lives.

#### **3.3.1 Formation a Project Steering Committee (PSC)**

Prior to the formation of a steering committee debate had occurred about whether the Sabie River Working Group could transform into being a representative steering committee. Those in favour of this concept, including members of the SRWG, argued that the SRWG was already performing a management function (albeit limited) and had drawn a body of expertise into its ranks. The counter argument had it that no matter how well intentioned members of the SRWG were, it was dominated by people who had benefited greatly from the old system and would inevitably use resources in their own self interest, and that mandated representatives from communities were hesitant to participate in this structure. With this in mind it was decided to establish a fresh steering committee, based upon local communities, who could develop their own capacities, input their own experiences and knowledge, and establish a management system relevant to their needs.

The initial meeting to start this process was held in November 1994 at the Bushbuckridge Club house. Approximately sixty people attended and the meeting which was addressed by the Manager for the new DWAF section called Community Water Supply and Sanitation, Mr. Mike Muller. The presentations and discussion centred around a steering committee related to the construction of Injaka Dam. After extensive debate the proposal to form a project steering committee was endorsed. However it was recognised that further work was required before representivity could be attained and a committee elected.

This occurred in February 1995 when it was recognised that, although sufficient representivity was still lacking, the process was log jammed until a PSC was formed. It was decided that five representatives should be elected from each identified zone (namely Bushbuckridge South, Midlands, North and Nsikazi North), and five representing sectoral users (Commercial Agriculture, Forestry, Tourism, Environment and Mining - essentially the SRWG). Members from some of the locally based NGO's were also elected to the steering committee. A criteria for determining representation was not made, and elections came from amongst those that attended the meeting.

At the same time as the project steering committee was being elected, all inclusive Reconstruction and Development Committee's (RDC's) were being formed at village level as the official civil society component to relate to the Reconstruction and Development Programme. These were not yet in a position to nominate delegates to serve on the PSC, but came to play a role at a later stage.

### 3.3.2 Preparation of a Project Business Plan

In January 1995 a well attended meeting heard that in accordance with RDP criteria it was necessary to draft a business plan, which would indicate the project objectives, the means of achieving these, and a budget. A business plan is the equivalent of a project proposal, and its preparation and endorsement by the RDP Commission was necessary to release allocated funding. At the meeting, the Rand Water Board, a Gauteng based water board, was introduced by DWAF representatives and gave a presentation on the RDP business plans. In adapting to new political realities, Rand Water had formed the Community Based Projects Department (CBPD) to begin providing assistance to previously disadvantaged communities. From its side, DWAF recognised the need for external assistance to the local communities, and although Rand Water was an urban based entity, it was felt that their knowledge as a water board would be highly useful whilst they could also learn of the complexities involved in rural development.

Although in principle agreement was reached to contract Rand Water to prepare the business plan, this was not formalised until the PSC was elected the following month. The first draft business plan, submitted in April 1995, revealed confused roles as to the objectives of the project.

Rand Water were directed by DWAF to prepare a business plan that related to management institutions, and their draft made reference (amongst other matters) to identifying management capacities and needs, determination of area of authority and staffing issues. The PSC was of the understanding that its role was to oversee the construction of Injaka Dam, and in response to the business plan prepared by Rand Water drafted its own that referred to issues such as employment principles, on site training and engagement of local contractors. It took a letter from CWSS Manager, Mr Mike Muller, to clarify that, although it was being built in accordance with RDP principles, the Injaka Dam was not a Presidential Lead Project under the RDP, and that the role of the PSC was the formation of an appropriate management institution (at a later stage another PSC was formed to allow for community input on relevant matters related to the construction of the dam; such as employment policy, relocation of people whose houses would be flooded, shifting of ancestral graves). With this contention resolved, preparation of the business plan proceeded. The final business plan for Phase One of the project, applicable until March 1996 and at a budget of R 2.2 million, was adopted in May, and later endorsed by the RDP Commission.

The first phase of the project sought to develop a clear understanding of the area in which the proposed Water Board would operate by focussing on the following processes:

- training of project steering committee members,
- employment of project staff,
- holding a public participation process with the various sectors and (forthcoming) local government,
- commissioning a management audit of all current water management institutions and their technical and human capacities,
- media and public awareness,
- community based workshops,
- undertaking a social assessment of water related needs of recipient communities in the Great Bushbuckridge and Nsikazi North areas, as well as an investigation of likely impact which bulk water management would have on current water management practices.

### **3.3.3 A Name for the Steering Committee**

Having been established the steering committee was quickly inundated with consultants and well meaning advisors offering their advice. Much of the input was on policy relating to the formation of a water board. At the same time, the steering committee was considering an appropriate name for itself.

At its April 1995 meeting, the steering committee adopted an interim draft constitution under the name of Provisional Bushbuckridge Water Board (PBWB). Although intended as simply a guideline for procedural matters, the adoption of the name indicated a concentration on issues related to a water board and neglect of the other institutional issues that were originally envisaged.

### **3.3.4 Appointment of the Implementing Agent**

The path was now clear to advertise and appoint an implementing agent. With the draft Business Plan completed and approved, national advertisements for an implementing agent for the institutional process were placed. Fifteen applications were received and in June a PSC meeting established a criteria and process for appointment and short listed six candidates to be interviewed.

A well attended and lengthy meeting held on the 13 June 1995, attended by the steering committee and government representatives, received presentations from the applicants and concluded that a consortium comprised of a partnership between a NGO and an engineering company were the best applicants and should be offered the contract. The major reason for this decision was that this partnership had both institutional development, capacity building and technical skills, previous experience in restructuring water boards, and knowledge of the area due to their previous work. Support for a Non Government Organisation also played a role. It was to be hoped that a contract could be quickly signed and other important issues, such as locating an office, employing staff, and initiating an information dissemination campaign, could be quickly undertaken.

At this point a number of delays occurred. First, the contract had to be approved by the State Tender Board, who had never before issued a contract to an NGO and had to draft a new one. This was followed by an internal disagreement within the two partners that confused and disoriented the PSC. A number of volatile meetings occurred as the PSC sought to clarify the problem, and eventually reached a point where the PSC stipulated additional criteria which the partners found unacceptable and therefore withdrew.

With the project already some months behind schedule, the PSC returned to the second placed candidate, Rand Water, and requested that they become the implementing agent. The appointment applied from October 1995.

## **3.4 REPRESENTIVITY ISSUES**

### **3.4.1 Local Government**

For the first time in annals of South African history, in November 1995, elections occurred to establish democratic local government. The town of Hazyview had previously had local government based upon the 'white' areas and this was being restructured to incorporate parts of former homelands. The other parts of the Sabie River Catchment has no experience of local government. Four Transitional Local Council's were elected: in Hazyview, Bushbuckridge North, Midlands and South; and a Transitional Rural Council (TRC) for the Nsikazi North area. A TRC has less powers and authority than a TLC.

In terms of the National Constitution ( 1996) local governments' responsibility is "to ensure the provision of services to communities in a sustainable manner", and to "structure and manage its administration, budgeting, and planning processes, to give priority to the basic needs of the community, and to promote the social and economic development of the community" . Implicit in these requirements are the provision of reticulated water supplies and sanitation.

With the exception of Hazyview TLC, which had the staff and equipment to deliver effective services to most of their area, the newly elected local councils immediately faced a range of problems. The councils were lacking in staff and infrastructure (one TLC does not even have an office in its area of jurisdiction). Councillors were young and inexperienced, and unclear as to their responsibilities. Despite this, they were enthusiastic and committed, and ready to assert their new found authority.

### **3.4.2 The Project Steering Committee**

Following delays whilst the PSC was clarified on its role, and then with the appointment of an implementing agent, it was to be hoped that the project would proceed rapidly. However, this was not to be the case as a dispute arose within the steering committee over representivity. A number of vacancies had arisen, due to people being appointed to posts on the project staff and others leaving the area, and with no mechanism existing to fill these gaps replacements were being identified on individual preference. The newly formed RDC's were beginning to exercise authority and demanding representation, as were local government councillors elected in November 1995. With the realisation that membership of a steering committee provided financial gain through attendance and transport remuneration (and for some had become a full-time occupation), competition to fill posts became fiercely competitive.

This dispute was eventually resolved by increasing the number of representatives (including local government) and with a particular emphasis on representation from the Local Reconstruction and Development Committee's (RDC's), so that the project steering committee comprised in excess of forty members. NGO representatives, who had been a driving force behind the steering committee, ceased to be members. The consequence of this became that no-one was really sure of who exactly was, or was not, a steering committee member (and no-one had a detailed listing of members); and that the steering committee became too large (in excess of 40 members) to be able to make a decision. Extensive time was put aside to debate, often of minor issues, without ever being resolved. With the exception of the financial sub-committee which diligently scrutinised all claims, established sub-committee's were non-functional (possibly because attendance was without remuneration). Frustrated by the delays, sectoral representatives withdrew from participating.

## **3.5 REALIGNING THE PROJECT**

### **3.5.1 The 'Rees Report' of September 1996**

Toward the end of the Phase One of the Provisional Bushbuckridge Water Board and Institutional Development Project, a review of its activities was conducted. The review team was comprised of Prof Judith Rees of the London School of Economics and Political Science and Mr. Alan Hall of HR Wallingford (UK) under assignment by the Overseas Development Administration (ODA) and the Department of Water Affairs and Forestry. The review, conducted in August and September 1996 has become known as the Rees Report.

The review noted that the project was of an 'experimental nature' which had 'produced valuable results' including the gaining of 'considerable experience and a better understanding of the need of institutional development projects'. However, there was 'widespread agreement (amongst stakeholders) that it (the project) had got out of hand, had lost direction and needed refocusing'. What had begun as a broad intervention around a number of institutional development initiatives had become focussed on the formation of a water board, with an excessively large and cumbersome steering committee attempting to cover a vast range of activities without really succeeding at any. Upon the basis of the key recommendations emanating from the review, a framework for re-orienting the project was developed with three clearly defined interventions agreed to between DWAF, Rand Water and PBWB's project steering committee.

The framework focussed on three broad areas of concern as had been addressed to various degrees within the project programme, namely: the question of a management authority for bulk water supplies, the development of local capacity and distribution systems, and the stabilisation and improvement of existing operations and maintenance. The framework separated out these different initiatives and refocused them into the following three interventions :

- **The establishment of a bulk supply authority:** This intervention would concentrate on the formation of a water board and the development of this institution. Four intended bulk infrastructure projects would become the responsibilities of this institution.
- **The strengthening of the management of existing operations and maintenance:** This would occur through the creation of a clearly defined project with a specified and limited time frame, aimed at stabilising and improving the existing situation. Once this was achieved, priority would then be given to handing over operation and maintenance functions to both the bulk water supply authority and an appropriate institution at local level such as local government.
- **The establishment of a co-ordinated cross sectoral institutional development programme:** This programme would focus on local government and local water committees and would be aimed at addressing the development of technical and institutional assistance to local government and assisting local government in the retail operation and maintenance functions of water in the region.

### 3.5.2 Broad Consultative Meeting

On the 25 and 26 October 1996 a two day consultative workshop was held at the Sanbonani Hotel, Hazyview. The workshop was attended by approximately 80 people.

The aims of the workshop were as follows:

- to give feed back on the first phase of the project,
- to provide an opportunity to various consultants commissioned by Rand Water and/or DWAF to give the workshop delegates feedback on the first phase of the project,
- to give DWAF an opportunity to explain progress on the project and proposed vision,
- to refocus the initiative,
- to explore the way forward, and
- to submit recommendations to DWAF, based on the findings of the Rees Report.

After extensive discussions, the following were accepted as defining the way forward:

- that a priority be placed on the formation of the water board, in terms of the then 1956 Water Act, as a bulk water supply authority (the water board, including geographic boundaries and board members, was gazetted into law by the national government as a bulk supply authority in December 1997).,
- that an institutional development programme should be set in place. This would be necessary if local government and existing community capacity was to be utilised for the provision of such services. A cross sectoral approach and capacitation of local service providers would be necessary in order to carry out responsibilities in terms of the provision of water services.,
- that an operation and maintenance management programme be established. This was intended to build infrastructure development both in terms of present and long term provision.

The outputs of the workshop process were intended to be:

- the attainment of efficient operation and maintenance,
- establishment of an effective cost recovery system,

Following on from this:

- a phased hand over of bulk operations and maintenance from DWAF to the water board (by March 1999),
- the phased hand over of local operations and maintenance from DWAF to the appropriate local institutions (by March 1999)

It was agreed that for the Water Board Establishment Project, and the separate Operations and Maintenance (O&M) Initiative that Rand Water would serve as the Implementing Agent. However for the programme to support local government, which was called the Institutional Development Programme (IDP), the prevailing opinion was that another implementing agent was required. Rand Water was mandated to put in place a facilitation process to develop the Business Plan, in preparation of a tender process to identify a new implementing agent. This was to be achieved by February 1997.

The two day conference concluded with a feeling of having achieved agreement on the following objectives:

- the agreement on the creation of a water board,
- nominations for the appointment of Board members to be invited as soon as possible as per DWAF criteria and guidelines,
- the proposed re-directing of members of existing PSC and once a Water Board has been established that the PSC should dissolve,
- the improvement of the existing infrastructure so as to cater for the present demand,
- the capacitation of local water committees and above all, the local authorities,
- all interested and affected parties be given the opportunity to propose a name for the Water Board.

### 3.6 THE INSTITUTIONAL DEVELOPMENT PROGRAMME

The establishment of the IDP follows the recommendation by the ODA (UK) after the study by Rees in September 1996. In the process of its establishment, the October 1996 consultative conference agreed to a budget of R 14 500 for the period 1 November 1996 to 31 January 1997, and of R 134 000 to cover final planning workshops in February and March 1997. A framework, including a detailed activities listing, was quickly drafted by Rand Water, and endorsed by the interim working group. The key issues were to:

- engage the active participation of local government and other stakeholders,
- undertake strategic planning and;
- appoint an implementing agent (in the interim Rand Water was fulfilling this function).

The objective of the intended strategic planning workshop was to:

- agree upon an appropriate operational structure (rather than having an implementing agent, various concepts such as consortiums and steering committees surfaced and were being discussed),
- ensure that all role players were 'on board' and in agreement,
- determine a detailed activity programme including time frames, responsibilities and key performance indicators for the entire project, and
- finalise budget and funding arrangements.

With the initiative to form a water board underway, there was an urgent need for the institutional equivalent on the reticulation side to become operational. Otherwise, the objectives of transfer of ownership of infrastructure by March 1999, and the provision of reliable water services to communities would be difficult to achieve. However, in the absence of a mandated body whose self-interest was to ensure the long term success of the IDP, by March 1997 none of the short-term objectives had been attained and a vacuum in leadership had occurred. In this environment, locally based activists took it upon themselves to organise the strategic planning workshop, which occurred in April of that year.

#### 3.6.1 The April 1997 Strategic Planning Workshop

The strategic planning workshop took place over three days from April 3 - 6. Although the desired inclusivity was not attained, eighteen participants attended representing the following organisations:

- the Local Governments (of Bushbuckridge South, Midlands, North, Hazyview and Nsikazi North),
- the Local Reconstruction and Development Committees of Bushbuckridge North, South and Midlands;
- the Provisional Bushbuckridge Water Board,
- Rand Water,
- NGO's (Mvula Trust, Claude Harris Leon Foundation Water Programme and the Nethworc Education Project),
- and a representative of the Environmental Health Project (associated with US AID).

The workshop defined the key problems facing the local government in water delivery service as:

- inadequate and unreliable water supplies,

- that the newly elected local councils were lacking in political clout,
- since the 1994 national elections, expectations from communities exceeded the ability of government to provide,
- non-payment of services,
- the lack of economic base which hindered the potential for intended institutions to become financially sustainable,

In order to provide a framework to resolve these problems, and to launch the institutional development programme, the workshop participants developed a step-by-step activity plan which identified tasks and responsible persons, a time frame, milestones and other key indicators which would take the process forward. The workshop concluded on a positive note with participants enthusiastic to fulfill their assignments. However, on the 14 April the interim implementing agent distributed a letter halting proceedings at the request of 'Constitutional Affairs to give them time to work out their involvement'.

Subsequent interviews (in March 1998) with the workshop participants agreed that six to eight months after the strategic planning workshop the IDP was lacking leadership and consensus of where to go and how to get there. The strategic plan that was developed had been forgotten and not communicated effectively to TLC and L-RDC members. With personnel changes there arose a need to provide continual information on the history of decisions, which did not happen, as even meetings had stopped occurring. As late as February 5 1998, the Regional Manager of DWAF, Mr. Johan van Aswegen, was stating in a letter to the local councils that "Some good progress were made with the first two initiatives (the establishment of the water board and the operations and maintenance project) but the Institutional Development Project is still not fully operational."

The delays reached a point that the then Leon Foundation Water Programme drafted a letter highlighting a number of 'concerns' with the performance of the interim implementing agent. Distributed in early September 1997, the letter was submitted to the Chairperson of the parliamentary Portfolio Committee for Agriculture, Water and Forestry, Ms. Janet Love, as well as some members of the PBWB PSC, DWAF personnel, local government water desk councillors, and other relevant personnel. Although somewhat confrontational in tone, the letter did express opinions 'on the ground' and resulted in Ms. Love visiting the area in December 1997.

### **3.6.2 Visit by the Environment Health Project (EHP) Team**

In late September 1996 a big workshop, well attended by local councillors, was held to discuss the IDP. Reports noted that initially there were some confusion and dissent at the meeting which took long time to resolve. This meeting was formally introduced to the EHP team that had recently arrived from the US. After giving a presentation and subsequent discussion, the EHP team were mandated to undertake an investigation and prepare a feasibility study for the IDP. At this meeting, responsibility for ensuring progress shifted from Rand Water to the Mpumalanga offices of DWAF.

After undertaking field work in the area and a desk top analysis, the EHP produced a report in October 1997 titled '*Issues and Options for Transfer of Water Distribution Responsibility to Local government Structures in the Bushbuckridge, Hazyview and Nsikazi North Areas of South Africa*'. The study defined many issues and options for the transfer of responsibilities for water service to the TLC. This included an assessment of appropriate legislation which indicates that:

1. The Local Government Transition Act 1993 grants responsibility for provision of water to consumers to the local government.

2. The Water Services Act, 1997 defines the term Water Services Authority as municipalities or local council responsible for ensuring access to water services.
  - local government being a Water Services Authority was legally provided for in the water Service Act of 1997. As such, local government has to ensure that a water services provider is set up under its authority;
  - accordingly, local government in its capacity as a Water Services Authority must oversee the set up of the water services provider in the TLC jurisdiction, and ensure that there are by-laws for operations, tariffs and procedures;
  - enter into agreement with DWAF for the transfer of water distribution systems;
  - enter into a contract with the Bushbuckridge Water Board for the bulk provision of water.
3. A Water Services Authority has all the rights and obligations of this legal charge. They are required to either directly provide water to consumers or establish a provider or contract with a Water Service Provider.
4. A Water Services Authority may set up a Water Service Provider in a number of ways:
  - It may enter into a written contact with a water services provider, such as water board or a village water committee,
  - It may join with other TLCs in a joint venture and form a public sector company,
  - It may set up a public sector company as its own company,
  - A Water Services Authority may only enter into a contract with the private sector as a Water Services Provider after all avenues with potential public sector utilities have been exhausted.

The Water Services Act of 1997 requires that all Water Services Authorities provider a draft Water Services Development Plan for their area of jurisdiction and summary by December 1998. The plan must be brought to the attention of consumers, and public comment invited before being presented to the minister and the provincial government.

The EHP report defined immediate tasks of the TLCs to decide how water services will be provided and what kind of service provider they want to appoint. The Options Study presented the following possibilities:

- Direct water services. This means that a local authority would establish a department within its system to be responsible for provision and management of water services.
- Joint venture. This implies engaging with another public sector institution in a partnership.
- Public sector company. One or more local authorities could agree to establish a company as a separate management and provision institution.
- Contractor. This would mean the appointment of a private individual or company to provide services.
- Request the Bushbuckridge Water Board to manage the provision of water services on the reticulation side.

All of the above options could be applied to a part of or entire project area.

The Environmental Health project study on the transfer of responsibilities to local governments key findings are as follow:

- that the roles and responsibilities needed to be defined for the provision of water services. The Water Services Act now provides more clarity,
- that prior to take over of responsibilities by local government a great deal of system upgrading is required,
- the parts of the current water system should be taken over by the newly formed Bushbuckridge Water Board. And what local government will take needs to be defined. Roles will need to be sorted out,
- local government will need to set up water service organisations or providers. There are several options available for providing services.

In terms of the EHP Assessment:

- local governments will need help in a number of ways to assume responsibility of staff, equipment and operating funds; as well as formulating a programme to appoint water service providing organisations,
- if each local government chose to set up its own Water Service Provider using local staff, building the capacity for water services provision would require a concerted training effort for a number of years. Financial sustainability in this scenario would be questionable,
- each local government, with the exception of Hazyview TLC, does not have the technical capacity for determining and defining its needs,
- some local governments may need to work together to build a unified technical and managerial capacity to balance the skills of the new water board,
- local governments need to find a way to build up its service provision and the technical strength to advocate for its interests,
- a local capacity building project for Water Service Providers will be needed to assist local authorities,
- local authorities must drive this project and agents who assist them must work for them to help, rather than report to DWAF, a contractor such as Rand Water, or provincial government,

In conclusion, the EHP team recommended that the cooperating local authorities form a joint coordinating body and empower their representatives by resolution to represent their interests in developing and managing a project. Subsequently they would need to identify and appoint an implementation team which possesses a range of skills and expertise.

### **3.6.3 Meeting Between Local Councillors and Parliamentary Portfolio Committee**

On 10 December 1997, Ms Janet Love, the Chairperson of the parliamentary Portfolio Committee on Agriculture, Water and Forestry visited Bushbuckridge. Her visit followed the concern raised by the then Claude Harris Leon Foundation funded Water Programme. High attendance from local councillors, DWAF staff and others was achieved. After long debate, a way forward was mapped out. It was agreed that local councillors should form a steering committee to drive the process, and that full council meetings should receive presentations and carry resolutions endorsing the IDP. This should be done by the end of January 1998. The restructuring of the intervention was seen as a big step forward, but what dependent upon a dedicated person to take responsibility that assignments were fulfilled, and this which was greatly lacking.

The interviews that followed later in March 1998 with civil society representatives, indicated that they felt they had not been fully briefed by councillors on the results of this meeting. However, they endorsed the shifting of control to local councillors as a positive move.

In fact, several months were required to establish what has become known as the Local Councillors Water Forum, which is beginning to make decisions pertaining to operations and maintenance matters, water reticulation and the IDP. Councillors are also participating on the Interim Operations Committee (IOC) for the operations and management initiative, but indications are that this is beginning to be combined with the Local Councillors Water Forum. The intention is to limit the number of meetings that councillors must attend and to prepare councils for the transfer of infrastructure from DWAF.

#### **3.6.4 National Responsibilities**

For several months negotiations had been occurring between the Department of Water Affairs and Forestry (DWAF) and the Department of Constitutional Development (DCD) as to which government department would be responsible for overseeing the IDP intervention. Although the project related to water issues, as a new institution it also fell within the mandate of constitutional department. Attempts by the local interim IDP Coordinating Committee to gain the participation and support of staff from the provisional Departments of Local Government, and guidance from a national level would have been very useful, but was unsuccessful. Both DWAF and DCD were recognising the complexity and mutual responsibilities concerning the project, but facing funding dilemmas which made them hesitant to assume full mandate.

#### **3.6.5 Second and Third Visits by the EHP Team February - March 1998, October 1998**

During the period of February-March 1998, the EHP Team returned to run workshops with local councillors and other relevant structures. The workshop presentation provided a summary of the information contained in the report and presented current information relating to the development of water service providing organisations. For many councillors the presentation was an eye opener as they felt they had not previously been properly workshopped on the contents of the October EHP report. They also prepared a 'Project Concept and Design' report, indicating a three phase process, over seven years, that could lead to the establishment of a sustainable retail water management organisation.

In their third visit, in October 1998, the EHP team noted the lack of progress and the over-optimistic nature of some of the original objectives. With this in mind they produced a third report called 'A Water Distribution Capacity Building Project for the Bushbuckridge Water Board Service Area'. This report broke the Pre-Project Phase objectives into workable components, and indicated the dire need to appoint and finance a management coordination team, and staff, to ensure that the project was initiated.

The Pre-Project Phase (also commonly called Start-Up Phase) was to be of twelve months duration. This would include a full-time coordinator responsible to ensure that local government was fully conversant with the project and actively supporting it, prepare the later project phases. These include:

- provide support to establish and administer the project steering committee's project preparation tasks,
- ensure communication and coordination among stakeholders and participants,
- facilitate and assist local government in understanding and preparation for the transfer of water and sewerage facilities to local management, and
- lay the groundwork for the project implementation during Project Phases I and II
- identify selected individuals to attend relevant training programme, visit other water service organisations, and prepare and present specialised training.

### **3.6.6 Water Councillors Forum**

The Water Councillors' Forum (WCF) - now called the Nzikasi-Bushbuckridge Water Forum (NBWF) - was established in April 1998 by the councillors responsible for water and sanitation services for Bushbuckridge South, Midlands, North, Nsikazi North and Hazyview local governments. Other role players in the forum are DWAF Mpumalanga regional office, Implementing Agent, Rand Water, Lowveld and Escarpment District Council, Northern District Council, and the Bushbuckridge Water Board. The overall objective of the forum is to understand and coordinate water services management amongst all the water service institutions in the area.

The forum holds meetings every month to discuss issues pertaining to water supply and sanitation in the area. At their meeting held in July 1998, the following terms of references were discussed but have not yet been adopted.

- contribute in implementing cost recovery,
- prioritising refurbishment programmes,
- participating in and guiding the Institutional Development Programme,
- coordinating and prioritisation of new project,
- understanding the roles and responsibilities of the Water Services
- authorities and facilitate the transfer process,
- setting up Task Teams and workshops.

### **3.6.7 Bushbuckridge Water Board - Local Government Forum**

In May and June 1998 local councillors joined with members of the Water Board in a joint forum to discuss matters of mutual concern. In particular this was aimed at determining areas of jurisdiction to take control of the water supply infrastructure and staff (that is, the distinction between bulk supply and reticulation). It was becoming apparent that local councillors were being resistant to proposals because they felt a lack of technical advice that was being provided to other water management bodies. They were also feeling that the other bodies were developing while they were left lagging behind.

### **3.6.8 Combined Water Services Workshop**

In August 1998 a successful workshop two-day workshop was held. The workshop was comprised of board members of Bushbuckridge Water, local councillors, DWAF staff and others. Concentrating on cost recovery issues, initial agreement was also reached between Bushbuckridge Water and the local governments over the distinction between bulk and retail water supplies, and respective areas of jurisdiction. The workshop highlighted the growing collaborative efforts between Bushbuckridge Water, as a bulk supply agent, and the local governments responsible for reticulation. Indeed two local government councillors, from Bushbuckridge North and Hazyview, serve on the board of Bushbuckridge Water.

Following months of severe criticism, the workshop also highlighted a fresh approach by the implementing agent, Rand Water. New faces had been assigned to the project, who were spending extended time in the project area, and were prepared to listen and exchange information. Yet, for the Board and staff of Bushbuckridge Water, progress remained slow.

### **3.6.9 The Sanbonani Accords**

Aware that the planned deadline for the project completion was looming, on 12-13 February 1999, a meeting occurred between the staff and board of Bushbuckridge Water, staff and board members of Rand Water, and national and regional representatives from DWAF. Uncompleted

tasks were highlighted and the resultant agreement, known as the Sanbonani Accords, provided a detailed listing on tasks to be performed and institutions responsible. The deadline was revised until June 30 1999, with Bushbuckridge Water to assume autonomous operations as from the 1 July 1999.

### **3.7 CONCLUSION**

The Bushbuckridge Institutional Development Project was one of the first water management development projects initiated by the newly elected democratic government. It went through some severe difficulties and made many mistakes. However, the Bushbuckridge Water Board, as a bulk water supply agent, has been developing capacity and staff and beginning to meet its legislative requirements. A more recent initiative, not covered in this report, has begun that will lead to the formation of a Catchment Management Agency.

Following restructuring of the project, the institutional development for local government component lay still born for over two years. Recent progress and analysis concerning this project - now called Retail Water Distribution - will be dealt with in Section 2.10. The time lag in starting this project has now meant increased pressure to come up with quick solutions, particularly in the areas of cost recovery and transfer of infrastructure. This pressure could potentially have a negative impact on the projects success.

Despite the project having suffered from a 'stop-start' process, local councillors have progressed in their understanding of their responsibilities and duties, and have a clearer picture of how the project should move forward. Although they continue to lack resources, their commitment remains high. In line with the newly formulated government policies, water management institutions - the water board, catchment management agency - which never previously existed are being established and are slowly asserting their presence. In this regard, an appropriate and functional structure for local councils to fulfill their responsibilities as Water Service Authority remains a gap to be filled.

## **CHAPTER FOUR: THE BASELINE STUDY OF THE INSTITUTIONAL DEVELOPMENT PROGRAMME**

### **4.1 INTRODUCTION**

This section is intended to document primary findings of a survey, which was undertaken in March and April 1999, in terms of many aspects in relation to the Institutional Development Programme (IDP), recently renamed the Retail Water Distribution (RWD) project. This will include councillors and officials' knowledge and understanding of the IDP, its objectives and how its intervention into the local government's management and supply of water and sanitation services will be conducted. It is also intended to assess their knowledge and that of other actors in the water services sector about the history of the project, its current status and future interventions. Its impact to date in relation to building capacity of councillors as one of its primary objectives will also be assessed and recommendations for future training strategies will be given. The section will also report on councillors understanding of their constitutional and legislative obligations to communities and possibilities for the establishment of an appropriate organization to manage rural water supply schemes. Finally, to provide a base upon which the IDP intervention can successfully be plotted, lessons and recommendations will be drawn and documented. This is based on the survey conducted primarily with local councillors within the project area, and also with stakeholders engaged in water supply services in Bushbuckridge, Hazyview and Nsikazi North.

### **4.2 TLC/TRC KNOWLEDGE OF IDP**

Analysing the knowledge of councillors about IDP in the project area yielded unsatisfactory results which are indicative of the technically unprepared grounds upon which the project was started. However, caution against generalizing this finding to the wider population scale of councillors must be taken. Firstly, the survey only focused on the jurisdiction of the five local authorities sampled for the study. Secondly, the fact that we only interviewed not more than two councillors or officials in each local council must be understood as clearly suggesting that the sample was not representative to councillors population and therefore cannot account to the wider scale of councillors in the project area. These reasons, though, should not be used as a justification for the poor knowledge of councillors about IDP in the area.

The analysis in this aspect indicate that councillors who were supposed to have deeper knowledge of IDP project are, instead, knowing little or no knowledge at all. Most of those who claimed knowledge of the project happened to be those councillors and officials who were previously involved in PSC leading to the establishment of the BWB, Operations and Maintenance (O&M) initiative, and the IDP. Sinking deeper to gauge the depth of their knowledge discovered that those who claimed knowledge were actually not aware of its objectives, operation and kind of intervention it intends making to local governments. This became evident when asked to unpack the IDP concept and its objectives that, among other things, they are not clear about what the IDP concept, in broad sense, is all about. In details, they are not clear what is meant by 'institutional development' and what kinds of water institutions are or should be involved in the effective management water and sanitation schemes. In their struggle to implement projects and development of their communities, they hardly make any reference or think of consulting the IDP for assistance. This is partly a resultant of the problems that surrounded the establishment of the IDP and, owing to such problems, the fact that the programme never really took off the ground. In defence of this situation some councillors, particularly those who were not part of the PSC but later represented their structures there through the 1995 local government elections, accounted that local governments were elected after the project steering committee was long in existence. When becoming members they had not been given a sufficient background of the project and what it was all about. For them it appeared that the committee was geared towards the establishment

of the BWB as a DWAF project which had nothing to do with local government. They also indicated that they were unsure about what was expected of them, and this insecurity led them to fail to report back to council.

Of all the problems mentioned, core problems appeared in the survey to be the fact that the initial PSC was trying to achieve many things at a short space of time with very little capacity and knowledge. For instance, the PSC, to start with was, as stated earlier, constituted by inexperienced group of young people who also lacked knowledge in implementing projects. Yet they engaged themselves, under the auspices of the Rand Water, in concurrent implementation of BWB, O&M and the IDP project itself. Furthermore, all communications, meetings and feedbacks between role players were conducted through the PSC. Strategically and technically, this resulted in many of those who were not part of the PSC, but who later in 1995 through the local government election, became councillors and council officials, left uninformed. Coupled with poor and ineffective feedback mechanisms affecting most local government and community structures, contributed greatly in dis-informing councillors and officials about the IDP and its objectives.

Another contributing factor to the above problems discovered is that most of the workshops and meetings were conducted in English while most councillors are not good enough in the language that they can capture everything, including concepts, that they can grasp every important information and make sense out of it. Evidently, some of them could not express themselves in English and, in such circumstances, they often failed to tune to their respective vernacular languages to ask for clarity and more explanation. Most of documents too are written in English. This may have contributed in their lack of knowledge about the IDP, failure to report back and to implement decisions.

However, this analysis does not in any way undermine the effort made by the RW and PSC officials, most of whom came from respective local governments and other stakeholders in the area to ensure that all interested parties are well-informed about these initiatives, their implementation and objectives. What appeared to have undermined these efforts was clearly the lack of clarity to PSC members in terms of the distinction between the three projects - BWB, IDP and O&M - nature of their intervention and objectives. Additionally, the Rand Water's reluctance to carry out the implementation of IDP until the intervention by US AID further made issues worse<sup>1</sup>. Apparently, these activities were too much for the capacity and knowledge of the PSC members to handle and make sense out of. It is in this area where the RW's inexperience in working with rural communities, as noted in the 1997 EHP report, was exposed. In a normal situation, for implementing three different projects, three distinct steering committees could have been established with each tasked to oversee the establishment of one specific project. The RW as an implementing agent charged with the responsibility to oversee the implementation of the IDP could have been cautious about the capacity and knowledge of PSC members given their rural background and the fact that community participation, as a new concept, may not be swiftly understood and appropriately acted upon.

When asked about their knowledge of the IDP's current status and planned future interventions, it was found that they are also in the dark. Only a few of those who participated in the study knew where the IDP is located and the person behind its implementation. Particularly those councillors and officials representing their councils in the BWB and NBWF where most of discussions around the IDP take place. Majority of them are still not aware of its continued existence and operations after the PSC. The recent development in the NBWF that resulted in the change of project name

---

<sup>1</sup>The Rand Water's reluctance in implementing the IDP project was expressed by most interviewees who were members of the PSC. This is referred particularly to their reluctance to fund the IDP until the US AID came to inject some funds after the EHP report.

from IDP to RWD, and the motivations for the change, are still in the knowledge of those who partook in the process from whom it takes a long time to filter down to other members concerned. This also reflects on the ineffective report back mechanisms used by local councils and other community structures. A lot of information, as a result, unknowingly rot unimplemented at the disposal of few individuals.

#### **4.3 COUNCILLORS' UNDERSTANDING OF THEIR CONSTITUTIONAL OBLIGATIONS**

The survey clearly indicates that since the local government elections in 1995, councillors have developed better understanding of their legislative roles and duties. However, these mostly applied to the supply of water and sanitation services which was the primary focus of this study, and an area in which most local councils in the project area have had applaudable progress to date. Although their constitutional responsibilities as governments close to the people is wider in scope than water and sanitation services, most of the experiences gained were through the supply of water and sanitation supply. This is actually a first priority for all Bushbuckridge local governments, and probably other local governments in rural communities. Most of their time and effort is spent on ensuring that every citizen does get water as it is required of them by the Water Service Act.

In the process of being in the local government since 1995, councillors have also gained a lot of useful technical skills which are worthwhile in community development and implementation of projects. These include, among others:

- the importance of consulting communities in terms of implementing any project affecting them. This involves and most importantly, establishment of good relation with stakeholders such as political organization and community or civil structures,
- that involving communities in implementing projects right from the plenary stage avoid unnecessary problems and facilitates the process of development, and
- the importance of interacting with other local governments, water institutions such as the water board and water committees.

In addition, they have further gained experiential skills in organizing and conducting workshops and community meetings, arranging and chairing site meetings with profiled personnel like consultants. They have acquired negotiation and communication skills. Through such skills as briefing, feeding back into the council and community and report writing councillors and officials developed a culture of accountability, which is pre-requisite in the effective operation of each and every responsible structure. Through involvement on the physical labour sector, councillors have learned technical skills in negotiating deals, hiring of a labour force along existing labour legislation, implementing projects in accordance with appropriate set rules and guidelines, supervision and monitoring.

#### **4.4 CONFUSION OVER WATER SERVICE AUTHORITY STATUS**

There is a welter of confusion between Transitional Local Councils and the DC reflected on the understanding of councillors and officials as to who is a Water Service Authority and who is a Water Service Provider. The DC and the local governments are, in terms of the law, two distinct institutions both alike in status as municipalities, and they are all correctly claiming the WSA status with responsibility over Water Service Providers. The confusion is compounded by dispute as to the actual status of the Bushbuckridge local governments. Whilst they were elected and gazetted as Transitional Local Councils, the Northern Province and the District Council regards them, and

refers to them as Transitional Rural Councils. Local governments, by virtue of their incapacity and heavy dependence on the DC (although on temporary basis depending on their success in claiming an autonomous status) automatically rely on them for final decisions. They virtually compromise and trade their Water Service Authority status to the DC who can fully exercise their rights as a WSA than the TLCs. Local authorities, as reflected on the response of Bushbuckridge TLC chairman quoted at length during the interview:

'by virtue of us being a municipality we are a Water Service Authority. It could be that the DC views us differently, may be because we do not have capacity to exercise our functions, but the fact of the matter is that we are a Water Service Authority. We have gone too far in establishing that status and what our roles really are. Currently we are having bi-laterals with DWAF who in their plan come July or so they must have transferred all the functions and responsibilities relating to water supply to the TLCs, not to the DC.'

As it will be seen in the section on Policy Framework in this report, both the constitution and the Water Services Act provides that a 'local authority' is the legal body responsible for water supply and sanitation. In this context the Water Services Authority can be either a district council or a TLC. Almost all councillors involved in the survey were aware of their status as WSA, but not fully understood what their roles as WSA are in terms of the legislation. Only a few councillors seemed to have a clear understanding of their roles when they mentioned issues like contracting companies as a WSP and preparation of by-laws and other regulations to ensure that, among other things, cost-recovery is effectively implemented.

However, plans are underway towards solving this problem once and for all for future working relations between them. To this effect, correspondences are exchanged between the Board and local authorities and meetings in which this issue will be clarified were on the schedule.

#### **4.5 TRANSFER PROCESS**

Most councillors had only a limited understanding of the transfer process (TP) of assets and responsibilities relating to water distribution from national to provincial and local government levels. The TP to them appeared to be a completely strange and complicated exercise. Like these category of councillors, those who claim to have heard about the process did not have knowledge of what the process is all about and how it is going to be conducted. Also involved in the transfer package is the secondment of staff from national to local governments, but local councillors have no idea as for how this is going to be handled and what are their rights and status over staff to be seconded. Over and above, they do not know what their role in the process is and who should initiate it. Time and requirements for the transfer is also completely unknown to them. This suggests that the process as it is currently being handled and conducted is not consultative and local governments, in particular, are not adequately involved. Instead of the process being a negotiated process between local councils and DWAF, in particular, and other stakeholders, it appears to be a DWAF initiated process and not fully consultative. DWAF regional is failing to co-ordinate the process as required of them by the arrangements provided by the Transfer Policy document. As a result it evidently means the provisions of the Transfer Policy document are being overlooked in the whole process.

Also discovered was that there are no clear programmes in place to capacitate local governments in preparing them to assume their full responsibilities in water supply management. While local authorities are confused as to what constitutes capacity and competency, they are, as a result, unclear what to do to acquire such capacity to ensure their competency. DWAF at national level, having done its task of establishing procedures and guidelines on how the process should be conducted and strategies to be adopted, are expecting their regional office, in consultation with relevant stakeholders, to carry out the bulk part of the process. In our survey it appeared that

DWAF regional is not pro-active about the transfer of assets to local government. Part of the problem is that local governments do not know who should initiate the process, the knowledge that might be residing in DWAF regional but uncommunicated or unclearly communicated to local authorities. They are not clear what is expected of them to be in position to claim their responsibility.

#### **4.6 CONDITION OF EXISTING INFRASTRUCTURES AND WATER SERVICE INSTITUTIONS**

Conditions of existing infrastructures and institutions for water supply and management, as reflected on the survey analysis, is not in an acceptable condition to ensure that everyone within the communities under the jurisdiction of the five sampled local councils have access to safe and clean water. The general overview of the inherited institutions for water supply and management in the area points to the availability of different sources of water supply which, however, due to poor management, are unreliable. This includes bulk water supply systems as well as bore holes, small dams, springs and rivers. These water supply systems are also not integrated. Due to poor maintenance systems and unacceptable practices, they are dilapidated and spend long periods of time unrepaired nor given major service. The inherited water purification plants are poor and inadequate to provide citizens with good quality supply of clean water and sanitation services. The existing sewage plants cannot meet current demand and often dump inadequately treated substances into rivers.

Local governments in the area are chiefly dragged by incapacity, inexperienced personnel and to a certain extent misunderstanding of their constitutional obligations, particularly with regard to their status of being WSA.. It is primarily for these and other related reasons that they are semi-autonomous in exercising their operation, decision-making and implementation of projects and important decisions that require financial backup. As a result they rent decision-making power from the District Councils in the Northern Province and Mpumalanga respectively.

Shortage of commodities, particularly offices and basic equipment such as computers is one of the major problems facing local governments. For instance, the Bushbuckridge North TLC has no offices in its area of jurisdiction. It is renting, as its base, offices at the Dwarsloop Civic Centre which is within the jurisdiction of Bushbuckridge Midland. For holding meetings they are regularly using the local Acornhoek Police Station facilities<sup>2</sup>. As a result, it is difficult for community that it serves and organisations to locate them for consultation. While, the local government units of Bushbuckridge South, Midland, Hazyview and Nsikazi North were lucky to have inherited offices from former homeland departments like the former department of public works and interior, shortage of equipments evidently remain a challenge facing them. The minimum number of computers that each local council has is one. Although their staff perform minor administrative functions, this state of affairs does not enable councillors to fulfil all their constitutional obligations. This problem has a potential to arrest effective implementation of cost-recovery systems and eventually effective management of water supply schemes. Hazyview is in a much better position, but still suffers from delays in making decisions, and extensive time lags before any decisions are implemented.

---

<sup>2</sup>Plans are underway to building their own offices. The proposed offices are planned to be built at Acornhoek 'new shopping complex or Acornhoek Plaza. Although the plans were submitted 1998, the Northern District Council which approved it has adopted delaying tactics. People were sent to survey the proposed area but problems preventing the construction of offices are only known to the District Council, interview with Bushbuckridge North TLC councillor.

## 4.7 STAFFING

Under staffing emerged as one of the problems in constant challenge to the already incapacitated local councils. In terms of the Municipal Electoral System (MES) a council should be made up of 40% proportional representation<sup>3</sup> (PR) and 60% first-past-the-ward candidates. The size, in terms of number of councillors, of a municipal council vary from one council to the next and it is, in terms of the normal practice, determined by the population of the area of jurisdiction. But seemingly large population size of a community does not always results in large number of council members. For instance, the Bushbuckridge North TLC with an estimated population of 258 000, has 11 councillors (7 elected on ward basis and 4 on PR basis), while the Bushbuckridge Midland TLC with an estimated population of 227 000<sup>4</sup>, has 13 councillors (8 ward and 5 PR). However, of all the local government units the TRCs were found the most affected government structures. Nsikazi North, for instance, with an population of 148 000, was, up until April 1999 (when 11 labourers were employed), served by a staff of less than 3 office bearer - chairman of the council, full-time administrator and a typist. They are 'renting' the rest of the staff- including the CEO, engineer, town planner, the secretary - from the DC. These were the people who since the local government elections in 1995 were expected to, among other obligation, facilitate the construction and upgrading of roads and streets, management of water reticulation through installation of pipelines and stand pipes, and conduct public awareness campaigns.

## 4.8 THE FULL- AND PART-TIME COUNCILLORS DEBATE

In terms of the White Paper on Local Government (1998) of the ±11 300 councillors in the country, most of them are on part-time arrangements. However, the most affected institutions are the 'rural' councils mostly found in the former homelands areas. One possible reasons for this arrangement may, as one of the LEDC official reasoned, be that the government would not have adequate budget to remunerate the many councillors we have in the country if they were to be on full-time appointment<sup>5</sup>. Most councillors also occupy professional posts such as teaching and other professions . Some of them often have other private business commitments to attend to. Concurrently, in addition to civic commitments, they also have to cope with their family responsibilities, but still remain fully accountable to community needs. But there are, in the same 'rural' councils, (although this arrangement applies mostly in the urban areas) those committed councillors who dedicate their services to the community on a full-time basis. These are often the councillors who do not occupy any professional posts other than their civic responsibilities. Another reason for councillors being part-time, as one councillor put it below, is that it is a hefty political post. Advocating for the status quo, the councillor supported that:

'no politician is full-time. An impression may be created that national Members of Parliament are full-time, but I do not think so. Whether councillors are full-time or part-time it does not make any difference. What I think would make a difference in terms of pace of development would be if all local government units could be given autonomous and equal power that they constitutionally deserve<sup>6</sup>'

This arrangement, although politically inclined, is not without problems that have direct impact on

---

<sup>3</sup>An electoral system in which council seats are allocated on a proportional basis from party list.

<sup>4</sup>Population estimates quoted from the Environmental Health Project, November 1997, viii

<sup>5</sup>Telephone interview with the Lowveld Escarpment District Council official.

<sup>6</sup>Interview with chairman of the Bushbuckridge Midland TLC

generic functioning of local governments and development. By and large, local government units suffering from this chronic problem are, in practice, struggling to carry out their legislative duties effectively. Decision making processes in their meetings are halted by lack of quorums due to continued absence of councillors impeded with professional commitments. The same councillors often do not fulfil their council duties that result in backlog of projects. Whenever they happen to attend they often leave early citing other commitments that need their immediate attention. In Hazyview for example, council meetings are often juggled between 15:00 and 17:00 in an attempt to accommodate such 'professional' councillors. Consultants and other companies providing services to the local authority also fail to make their presentation as there is never a full sitting of the council. Furthermore, important decisions are not implemented in set time frames<sup>7</sup>. In most instances 'professional' councillors fail to avail themselves to attend workshops pertaining to their roles and duties in the council resulting in the redeployment and overworking of 'full-time' councillors who become duty-bound to attend on their behalf, "primarily to protect the image of the council".

#### 4.9 TRAINING AND CAPACITY BUILDING

Although the need for capacitating councillors was recognized, formal steps towards this direction were minimal and ineffective. Training programmes were arranged for and conducted by credible institutions like the Technikon RSA, the International Republican Institute (ISI) and National Business Initiative (NBI), among others, but did not make any significant impact. Technikon RSA conducted training courses for the project steering committee members on a number of topics that include Community Project Management skill, Time Management, Financial Management, Communications Skills and Report Writing. But deducing from the responses of councillors who participated in these training, it became clear that courses offered were generic in nature and as a results did not assist them to perform their council duties differently. This was confirmed by significant number of councillors who repeatedly said the training was "not useful".

According to one councillor interviewed who attended a training conducted by NCWSTI:

'the training was very good particularly around the section on governance and the functions of local government. The section on interaction between the local government water desk councillor and community water committees and other community based structures was also very good and useful. But for me the course was too academic and was not particularly designed for councillors.'

The other significant group of councillors's responses frankly said the training was "not relevant" and therefore "not useful". They were supported by few councillors and officials who, while fully aware of the increase in their knowledge acquired from such training, do not see the training's relevance to their council duties. Even those who initially felt it was a good training, they eventually came to realize it was not relevant to their roles and duties in the council.

A view of a councillor from Bushbuckridge Midland TLC:

the training was good, but was not relevant to the present situation in South Africa. In my opinion, people who designed the courses seemed to be misunderstanding the meaning of transformation and the wave of transition that is sweeping across the country.

---

<sup>7</sup>Interview with councillor for the Hazyview TLC

They instead attributed the knowledge that they have to interaction through meetings and workshops that they have with other councillors. As one councillor put it in rating meetings and workshops as important institutions of knowledge:

'It is through the experience drawn from interaction with the Bushbuckridge TLC's and the Water Board that we are able to implement some of our activities better here in Hazyview. That is where we gain a lot of experience and different approaches to implementing projects. For instance, before becoming involved in these structures I did not have knowledge in the transfer process of assets and responsibilities from DWAF to local authorities, in terms of how it is going to be conducted, but now I know how it is going to be handled and factors that are looked at before the process is conducted<sup>8</sup>.'

This dictates, therefore, that training programmes for councillors should be focussed, particularly, on their roles and duties in the council. Training should be geared towards assisting them improve the way they perform their council duties in developing the communities within their areas of operation. It could be appropriate to request that institutions and organisations assigned to conduct training for 'rural' councillors and local government officials to demonstrate knowledge and recognizable experience in working with rural people. This would avoid a situation whereby training programmes arranged overlook the impact of past imbalances to literacy and intellectual level, mind-set and the general understanding capacity of people in the rural areas. This background knowledge could assist trainers to adjust their training programmes to suit the rural conditions - that is taking into cognisance the unique and different rural conditions from the urban areas. Participatory teaching methodologies, as opposed to a direct lecture format, would be valuable. Through consultation with local stakeholders, institutions and local governments, the data on the dynamics and complexities, particularly on social, economic and educational aspects, pertaining to such a rural area could be gathered and collated.

Although formal steps towards capacitating councillors were minimal and ineffective, on an informal basis, countless efforts were made to keep councillors informed about development, particularly in terms of water supply and sanitation services affecting local authorities. These include workshops that were conducted on the gist of the Water Services Act (1997) focussing on the provisions for the roles of local governments, the important findings and recommendations of the US AID funded EHP report, the DWAF's Transfer Policy document, the cost for water provision and principles for the payment of water services. These workshops were conducted at a regional level including Bushbuckridge. Deducing from above responses in terms of formal training, it is hard to avoid the conclusion that courses offered in these training were generic in nature and as a result did not assist councillors to perform their council duties better. This leads to a demand for councillors' training programmes to be focussed, particularly, on their roles and duties in the council. Their training should be geared towards assisting them to carry out their developmental functions in their areas of operation.

## **4.10 CURRENT INITIATIVES: THE RETAIL WATER DISTRIBUTION CAPACITY BUILDING PROJECT**

### **4.10.1 Introduction**

The Retail Water Distribution Capacity Building Project is an initiative sponsored by the Department of Water Affairs and Forestry (DWAF) and the United States Agency for international development (US AID). It is aimed at assisting local governments in the Bushbuckridge and Nsikazi North areas to fulfill their legislative functions as Water Services Authorities (WSA) in the

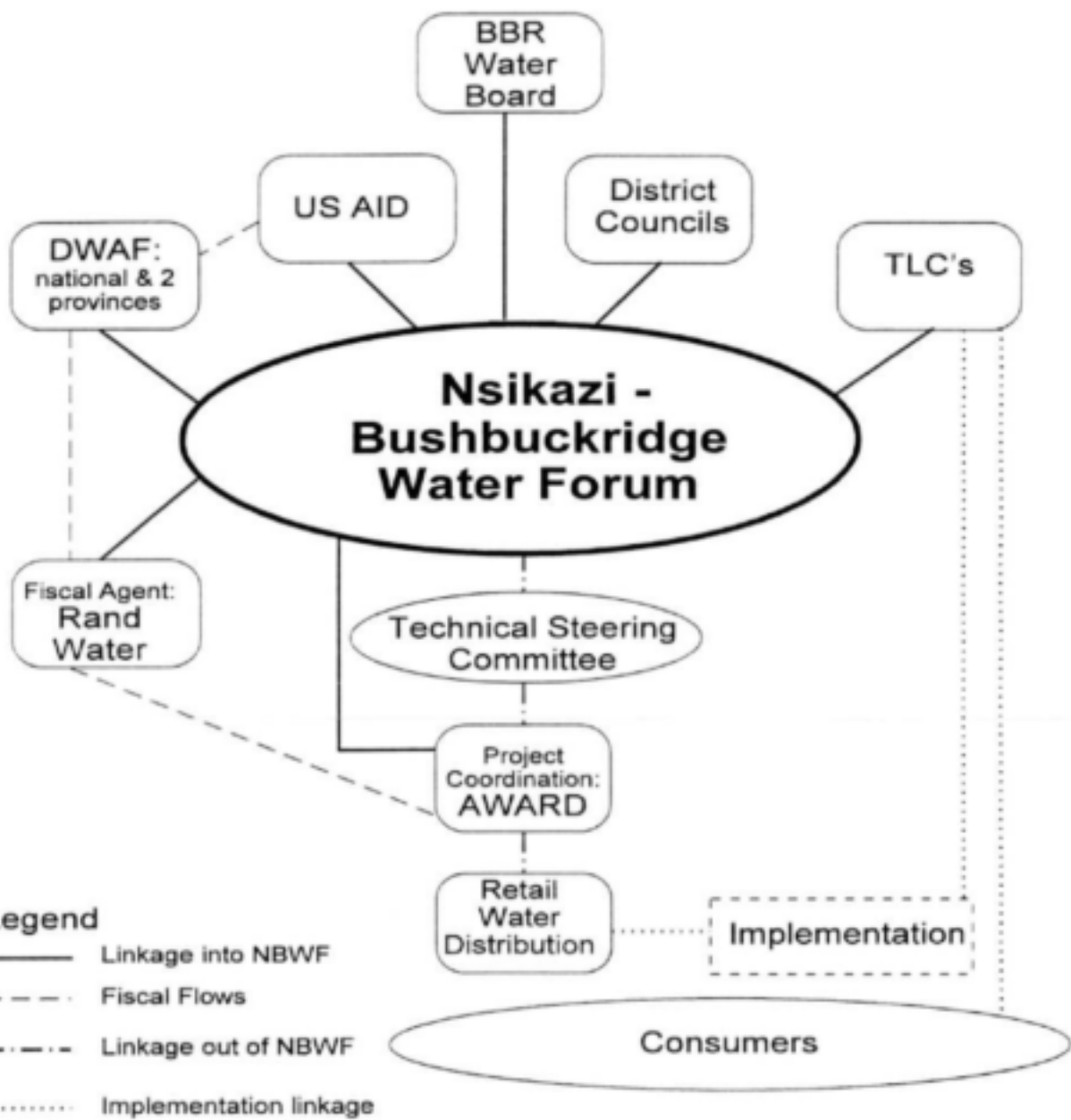
---

<sup>8</sup>Interview with councillor for Hazyview TLC

establishment of a sustainable management utility for reticulated water supplies. The supervising body is the Nzikasi-Bushbuckridge Water Forum, which has appointed a sub-committee, the Technical Steering Committee (TSC), to oversee progress.

A diagrammatic illustration of the relation between the NBWF and its members and to the RWD is as follows:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100



In order to attain the objectives of the Start-Up Phase, a number of developments have been taking place. These include:

#### 4.10.1.1 Appointment of the project coordinator

In line with the EHP work plan, a tender was issued towards the end of 1998 for the project coordinator to manage the Start-Up Phase of the project. The Association For Water and Rural Development (AWARD) was successfully appointed. AWARD assumed duties on 18 January 1999 and immediately appointed Philip Walker to oversee the implementation of this project. Offices for the project have been secured in the same building complex as the Water Board and four staff members were appointed and trained in March 1999 - three project liaison officers and one administrator. A fourth, engineering-type appointment is envisaged. Initially intended to last until December 1999, the Start-Up Phase will now run through to June 2000, when full project launch will occur.

#### 4.10.1.2 Project Activities and progress to date

The intention of the Start-Up Phase is to gather information and obtain clarity on a number of essential outstanding issues pertaining to the project. There are also a number of key activities which are:

#### 4.10.1.3 The Local Government Liaison

The primary objective for this position is to assist local government and district council (as Water Services Authorities) in taking an informed decision on the type of organizational model they wish to form to serve as their Water Services Provider (WSP). In this regard a Local Government Liaison Officer, who is also a local councillor, has been appointed to interact daily with each council and provide them with ongoing advice. A series of two day workshops are intended, with the first workshop to be held in July 1999, to provide councillors with enough information for them to make an informed decision on appropriate models for water services provision.

#### 4.10.1.4 Cost Recovery System

This programme is aimed at implementing a number of pilot cost-recovery pilot schemes with the intent of getting communities used to paying water services, promoting the culture of paying for services, and to learn lessons for similar future schemes (such as where payments should be deposited and returning payments for operations and maintenance costs). The communities targeted to participate are the 'R293' towns and some non-urban villages which have good and reliable water supplies, and a local management capacity.

#### 4.10.1.5 Public Awareness Campaign

The desired end goal for this campaign is to increase public awareness and generate community acceptance of the need to pay for water and sanitation services as well as to conserve water as a scarce resource. This would also result in ensuring that the little water available is distributed equally to all citizens within the easy reach of such reservoirs.

#### 4.10.1.6 Activities Associated with Water and Sanitation Services

Assistance will be provided to local councils for the preparation of Water Services Development Plans, to coordinate the range of development initiatives occurring, to undertake a detailed reticulation inventory, and to prepare the TLC's for the transfer of ownership of infrastructure and staff from DWAF.

#### **4.11 TOWARDS ESTABLISHMENT OF AN APPROPRIATE ORGANIZATION FOR EFFECTIVE MANAGEMENT OF RURAL WATER SUPPLY SCHEMES**

Prior to getting engaged in the establishment of an organization charged with the responsibility to manage water schemes for rural water supply effectively, it must be noted that there are broad range of separate but dependent functions to be taken care of. Aimed at achieving this, ideally and often in practice, such functions would require establishment of a range of appropriate departments in place to undertake them. In the study commissioned by the Overseas Development Administration, Judith Rees identified nine separate functions that need to be considered. These are:

- resource allocation and use regulation
- capacity construction
- bulk supply generation
- bulk supply transmission
- water treatment
- local supply distribution
- local waste water collection
- plumbing services

These functions are, however, not cast-in-stone for any organisation intending to be responsible for water schemes management. They vary from one water institution or organisation to the next. Their variation is influenced by a number of factors such as model adopted, scale of operation, capital and stakeholders involved. Based on these factors, some of these functions could be combined under one department or further divided into sub-departments. As Rees noted, all systems have advantages and disadvantages. Their effectiveness depend on how you conduct them, availability of necessary expertise, capital and appropriate systems of management put in place.

#### 4.11.1 The Institutional Relations Chain <sup>9</sup>



Indicated on the diagram are the relations between water supply and management chain of institutions, right from the national and provincial to the lowest ebb. These distinctive institutions are interdependent and interrelated in nature. The relation is in terms of delegation of functions from DWAF and DCD to water boards and local authorities who are responsible for water reticulation to final consumers. The relation is also in terms of flow of funds from national to regional budgets and finally to municipalities who, with specific reference to rural local government units, do not control their own budgets. The same chain also serves to channel responsibilities from the highest echelons of the water supply and management institutions to the local authorities.

Based on the institutional relationships in terms of the current arrangements, building an effective organisation for the management of rural water supply schemes should, therefore, be within the fully operational water supply and management chain. This operational water supply chain does not exclude water related equipments and infrastructures that should also be in an acceptable working condition. In the South African context, there are, in terms of the supreme law of the Republic and preceding legislation, statutory bodies authorized to oversee that the supply of water from the bulk source to the final consumers and to ensure that, in the process, the above functions are undertaken accordingly. At the highest echelons of the chain, as indicted on the diagram, there is national office of the Department of Water Affairs and, at the second level of government, the regional office. In accordance with the new statutory arrangements, Water Boards which have got a central role of providing treated water and sanitation services in bulk to municipalities and some industrial enterprises, are established. For this purpose, the

<sup>9</sup> This diagram of institutional relationships was taken from DWAF's draft document for discussion on Guidelines for Drafting and Appraising Policy Statements, Business Plans and Annual Reports of Water Boards. The diagram does not include all of the institutions in South Africa's water sector, but focuses on the relationship between DWAF, the Water Boards, and the municipalities. The Department of Constitutional Development (DCD) and the Department of Provincial Local Government are included because of their role in overseeing municipalities and providing them with financial assistance.

Bushbuckridge Water Board was in December 1997 promulgated as a statutory body with its areas of jurisdiction encompassing the project area. At the end of the water supply chain local authorities, who in terms of the Water Service Act are water service authorities were, in 1995, elected. The Water Services Act and other legislation loyal to the Act and the constitution, confer power to water service authorities to appoint water service providers. In the spirit of community participation, water service providers could be brought on board in the form of partnership. Appointed as water service providers could be NGOs, private and civic organisations to provide service to fulfil some of the above functions. The partnership could take a public-private form from which both the water service authority and the water service provider are set to gain with the citizens served with good and acceptable quality and quantity of water services.

#### **4.11.2 Operational requirements for water supply chain**

In terms of the required conditions for the operational water supply chain, the existing chain, besides being disintegrated, it also not up to required and acceptable operational standard. A number of institutional arrangements pertaining to water management and servicing are currently being established in the project area, they may not be fully operational if the chain is not complemented by necessary and appropriate equipments and other related infrastructures. There should be an efficient, well-located and well-managed infrastructural network. These may include water supply system - bulk sources, reservoirs, purification plants, underground pipes, legally connected streets and stand/yard pipes controlled by a metre-box; wastes disposal sites, offices and computers, efficient transport communication and road networks. This is not the case with the Bushbuckridge and Nsikazi North areas. And these are not the only problems challenging local authorities in the areas, but there is also a problem of incapacity, inexperience, lack of capital and programmes for supervision and management to assume these legislated responsibilities. But they have got potential indicating that all these could be achieved at a required standard provided DWAF, the Lowveld Escarpment and the Northern District Councils pay necessary attention in developing the local governments and their communities in all departments falling within their ambit.

Given that infrastructure and capacity development is a time consuming process, a required water supply and management chain that is fully equipped in all departments may be achieved, at least in the medium - and long term. For instance, while the Water Board and local authorities, which have got a central role to play in ensuring that these functions are achieved, are in place, they are all not yet in full operation in accordance with their legislated obligations and powers. The Board is still in the process of completing and getting its Business Plan (BP) approved by the Minister of Water Affairs and Forestry. It is after this assignment is complete and approved that roles and functions of the Board will be clearly laid out<sup>10</sup>. As a bulk water and sanitation services supplier, the Bushbuckridge Water Board, is intending, on July 1 1999, to take over management of five bulk supply pump stations and associated staff. Estimates suggest that up to 20 years could be required before all infrastructure is integrated and connected to Inyaka Dam, by which stage the dam may not be able to cater adequately for a population of more than 1, 059, 000 people clustered in more than 115 communities<sup>11</sup>. A policy change in the direction from which funds for community based water supplies is provided - from DWAF and now via DCD - has meant that improvements to infrastructure has halted. The equitable share arrangement has not yet fully kicked in, although some monies are now being allocated for this purpose. With DWAF having suffered funding cuts, the intended four bulk infrastructure projects were 'mothballed' in 1998, with only two being resuscitated in the 1999 financial year. This means that other water sources - such as small dams,

---

<sup>10</sup> Interview with the then Acting Secretary of the BWB

<sup>11</sup> EHP report, November 1997

boreholes and springs - will continue to be an important water source, even if supplementary. Yet, adequate supply of safe and clean water to communities is a *sin qua non* for effective cost-recovery system.

#### **4.11.3 Refurbishment and establishment of new infrastructures**

Provision of clean and safe water services is dependent, among other things, on well-conditioned water purification plants. This is one area in Bushbuckridge and Nsikazi North in which DWAF, prior to a proper handover of water works to local authorities, will be required to refurbish the dilapidated existing ones while developing new infrastructures - which is something DWAF has indicated a willingness to do. With the water supplied by these infrastructures, people in the project area settle for distilled or chlorinated water due to poor purification systems inherited from the previous government. Poor quality water service has a great potential to discourage people from paying for services rendered to them; on the other hand, unless people pay for at least the operations and maintenance costs, funds that could be spent on improving networks are spent maintaining existing systems. Although they are currently not paying in all the local authorities surveyed, with the exception of Ward 2 in Hazyview, they may develop a culture of not paying for services even at the time when systems will be in place for them to pay. This is another area that needs serious attention.

With regard to local government institutions, to successfully conduct and manage the cost - recovery system that is strongly complementary to any effective and sustainable water supply system, they must be prepared to exercise their autonomous rights in terms of operation and decision-making. They cannot be able to achieve sustainable supply of clean, safe and adequate water efficiently if they continue to rent capacity and decision-making powers from the DC. At the same time, district councils need to have in place a pro-active policy to transfer powers and staff to local authorities. It is difficult to avoid the impression that district councils, faced with potential dissolution in terms of the new Municipal Structures Act, have a vested interest in keeping TLC's at low capacity levels.

As mentioned earlier, to undertake some of these functions, the Water Board and local governments could, as provided by law, enter into contracts with or to tender out projects to private or public organizations, consortiums and companies aimed at efficient delivery of services to the people. However, while engaging in these ventures, the Water Board and local authorities must ensure that the deal is entered into in the interest of the communities they serve by, among other things, avoiding monopolization and overpricing aspects that may possibly underpin the contractual agreements. In addition, they must ensure that services provided are of good quality and acceptable quantity. Since local authorities are Water Service Authorities, they are responsible for contracting Water Service Providers who can be a community based organization (CBO), non-governmental organization (NGO), private or public company appointed in accordance with existing and acceptable appropriate rules and regulations. Due to incapacity and therefore lack of competency, all the five local authorities surveyed fall short from assuming these responsibilities, and there is no indication that they will, in the foreseeable future be in position to claim powers to perform these functions.

#### **4.11.4 Common vision with community**

In addition, there must be a shared or common vision on the importance of paying for water services between councils and the communities. Once the community misunderstands the reasons to pay for water supply services, cost-recovery system is guaranteed a total failure. For a community to share a common vision with local authorities and other water institutions advocating payment for water services, training must be provided. The importance of paying for water to

ensure sustainable supply of clean, safe and adequate water should be clearly communicated to them. They must be made aware that if they do not contribute anything water schemes and purification plants will stop operating and water supply will eventually cease to reach consumers. Some local councillors have already initiated community meetings to explain this. The RWD is in the process of engaging in public awareness campaign to ensure that people understand why they should pay for water services.

#### **4.12 MODEL ORGANIZATION FOR THE BUSHBUCKRIDGE AND NSIKAZI NORTH LOCAL AUTHORITIES**

This suggested organization model is made subject to change when the Municipal Demarcation Board (DB), in terms of the Local Government: Municipal Demarcation Act (1998) determines its own boundaries. However, if this model can be adopted and implemented in accordance with the objectives of the demarcation, it can, in terms of sections 26, 27, 28, 29, 30 and 31 of the Act, be submitted to the DB for consideration. In terms of this Act, the model should, if investigated in terms of section 29, found to be satisfying the broad objectives that follow below - the model must be creating an area that would:

- a) enable the municipality for that area to fulfil its constitutional obligations, including -
  - i) the provision of democratic and accountable governance for the local communities;
  - ii) the provision of services to the communities in an equitable and sustainable manner;
  - iii) the promotion of social and economic development; and
  - iv) the promotion of a safe and healthy environment; and
- b) enable effective local governance;
- c) enable integrated development; and
- d) have tax base as inclusive as possible of users of municipal services in the municipality.

Given the greater need for development in all departments, the financial, capacity, competency and infra structural circumstances of the five local authorities investigated dictate that, in order to build an effective organization to manage the rural water supply schemes, they should coordinate their activities through one structure if such an organization is to succeed. Indeed, in line with the intentions of the Municipal Structures Act, it is likely that the three local government units in Bushbuckridge (north, midlands and south) will be consolidated to form one local government structure - Greater Bushbuckridge TLC. The same will possibly apply to the local authorities of Hazyview and Nsikazi North. Although this is an indispensable step to be adopted if municipalities in the project area are to achieve effective governance, they will continue to face problems as they will continue to lack a substantial urban economic base. In this regard, ongoing national financial assistance will be necessary. Provincial government, who suffers from excessive staff, could relocate personnel to the jurisdiction of local authorities, which would enhance local governments administrative capacity. Any new government structure should have a reduced number of councillors who could potentially be appointed on a full-time base.

The establishment of the organization responsible for the management of water supply schemes would be the primary responsibility of the Greater Bushbuckridge and Greater Hazyview/Nsikazi North local authorities, in the capacity as Water Services Authorities.

At the time of writing this report, a regionally based water services provision organisation was envisaged. This scenario has since changed and is dealt with briefly in Section 4.2.9. The intended water services organization, whether managed directly by local government or via another mechanism, would have to deal with the following functions:

- **Management department** - this department should be equipped with highly skilled personnel, particularly the Chairman of Executive Office (CEO) position, and must develop appropriate programmes and processes for effective management, supervision and control systems.
- **Human Resource Development** - this department should play a central role in the organization. In addition to handling training and capacity building for organization members, it should deal with recruitment of labour and appointments. It should also be responsible for identifying among officials technical needs for training and capacity building. For effective operation of the entire organization, this department should employ the key performance indicators (KAI) strategy. KAI strategy refers to the use of statistical method to measure the performance of department or services performed. These factors can be used to measure time (e.g how long it takes to do a task or function), cost (how much it costs to undertake a task or function) or an exception ( how many complaints were received or how many have not yet paid their accounts). It is usually used as a target performance factor used to measure actual performance. This strategy, if applied correctly and acted upon by all the departments, could enable the organization to fulfil the councils's constitutional obligations effectively and in set time frames.
- **Financial Administration and Accounting system** - this include a series of processes involving budgeting, safeguarding incomes, capital and assets; monitoring performance, and financial reporting. Accounting system refers to the essential process of keeping track of money, both of the income or revenues received and expenditure going out. This department will ensure that the organization be financially viable and sustainable. It is in this department where **operational budget** for the smooth running of the organization should be properly controlled. Operational Budget refers to the portion of the budget that is used to service recurrent and short-term expenditure like rents, telephone and electricity bills.
- **Operations and Maintenance/Technical/Engineering Department** - this section should deal with the maintenance and repair system for all the water supply systems which include boreholes, pumps and water purification and sewerage treatment plants. It must also be in charge of all the store houses in Bushbuckridge North, Midlands, South and Nsikazi North in which many engines and spare parts are currently stored and improperly utilized.
- **Planning and design** - this department should deal with short- medium- and long term infrastructure development. This includes capital assets that are expected to be continued use over a number of years like bridges and roads. It must also take the responsibility to establish an up-to-date database for contractors/service providers or suppliers with information on the service they can offer and rates for future referral for the organization.
- **Cost -recovery system** - this is the most important department in the organization. For any organisation or institution wanting to achieve effective management of rural water supply schemes, not unless relying on government subsidy, effective cost-recovery system is an indispensable necessity. For this system to work efficiently, the organization itself should be effective. There should, firstly, be adequate and appropriate commodity (offices and equipments) for collection of revenues within the easy reach of the communities it serves. Secondly, the department must be staffed with adequately qualified and skilled personnel (human resource) knowledgeable in cost-recovery and well-informed about work in rural communities. Thirdly, the system should be complemented with appropriate programmes and procedures for effective management, supervision and financial administration. Such programme and procedures should be appropriate to rural areas and

should be developed with possible assistance of an expert with rural experience. Fourthly, it must have in place, well-managed and up-to-date registrar recoding accurate data on how many stands are there in one village, their postal addresses, who the breadwinner is, and how many people are receiving any form of income per month. For this system to operate, the community must share common vision with the organization on the necessity of paying for water and sanitation services. This can be achieved through variety of ways including public awareness campaign, community meetings and training. Fortunately, for the water supply institutions in the project area, there is the Retail and Water Distribution intervention, currently housed under the same roof with the Water Board, that is putting plans and programmes<sup>12</sup> aimed at making cost-recovery system in the area an effective and sustainable project.

#### **4.13 FINANCING THE INSTITUTIONAL DEVELOPMENT PROGRAMME**

A key aspect of any development initiative is to be able to access sufficient resources to enable a project to meet its objectives. This includes the buying in of external expertise, employment of local development workers, the operation of an office, transportation, equipment, planning sessions and implementation.

In an area of high unemployment and associated poverty, and where per capita incomes falls far below national averages, accessing local financial support can be difficult. Associated with this, and the advent of a democratic dispensation in 1994, expectations of government provisions are high. In this climate, government or donor funding is expected to meet full project costs, and this is what has prevailed with the Bushbuckridge Institutional Development Project.

The initial funding for the Bushbuckridge Institutional Development Project came via a grant of R 2 150 000, released by the national office for the Reconstruction and Development Programme as a Presidential Lead Project. This was in accordance with the May 1995 business plan for Phase 1 of the project. Phase 1 was essentially a Scoping exercise, and which aimed at improving the functioning of the project steering committee. After their appointment as project implementing agent Rand Water secured an additional sum of US\$ 1 200 000 as a grant from US AID; which was allocated to the Bushbuckridge projects.

Following the evaluation of September 1996, and the decision to separate the project into three distinct interventions, the remaining funds available were divided as follows:

- Bushbuckridge Water Board: According to the 1997 business plan, R 5 000 000 was allocated for the period April 1997 to March 1999. The main objective for this period was to establish a functional water board;
- Operations and Maintenance: The sum of R 4 000 000 was required for the period April 1997 to March 1999. This was to cover costs for the implementing agent, contractor and consultants. The monies required to pay salaries of DWAF staff and operate and maintain existing water systems was provided for in a separate budget managed by DWAF. Additionally DWAF had allocated funds for the refurbishment of infrastructure; and
- Institutional Development Project: R 800 000 was put aside to prepare for and initiate the launch of the IDP. This was to include planning sessions with stakeholders, preparing business plans, briefing relevant government departments and obtaining their support (including a financial commitment), and forming a consortium to run the process.

---

<sup>12</sup>To date a Business Plan is at an advanced stage. Following the EHP recommendations, an implementing agent (IA) and four staff members have also been appointed.

In terms of the Institutional Development Programme a number of draft business plans with budgets were prepared to cover the project period till the end of March 1999. One business plan, dated March 1997 indicated the sum of R 4 400 000 was required of which R 775 000 would come from the US AID grant and the balance ( R 3 625 000) from the Department of Constitutional Development. Another business plan, dated July 1997, downgraded the sum required to R 1 800 000, without indicating a budget source.

The Project Concept and Design document prepared by the Environment Health Project team contained a budget to reflect the costs for the revised project plan. This recommended R 516 000 for the one year pre-project phase, and R 36 000 000 for Phases I and II which would last six years. Of these budgeted figures the sum required for the pre-project phase is contained within the original R 800 000 allocated in October 1996 and not yet spent. DWAF is currently preparing a process to identify suitable people or organisations to undertake the pre-project phase.

Of the original US\$1.2 million contributed by US AID to the BIDP, by May 1999 only US\$200,000 had been spent. Of the balance half has been allocated to the RWD Start-Up Phase and the other half to the BWB. For Phases I and II, US AID has, in terms of a bilateral agreement with the South African government, made a contribution of US\$3 million. DWAF and DCD will contribute an equal amount through operations and maintenance costs, refurbishment of infrastructure, training of councillors, and employment of staff.

## CHAPTER FIVE: LESSONS AND RECOMMENDATIONS

### 5.1 LESSONS FROM THE STUDY

Notwithstanding all the problems that surrounded the implementation of the project caused by confusion over the "institutional development" concept, what it entails and its primary objectives, there have been worthwhile lessons that if taken into serious cognisance can improve the effective implementation of similar projects elsewhere. These are that:

- 5.1.1 prior to launching any project detailed Scoping needs to be undertaken. This includes identification of key stakeholders, and detailed information regarding the projects objectives. The key word is 'clarity'. The role and function of steering committees must be clearly stipulated and agreed upon at the outset. Implementing agents should have delineated and achievable targets in agreed upon time frames (rather than open-ended and vague agreements).
- 5.1.2 to avoid unnecessary problems and confusion, a proper groundwork in identifying existing institutions in the project area needs to be done. Their roles and functions, authority and objectives need to be clearly established, understood and respected.
- 5.1.3 wherever there is an institution or institutions engaged in related project/s, consultative process should be adopted in making effort to differentiate roles and operations or embark in a joint venture with clear cut division of tasks and responsibilities, and other logistics, right from the outset, to avoid role confusion, clashes, and eventually the possible confusion of the population to be served.
- 5.1.4 an institutional database of existing organisations and committees in the project area and other relevant stakeholders needs to be established and informed about the project and its objectives. Such structures need to be kept informed of progress. This is already underway.
- 5.1.5 steering committees that are to lead to the formation of a statutory body, should have a short life span, with clearly defined objectives. Too often the implementing agent becomes the point of reference, rather than the envisaged institution. It is important that the institution is formed, even if it has no powers delegated to it at the outset and has to appoint consultants to perform duties, so that role players relate to it and not another body.
- 5.1.6 in such cases where there is an implementing agent accountable to a government department (in this case DWAF), and who must also report to a project steering committee: lines of communication, roles and responsibilities, and management of funds need to be agreed upon at the outset. Financial arrangements, particularly implementing agent fees, must be transparent. If implementing agents come from outside the project area then they must be prepared to assign staff full-time to live and work within the area
- 5.1.7 clearly defined steps for the setting up of the project should be formulated with constant review and amendment.
- 5.1.8 at project inception, an official or organisation must be made responsible and given the time and resources to carry through their tasks. There is no value in simply adding a line to a persons job description, other duties must be taken away from them. And if the assignment is a difficult or unpopular one, then they must be assigned full-time, or else they will tend to concentrate on the easier or more popular tasks. Government staff should also be held

accountable - there have been too many cases of correspondence, pertaining to crucial issues, going unanswered, which creates unnecessary delays and tensions.

- 5.1.9 there must also be clear and appropriate monitoring and supervisory programmes for role players to effectively carry out their responsibilities and tasks and to ensure that they are completed in set time frames.
- 5.1.10 in terms of this project, workshops with local governments, who are the primary focus of the IDP initiative need to be convened, specifically for them to be formerly informed about the initiative its functions, operations and objectives. Their contribution in as far as what other responsibilities can IDP shoulder to assist them with, ways and mechanisms of working with them need to be considered.
- 5.1.11 there should be a properly planned day for the formal launching or inauguration of the project in which programmes of action and operation will be unveiled. Local governments, in particular, and other stakeholders should be fully represented and be actively involved.
- 5.1.12 the Local Government Liaison Officer (LGLO) together with local authorities should develop a programme of action in the form of monthly or quarterly meetings and workshops.
- 5.1.13 in collaboration with local authorities, the IDP through the LGLO should develop a mechanism on how local government units can consult or request the IDP for any form of assistance within its mandated responsibilities.
- 5.1.14 capacity and authority of the IDP initiative need to be clearly expressed to local authorities within the project area of jurisdiction.
- 5.1.15 the office of the LGLO should ensure that there is sound relations between the IDP and local governments and other stakeholders. The LGLO should take responsibility to ensure that all stakeholders are up to date in all issues pertaining to the operation of the initiative. He should keep regular contacts and ensure that all stakeholders attend meetings, workshops and briefings as regularly as planned.
- 5.1.16 a detailed data-base on reticulation infrastructure should be established. Amongst other details, the data-base should contain: village name, population and number of households, socio-economic indices, water sources, status of the infrastructure, quantity and quality of water supply, adherence to RDP standards. Such a data base becomes a key component in planning improvements infrastructure and determining areas to launch cost recovery.
- 5.1.17 development of institutions need to occur simultaneously yet independently. There is little value having one functioning water services institution when its partner remains in the planning stages. Refer to recommendation 3.2.2.

## **5.2 RECOMMENDATIONS**

### **5.2.1 General**

As a result of the survey, the following recommendations are made, with particular pertinence to the institutions and community based structures involved on water and sanitation issues.

## **5.2.2 Recommendations to DWAF, national, provincial /regional**

The development of water services institutions, for both bulk supply and reticulation, needs to be undertaken independently but concurrently. A vacuum remains when one institution becomes functional and the other remains in preparatory stages. This vacuum negatively impacts on the provision of water and sanitation services, the transfer of infrastructure, and cost recovery. It can lead to the lagging process being sped up to a point where necessary steps are skipped and the final institution becomes ultimately non-viable.

### **5.2.2.1 The transfer process**

a. Time-frames and procedures for the transfer of assets and responsibilities should be effectively communicated and appropriate procedures should also be clarified with local authorities. Local authorities need to be enthused about accepting transfer of infrastructure, rather than feeling it is a burden placed upon them. Detailed planning and implementation towards transfer needs to be done, rather than blanket announcements that it will occur.

b. Prior to transfer a detailed infrastructure plan needs to be undertaken. This should include the operational status of all equipment (fixed and mobile), identification of meters, staff numbers and competencies, refurbishment required, costs of operating and maintaining facilities.

### **5.2.2.2 Refurbishment**

*In accordance with the policy document on 'Transfer of Government Water Works' Policy, Guidelines and Procedures to Transfer Government Water Supply and Sewage Works, DWAF should refurbish the existing water schemes to an acceptable and operational standard before transferring them to the second and third tier level of government.*

### **5.2.2.3 New water schemes**

In compliance with the transfer of water works policy document, and in accordance with the rural communities which are a primary focus of the government for financial assistance, funds should be made available to plan and construct new water schemes for basic levels of service provision.

### **5.2.2.4 Consultation**

The transfer process of assets and responsibilities should be consultative between DWAF, local governments, BWB, organized labour and other institutions involved in water supply services. As provided in the policy document on transfer of government water works, the process should be viable and sustainable and no interruption of service at any stage of the process should occur.

### **5.2.2.5 Infrastructure development**

To ensure that adequate and clean water reaches every citizen in the community, local governments with possible assistance from DWAF and DCs must ensure that, in addition to installation of ground pipes for reticulation, current purification plants are refurbished and new plants, to meet needs of the extended population, are built. Whenever the Injaka Dam will start providing water to the local reservoirs water reticulation systems and purification plants should be in place and in acceptable operational condition

### 5.2.3 Recommendations to IDP/RWD

- a. In providing technical assistance to local government structures towards the formation of appropriate structures for retail operations and distribution systems, the IDP should, as important components for the sustainability of such structures, pay much concentration on engaging local councils in developing operational systems, processes, programmes and procedures of accountability.
- b. The intervention process should not take the form of spoon-feeding to the local councils in which they become passive recipients or beneficiaries. Local government units must be involved in the process so that they may be able to conduct, control and sustain systems and structures put in place in accordance with appropriate procedures.
- c. Assist in preparing local governments for the management of extended assets and responsibilities that are due to be transferred to the second and third tier levels of government from DWAF. One area in which IDP's intervention is important is in the establishment of an organogram<sup>13</sup> or local government structure of governance with appropriate and clear roles and responsibilities for each structure, particularly the administrative and financial accounting components.

### 5.2.4 Recommendations to IDP/RWD And Local Authorities

- a. In accordance with their constitutional responsibilities, for a long-term effective cost-recovery system, local governments should develop a consultative mechanism to get the currently 'illegally' connected pipe lines legalized by putting meter readings in each household with a stand-pipe to ensure that the water used and the cost for the supply system are paid for by the final consumer.
- b. All efforts should be made to ensure that government institutions such as hospitals, clinics, schools, colleges and police stations; business industries and shopping complexes are paying for the water services that they are currently using.
- c. As a corner stone to implementing cost recovery the economic value of supply to consumers needs to be determined. This needs to be understood not only on a sectoral basis, but how water is utilised within each sector. Particularly in terms of domestic consumers, an understanding needs to be reached between the water that is required for basic human needs (drinking, cooking, washing) and that which is used for small-scale economic activities (such as gardens, brewing marula beer, etc.). A balance should be found between demand and supply side approaches, such that individual consumers are guaranteed the basic minimum yet can obtain more to enhance their economic well-being and ability to pay for services.
- d. In preparing to implement cost recovery there is a need to determine which authority receives any payments currently being made. Evidence suggests that these are made into a provincial bank account. If cost recovery is to be successful then incomes earned need to be banked locally. Further, there is a need for local authorities to agree that incomes received will be used exclusively for the operations and maintenance, and improvements to, water and sanitation infrastructure. This

---

<sup>13</sup> Of all the local authorities consulted, only the Bushbuckridge Midland TLC is step ahead in preparing themselves to assume full responsibilities over water and sanitation supply services. In addition to ensuring their competency as a local authority, they have, unlike other TLCs, already strived to develop their Business Plan and accountable structures responsible for clearly indicated roles and functions. The Business Plan, at the time of the interview with the chairman of the council, had been submitted and approved by the Department of Constitutional Development.

implies that there must be a willingness by both provincial government and district councils to decentralise payment systems to a local level.

## **5.2.5 Recommendations Pertaining to The Department of Constitutional Development**

### 5.2.5.1 Part-Time/Full-Time Councillors

Unless councillors are adequately compensated then local government will be dominated by rural elites, namely the professional and business sectors. Other councillors can, and do, use their position to obtain employment. Still others find it impossible to balance their council responsibilities with work commitments. There is a strong demand from councillors that these positions become full-time appointments. The paradox is that the constituency does not necessarily have the economic base to afford this, and it would be perceived as a misallocation of funds and nepotism for councillors to utilise equitable share allocations to pay themselves. With the intended restructuring of local government, a mechanism needs to be found which provides councillors with sufficient remuneration to perform their duties properly.

### 5.2.5.2 Restructuring local governments

a. There is a need to restructure the local governments, although it should be noted that some incumbent councillors are resistant to this. Potentially, three local government units in Bushbuckridge (north, midlands and south) could be consolidated to form one local government structure - Greater Bushbuckridge TLC. The same could apply to Greater Hazyview and Nsikazi North. However, now that the Municipal Demarcation Act has been passed by the Parliament of the Republic of South Africa, restructuring should therefore, be done in accordance with its provisions to meet its objectives. For the good and benefit of the citizens of these areas, it could be appropriate if this takes effect prior to the next local government elections. Each local government body should be made up of not more than 20 councillors. Responsibilities such as water, electricity, housing, cost recovery and public awareness should be clearly defined and each item assigned to each councillor. For these proposed new local government structures, sub-structures should be formed in different communities within their areas of operation to ensure that they continue to serve in the complete interest of the people.

At the time of finalising this report (April 2000) new jurisdictions for local government were being finalised by the Municipal Demarcation Board. The three Bushbuckridge local governments are to be merged into one Category B Municipality which will fall under a new District Council (provisionally named *Eastern District Council, Northern Province*). As well as Bushbuckridge this cross border District Council will incorporate Hoedspruit, sections of Kruger National Park, and Sabie Park. The councils of Nsikazi North and Hazyview, which fall in Mpumalanga Province, will be combined with the towns of Nelspruit and White River, and surrounding areas, to form a Municipal Management Area.

### 5.2.5.3 Monthly allowances

a. Monthly allowances for councillors should, in accordance with their new full-time responsibilities, be increased to match their job description and their urban counterpart. Current allowance levels contribute greatly in discouraging councillors to put much effort in fulfilling their responsibilities as it further promote councillors' tendency to spend much time and effort in doing private and professional business at the expense of the tax payers. Given the low economic base in the project area, such allowances would be dependent upon the national fiscus.

## **5.2.6 Recommendation to District Councils**

To enable local authorities in fulfilling their constitutional responsibilities, the District Council must implement a planned incremental transfer of responsibilities to local government, with support staff to manage these. The transfer process should also be completed before the second elections of democratic local governments.

### 5.2.6.1 Recommendations to District Councils

a. In accordance with their legislative obligations of servicing 'rural' local government structures, the DCs should put programmes with time-frames for the appropriate and responsible institutions for training and capacity building. In the planning of such capacity building and training programmes local government units should be involved to in the process to avoid generic courses that are not in line with the roles and duties of councillors. Training programmes should concentrate on specific roles and functions of councillors in fulfilling their duties.

b. The LEDC and the NDC should co-operate under the proposed Mpumalanga-Northern Province District Council Forum to discuss and clarify their roles and responsibilities over Bushbuckridge to each other and therefore furnish local government units in the area in so far as their roles and jurisdiction over the area are.

### 5.2.6.2 Jurisdictional Confusion

a. To clarify the current jurisdictional confusion facing the Bushbuckridge region, the local authorities in the area and their communities, DWAF should, through intervention and in consultation with the Northern District Council (NDC) and the Northern Province Department of Local Government, clarify who has jurisdiction. Evidence suggests that after the 1995 elections the three Bushbuckridge local governments were gazetted as TLC's, but have since been reclassified into rural TLC's, effectively being regarded as TRC's. Data collected indicate that water institutions in the Bushbuckridge region are, as a direct result of this dilemma, not appropriately serviced by district councils. The plans to make Bushbuckridge a seventh region within the Northern Province, announced in 1996, needs to be sped up with decision making responsibility delegated to this level.

b. Clarity is also needed as to who in practice is a Water Service Authority (WSA) between the DCs and local authorities. Data collected reflect the persistence of a welter of confusion and tension between these water service institutions. Clarification is also required as to who the Bushbuckridge Water Board signs a service contract with: either the district Council or TLC's as Water Services Authorities, or with DWAF as the Water Services Provider.

## **5.2.7 Recommendations to local governments**

### 5.2.7.1 Water shortage

To address water shortage, at a medium term, and to ensure that all communities receive adequate and equal distribution of water supply, unauthorized pipe connections should be authorized through installation of meter readings. This will also ensure that every person who enjoy water and sanitation supply services contribute back to the system for its viability and sustainability. Local government also needs to embark upon a campaign to train its constituency on water conservation issues.

### 5.2.7.2 Regular inter-local governmental meetings

There should be an effective and developmental-oriented sharing of information and experiences between and amongst the third tier governments. A forum in which local governments regularly meet and share their experiences in terms of failures and success stories encountered in each area of jurisdiction should be convened. Such a forum may take a form of a structures meeting as, on the one hand, transitional local councils and on the other, transitional representative council. Issues to be discussed here could only be those that are pertaining to their statuses. But at the ultimate end there should be another forum in which both TLCs and TRCs come together in one forum to discuss issues under development, transfer, capacity building, etc. This intervention is particularly important in water supply services given the inter- connectedness of water systems in the area - bulk water supply, water purification plants - that are cutting across local governments boundaries.

### 5.2.7.3 Effective operation

a. Third tier levels of governments, councillors in particular, need to develop a protocol with regard to their operations to improve their feedback mechanism. To ensure that the provision of a protocol are duly followed, some form of disciplinary mechanisms should be appended and a structure or committee within the council be formed to oversee its effective intervention.

## **5.2.8 Recommendation to IDP/RWD, DWAF, BWB, and DCD**

### 5.2.8.1 Training and capacity building

- a. Need for bottom-up demand approach for training. With the assistance of the IDP/RWD councillors must identify their areas of need in terms of training and proposal must be made to the DC to facilitate and arrange for such a training. For effective management of water and sanitation supply schemes, capacity building must not be generic. It must focus on specific roles and duties that individual councillors will play in the overall of water and sanitation supply system. So far, it became clear that top-down approach is the order of the day and the kind of training offered is more generic and inadequate to enable councillors to carry out their duties and functions satisfactorily.
- b. Planning process for training of councillors, a research and needs analysis should be undertaken with the councillors involved in that process. Furthermore the participant should be categorised: one category should be for councillors only; another for administrators; and the third category for the both parties (councillors and administrators). This is because each group has different functions. Training providers should also take to consideration that there are different types of local government in South Africa. For example: in the Northern Province there are both rural and urban TLCs, and the training of these structures should be not the same. Training for the TLCs in rural areas should assist councillors to develop a reporting mechanism
- c. Institutions and organisations assigned to conduct training must have a clear understanding of rural areas and their mind-set. This background knowledge will ensure trainees of 'embedded training' that takes into cognisance their unique and different conditions from the urban councillors. To gather the dynamics and complexities of rural areas trainers should begin by consulting with community stakeholders particularly with regard to social, economic and educational aspects of the area.

- d. Capacity building programme should be in place for local government councillors and community institutions such as community water committees under the auspices of the department of local government, DWAF and interested NGOs.
- e. Great emphasis should be placed on practical training and skills transfer at community and local government levels.

## CHAPTER SIX: CONCLUSION

Decentralisation of water service provision is relatively new in South Africa. For rural local government it is important that participatory processes are run that clearly and carefully explain the reasoning behind decentralisation approaches, and the choices of the range of management options. These management options then need to be compared to local realities, and local government must then be supported to make an informed decision as to which option, or options, most suit their needs. Only after a relevant decision has been taken can movement then occur on establishing an organisational structure and transferring assets. Attempts to skirt circuit such a process will lead to ill acquainted decisions and unsustainable structures.

Obtaining cost recovery and decentralising services costs money and an adequate long term financial commitment needs to be made. Threats to cut operations funding or services serve no-one's interests. In regions with a low economic base and limited potential financial support from the national level will be required for the foreseeable future.

It is likely that local government will initially look towards different models of water service provision in different types of localities. This needs to be supported so that councils can go through their own learning curve even if, as is possible, eventually one or two models are finally adopted.

Decentralisation of water services is more than cost recovery and the transfer of assets. It involves a range of socio-economic, technical, organisational, financial, policy and regulatory choices. A coherent plan, linking the different aspects, are careful timing to ensure an integrated

The formation of water services institutions must occur in unison. The establishment of the Bushbuckridge Water Board, as a bulk supply authority, progressed while local governments role as a Water Services Authority languished for two years. While the water board has accepted responsibility for bulk supply, it currently cannot get a water services contract signed as local authorities are hesitant to enter into a legal obligation to pay for the water provided when they have not yet established their own revenue base. Whilst a water board and a water services authority have different responsibilities, there is an intrinsic link between the two and the survival of one is dependent upon the success of the other. Given that the new institutions are at different stages of development pressure is mounting on the water board to engage in reticulated activities in an attempt to obtain financial security.

Education of government officials to ensure their active support for decentralisation and to alleviate fears is required. Perceptions have arisen that some officials may have a vested interest in seeing new institutions collapse because they falsely fear for their own positions. It is incumbent upon officials to engage with the new statutory authorities when making decisions pertinent to the area.

Constant flows of information to communities is required to ensure their understanding and support. As with government officials, understandable fears based upon ignorance can lead to opposition. Information and participation are essential pre-requisites for ensuring cost recovery and the sustainability of new institutions. In particular, communities must endorse local government choices on the form of water services provision.

As matters stand, the Bushbuckridge projects have been, and remain, an exciting initiative in developing local capacities and responsibilities for the provision of water services. Many hurdles have been crossed and a maturing in approach achieved. Whilst service provision has not declined and some infrastructure schemes implemented, an overall tangible improvement in the standards of delivery is not yet evident. This remains the primary community demand, and meeting it is critical if the emergent new water institutions are to be sustainable.

## 6.1 RECOMMENDATION ON APPROPRIATE MANAGEMENT MODEL

Appendix B provides a summary on Three Options for Governance Structures as prepared by the Environmental Health Project team, and Appendix C discusses the option of Public/Private Partnerships for Infrastructure and Service Delivery. Since that report was drafted other options have been raised, such as joint ventures between Water Boards and the Water Services Authority, the Corporatisation Approach (as a Pty Ltd. or Section 21 Company), a Municipal Business Enterprise, or Community Based Management. In making an assessment as to the best model to manage water services a number of factors need to be considered, including: the socio-economic base of the area, planned local government restructuring in terms of the Municipal Structures Act, operational status of existing infrastructure and current management capacities, and political realities such as provincial boundaries.

Taking these factors into account, in the opinion of the authors, it is recommended that the three Bushbuckridge TLC's could come together, and the Hazyview TLC and Nzikasi TRC unite, which is envisaged by the Local Government Demarcation Board, and determine management models jointly. No one water services provision model is appropriate for the entire area. In some cases, it is feasible for clusters of villages to adopt a community based management option, no doubt in contract with a services support agent. In the former R293 townships either the private sector or a public utility such as a water board could be engaged.

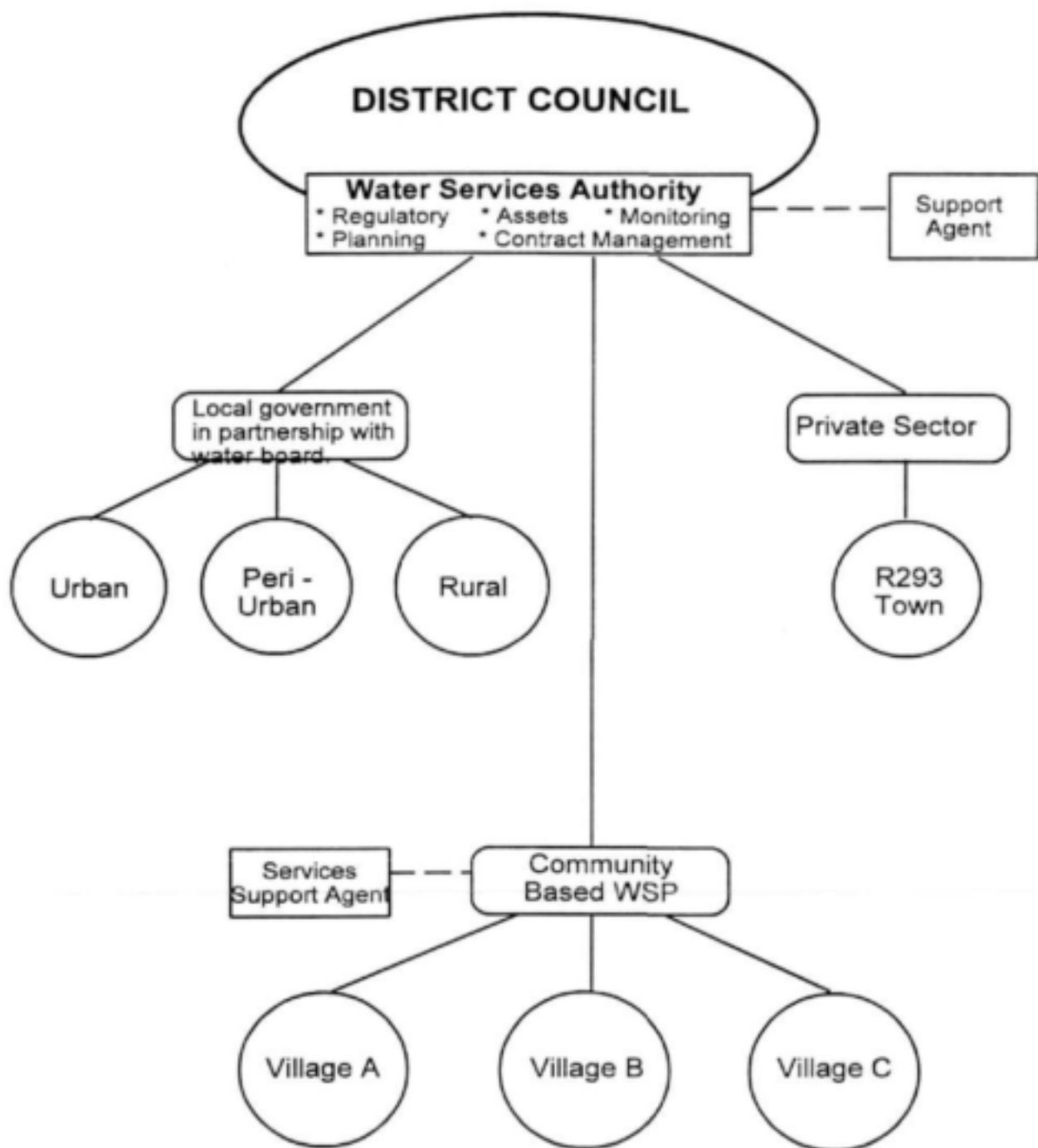
In the Bushbuckridge case there is much validity in considering a partnership between local government and the water board. A partnership can prevent duplicating required resources (such as planning departments) and lead to greater efficiencies and economies of scale. However negotiations to agree on terms and conditions are still outstanding and require time. Again, top down pressure for quick solutions are not valid.

In the Bushbuckridge case there is much validity in considering a partnership between local government and the water board. A partnership can prevent duplicating required resources (such as planning departments) and lead to greater efficiencies and economies of scale. The water board is recognised as a local institution, with links to the populace, and a slowly but surely growth in capacity. However negotiations to agree on terms and conditions are still outstanding and require time. Again, top down pressure for quick solutions are not valid.

Opportunities do exist for engagement with the private sector provided they do not insist upon 'cherry picking' the potentially lucrative areas to the neglect of areas in real need. Contracts would need to be carefully drafted and managed.

Whatever models are adopted should not be cast in stone, but tested and then adapted or changed as lessons are learned. This approach allows for different models to suit each circumstance, but it is dependent upon strong management capacity within the Water Services Authority.

The following figure indicates how a situation of multiple Water Services Providers could be established.



The above indicates a possible scenario where more than one model of Water Service Provider functions within the jurisdiction of a water Services Authority. A contract is drawn between the WSA and each WSP. The WSA will require sufficient capacity to manage a number of contracts. A portion of revenue raised by the WSP will need to be submitted to the WSA, to cover WSA operating expenses and to allow for cross-subsidisation.

## APPENDIX A: REFERENCES

Africon Consortium, Strategic Plan: Report on Bulk Water Supply for the Bushbuckridge and Northern Nsikazi Areas, 1998.

A Guide to the Green and White Papers. IDASA/LOGIC, "Local Government Transition", Pretoria, 1998.

Briefing Document on the Water Services Act. Department of Water Affairs and Forestry, 1999.

Chunnet, Fourie and Partners, Feasibility Study for the First Phase Development of the Water Resources of the Sabie River Catchment, 1991 (revised 1994).

Constitution of the Republic of South Africa. Government Printers, May 1996.

Development Facilitation Act. Act No. 1526 of 1995. Republic of South Africa, 1995.

Draft Guidelines for Drafting and Appraising Policy Statements, Business Plan and Annual Reports of Water Boards, Department of Water and Forestry, December 1998

Environmental Health Project, Activity Report No. 30, Issues and Options for Transfer of Water Distribution in the Bushbuckridge, Hazyview, and Nsikazi North Areas of South Africa, October 1997.

Environment Health Project. Activity Report No. 370-CC, A Water Distribution Capacity Building Project for the Bushbuckridge Water Service Area, March 1998.

Ernst & Young, Management Audit: The Provisional Bushbuckridge Water Board and Institutional Development Project, 1996.

Local Government Transition Act. Republic of South Africa, 1993.

Local Government Transition Act (Second Amendment Bill). No. B 93B of 1996, Republic of South Africa 1996.

Municipal Demarcation Act. Act No. 27 of 1998. Republic of South Africa, 1998.

Municipal Structures Act. Act No. 117 of 1998. Republic of South Africa, 1998.

Municipal Types. Department of Constitutional Development. 1999.

Naidoo, M. Demarcation More Than Drawing Maps. Logical Steps, Pretoria, 1998.

National Water Act. Act No. 36 of 1998. Republic of South Africa, 1998.

Olver, C. Mapping the Final Phases of the Local Government Transition. Logical Steps, Pretoria, 1998.

Olver, C. Where from Here, The White Paper on Local Government. Logical Steps, Pretoria, 1998.

Participation and Accountability. Department of Constitutional Development. 1999

Policy, Guidelines and Procedures for the Transfer of Government Water Supply and Sewage Works. Department of Water Affairs and Forestry, August 1997.

Pollard S.R. et al. Feasibility Study: The Development of a Proposal for a Catchment Plan for the Sand River Catchment. AWARD, 1998.

Rees J, Review of the Bushbuckridge Institutional Development Project, The Government of South Africa Department of Water Affairs and Forestry, September 1996.

Retail Water Distribution Project. The Legislation and Policy Framework Workshop Report. Mpumalanga, 1999.

Short Guide to the Local Government White Paper. The Department of Constitutional Development. 1998.

Strategic Plan for the Institutional Development Programme. Report of the workshop at Wits Rural Facility, April 1997.

The Constitution of the Republic of South Africa (1996), Constitutional Assembly.

The Local Authority's Role in Economic Development: A Handbook for Councillors and Officials, IRI, NBI, Barlow Limited, April 1998.

The Local Government Municipal Systems Bill. Ministry of Provincial Affairs and Constitutional Development. 1999

The White Paper on Local Government. Department of Constitutional Development. March 1998.

The Water Service Act (1997), A Guideline for Local Government, Department of Water and Forestry.

The Transfer of Government Water Works: Policy, Guidelines and Procedures to Transfer Government Water Supply and Sewage Works, Department of Water and Forestry, August 1997.

Walker P. Establishment and Building A Community Based Project Steering Committee. Claude Harris Leon Foundation Water Programme, April 1996.

Walker P. Rural Management Institutions and Sustainable Water Supply, WEDC Conference Paper, September 1997.

Walker P. The Bushbuckridge Institutional Development Projects, Appropriate Practices Conference Paper, March 1998.

Water Services Act. Act No. 108 of 1997. Republic of South Africa, 1997.

White Paper on Water and Sanitation Policy. The Department of Water Affairs and Forestry. 1994.

## APPENDIX B: PEOPLE CONTACTED AND INTERVIEWED

Leyane Reuben	Hazyview TLC (Councillor)
Nkosi MW	Nsikazi North TRC (Chairperson)
Manzini Hitler	Bushbuckridge North L-RDC
Sifundza Michael	Lowveld Escarpment District Council (Administrator)
Meulman Linda	Rand Water (Research and Development Manager, CBPD at Rand Water)
Duvall Rowan	Rand Water (Operations and Maintenance)
Ntsime Patrick	DWAF, National (Deputy Director, Institutional and Social Development)
Captain Khoza	Bushbuckridge Midlands TLC (Councillor-Water Desk)
Tumelo Mashego	Bushbuckridge North TLC (Councillor-Water Desk)
Doctor Sibuyi	Bushbuckridge South TLC(Councillor-Water Desk)
Sipho Mnareng	Hazyview L-RDC (Chairperson)
Collen Ndlovu	Bushbuckridge South L-RDC(Chairperson)
Lawrence Siwele	White River-Nsikazi TRC (Administrative Officer)
Kokie Malinga	White River-Nsikazi TRC(Councillor-Water Desk)
Mr JK Nkosi	White River-Nsikazi TRC(Chairperson)
Caswell Maluleke	Bushbuckridge Midlands TLC(Chairperson)
Lucas Shongwe	White River-Nsikazi TRC(Councillor)
Mokoena Gershom	Bushbuckridge South TLC(Chairperson)
Mnisi Michael	Bushbuckridge South TLC(Councillor)
Zulu Seerane	Bush Water Board (acting Secretary)
Gibson Nkuna	Bush Water Board (CEO)

Councillors were questioned about a number of issues including: their understanding of the role and function of local government (and in particular to water and sanitation services), their knowledge of the history of the Presidential Lead Project for Bushbuckridge (and particularly as it related to local government), their involvement in the project steering committee, their relationship to district councils and DWAF, how they engage with communities and how they disseminate information, training provided to them and their current training needs, opinion of and interaction with Bushbuckridge Water, future structuring of councils, their achievements and challenges.

Others were interviewed along similar lines but as it pertained to their particular position. Those who had been involved in the project from its onset were questioned as to developments and the history of the project.

Transcriptions of the interviews are available at the AWARD offices.

## APPENDIX C: OPTIONS FOR GOVERNANCE STRUCTURES

Taken from the report by the Environmental Health Project (US AID) 'Issues and Options for Transfer of Water Distribution Responsibility to Local Government Structures in the Bushbuckridge, Hazyview and Nzikasi North Areas of South Africa (October 1997). Governance determines who controls the WSP and how it relates to its external stakeholders. There are three basic models that could be viable under current conditions in the project area.

### 1.1 THE DIRECT (LOCAL) ADMINISTRATION MODEL

The direct or local administration model has two versions: (1) the mixed administration structure and (2) the self-contained water department. The mixed administration structure is the version followed by Hazyview and most small, traditionally white, towns in South Africa (and most small towns around the world). In this design, management of all municipal functions such as water are combined under village governance. A technical services manager may provide supervision for water, streets, and all municipal infrastructure as one department. The town clerk may serve as the billing and collection locus: bills may be paid directly at the town hall, sent as checks by mail, or in some instances, collected through agents such as the local post office or a local store. Income from water services becomes part of the municipal budget. The mixed administration model serves small populations reasonably well, especially towns that do not need to manage a sewage treatment system, which is more complex than a water treatment plant.

As villages grow into towns, more staff are added but reporting relationships often remain unchanged. The direct budgeting and financial relationship remains in place as the village grows, and any excess income from one service is used to fund other town functions. The infrastructure, or water manager, reports to the town manager. Technical staff report to the water manager, and the other service functions (consumer, billing, etc.) report directly to the town manager, who essentially serves as executive director of all departments. A variation on the mixed administration model is the separate or self contained water department. This version is typically seen in villages which have grown sufficiently large to justify hiring a water manager with the sole responsibility of managing the water organization staff. All water staff and departments that appear in Figure 4 (found in Section 5.4) would report to the water manager. The water manager would report directly to the (elected) town council and not to the town manager. Water accounts and funds are separated, and in effect a small water company is managed within the town structure.

#### 1.1.1 Strengths of the Local Administration Model

The model is simple to administer and works well for small populations. There are many examples of this model in South Africa, and people are familiar with it. In the mixed-services version, economies may exist in the delivery of different services by the same department or individual. For example, the town clerk may collect for water and other services at the same time. Managerial control rests with the town manager (in the mixed administration model) and is not divided among a cadre of department heads. Scarce and more costly managerial skills rest with one person, thus administration budgets are lower, compared to other models. Consumers can place all responsibility on one body, essentially the town manager or town council, for service and complaints. Town priorities for new investments may be easier to set since levels of review in lower departments are not required. Councillors become familiar with the business aspects of water management.

### 1.1.2 Weaknesses of the Local Administration Model

In this model, it is difficult to link tariffs with service delivery. All revenues are considered "town revenues" rather than water service revenues and are often mixed in a common account. As personnel serve multiple municipal functions, it becomes difficult for the manager to know where funds are being spent. In the mixed administration model, the water manager does not have direct control over all staff working in the water area, making it difficult to monitor performance by achievement of results. As the public image of government-run services is often poor, consumers may be reluctant to trust political management and desire professional management. As civil service employees, staff have little incentive to perform their work efficiently because they are assured of civil service protection. Whether they work hard or little, they are paid the same. Further, because of requirements for grading levels for public servant, staff pay cannot be based upon performance. Staffing and promotions are usually by seniority rather than by performance. The staff who will be seconded to a WSP or local authority will be its responsibility for all of their working lives. The direct administration model becomes increasingly inefficient when dealing with populations over 10,000, because it is designed to operate as a public service rather than a business. The water department will not be likely to have a dedicated utility budget, unless special measures are taken to that end. The town manager or mayor must approve all expenditures, although usually lacking any training in water management. The result is often delays and energy spent convincing or educating him about water service functions.

The concept of a self-contained utility is often lost in this model. A self contained utility is a business unit. In the direct administration model, the water department is not generally viewed as an enterprise; the only one who may consider it such is the mayor or the city manager.

### 1.2 THE MUNICIPAL COMPANY MODEL

The municipal WSP is set up with a governance structure much like a corporation or business, but all assets are owned by the local authority. The WSP is governed by a board of directors that supervises the water manager. Employees are hired under the statutes regulating public sector companies or public corporations. They work for the municipal water company rather than the local government authority. This model is sometimes referred to as one form of "public/public" partnership (others might include contracting with other public organizations for services)<sup>14</sup>. The company has a corporate charter that governs its functions and its employees. It has its own set of personnel policies and its own internal regulations. The membership of the board of directors is dictated by the local authority, which decides within the bylaws of the company charter who should serve and the term of service<sup>15</sup>. Assets are owned by the local authority, and the WSP operates on its behalf to meet the public service policy goals required through its charter. For example the charter could require "24 hours of service per day to all consumers who pay at the most cost-effective tariff." The water manager is appointed by the board and serves at its pleasure. He can be dismissed, rewarded, or given incentives based upon performance. The staff may also have these conditions within the established bylaws.

---

<sup>14</sup> Rand Water or the Northern Lepelle Water Board is an example of a public sector company for bulk water supply.

<sup>15</sup> For example, the board could contain four councillors, three Water Committee members, three LRDC representatives, two local business people, one Engineer from DWAF, one teacher/professor from a local school or university. The chair heading the board could be the mayor, or could be elected among the members. The board meets periodically (from four times a year to once a month, depending on needs). The water manager presents the results of the work, reports on financial matters and strategic plans, requests for policy, etc. The board approves or denies and instructs the water management to implement.

### **1.2.1 Strengths of the Municipal Company Model**

The WSP is protected from daily interference in its management processes by the bylaws governing the public corporation and by the board, which serves as a mediator between the political powers and the WSP management. Civil society structures can be directly represented in the governance by inclusion on the board of directors. Broad representation of the public can be structured into the board governance as well. Legally the municipal company can be structured to have all the latitude necessary to operate as an incorporated economic unit: ability to contract for services, board participation, flexible structure with checks and balances for management, and capacity to enter into financing arrangements with national and international sources. Ownership is protected; the local authority maintains ownership and the public trust is provided for. Administrative and management procedures can be formulated by the company itself. It can delegate functions within the ranks from the water manager on down. It can modify the management structure or decentralize as required. Financial affairs such as tariffs can be formulated by the municipal company with the approval of the board and the local council. Budgets can be developed by staff and approved by the board; revenues can be retained to cover operating costs. Financing for capital costs can come from a variety of sources. In this model, tariffs and service delivery are linked; the public service company retains the revenue collected and has responsibility for budgeting and accounting for operations and maintenance. Linking revenues and expenditures provides an incentive to operate more efficiently. Personnel may be engaged or dismissed within regulations established by the company. Remuneration may take a variety of forms, including bonuses and incentive pay. Any seconded staff would need to transfer to the water company's roster and be governed by its personnel regulations. The organizational culture of a company differs greatly from a government department. A company is an economic unit that must operate cost-effectively while serving its customers. The employees' sense of identity and loyalty can be very strong and positive if the company is well managed. Economies of scale are possible under this model. The company may join with others like it to increase the size of the service delivery area consistent with agreements with other local authority-owned companies. Public sector companies can be authorized to borrow from the private sector to finance water and wastewater systems; however, companies are only able to borrow if they are credit-worthy, which means tariffs must be high enough to cover O&M and capital costs'.

### **1.2.2 Weaknesses of the Municipal Company Model**

The model is unfamiliar to many people in the project area, and managers and councillors would need to learn how it works. Many might be surprised that any model other than the direct service water department is conceivable. Initial attitudes may be that a municipal company will be "far away from the people," when it will, in reality, be no further removed than any other municipal service. Councillors who want to control the water service directly may feel at a disadvantage, having to work through a board of directors to receive attention. The perspective of a municipal company is business oriented and people are accustomed to thinking of the water company as the provider of a social service rather than as a community enterprise. The change in thinking required will need time and education. It will take a three-to-five year education and training period for staff to learn to work as a team in a business-like structure. Staff training will be required and outside technical assistance will be needed, with financing from donor organizations or the central government (DWAF).

### **1.3 THE CONTRACT MODEL**

Contract management by a private company is permitted under the water services White Paper and proposed laws. It provides for the delegated local authority (as the water supply authority) to appoint a water service provider (WSP) as an agent to operate and maintain the infrastructure and to bill and collect tariffs on its behalf. The local authority may even appoint a water committee, or any other legally constituted entity that has the capacity to provide the services, to act as a WSP on its behalf. In the contract model, the assets of the water service (pipes, equipment, infrastructure) remain the property of the local authority, and the WSP is required by contract to maintain them. The local authority may also require that the WSP provide certain equipment, such as vehicles and office equipment, under the terms of the contract. The contractor is responsible for retaining, dismissing, and remunerating all staff, or certain staff may be designated as employees of the local authority who are seconded to the management control of the WSP or contractor. The terms of the contract may specify that all collected tariffs remain the property of the local authority and are directly turned over to it for its own accounting purposes, or they may charge the contractor with maintaining an auditable financial management function for the authority in trust. This model is sometimes referred to as a "public-private partnership." It is often confused with the term "privatization," which it is not. Use of the private sector to perform work contracted by local government has often occurred for a variety of functions (garbage collection, typing services, making copies, etc.). Privatization is a model that is not discussed here; it involves selling or leasing all the assets of the infrastructure to a "for profit" company that operates as a regulated private utility.

#### **1.3.1 Strengths of the Contract Model**

- Competition in selecting a designated operator gives the local authority the advantage of obtaining services at the lowest bid that is credible .
- The private sector is often far more efficient than the public sector, and this can be reflected in lower tariffs for the consumer.
- If the contracting firm does not perform, it can easily be dismissed and replaced by another that is willing to do the job.
- A private contractor can formulate its own management procedures unencumbered by red tape and can delegate from its director down through the ranks. It can set performance standards for its staff and more easily discipline and reward good performance.
- Incentives for good performance can be built into the contract to stimulate higher levels of performance and greater consumer satisfaction.
- The contractor can be required to provide regular communication with community and civil society structures and serve the public interest within the terms of reference.
- Tariffs are totally regulated by the local authority.

#### **1.3.2 Weaknesses of the Contract Model**

- The communication linkage between the local authority and the WSP is managed by the town manager and/or the water councillor. In this linkage there is ample room for corruption. Communication difficulties can arise if the water councillor or town manager does not clearly communicate with other councillors or the executive committee of the local government.

- Under this model, it may be easier to avoid interaction with civil structures and community water committees unless clear linkages are structured.
- Supervision and oversight of the contractor requires skills and knowledge within the local authority on the same level as the contractor. Training in contract management will be required for the linkage supervisor from the local authority.
- Attitudes towards private sector management may be negative, and councillors may feel that this model does not allow local people to learn how to do the work, unless the contractor is required within the terms of reference to hire a certain percentage of local staff.
- The local authority and the public are unfamiliar with this way of conducting public services, and a period of learning and adjustment would be required on both sides to be able to learn to work with it.

## **APPENDIX D: THE PUBLIC/PRIVATE PARTNERSHIPS FOR INFRASTRUCTURE AND SERVICE DELIVER OPTION <sup>16</sup>**

One of the most effective ways that local authorities can promote development is by improving infrastructure and service delivery. An efficient, well-located and managed infrastructural network - which includes water and electricity, waste disposal sites, sanitation and efficient transport, communication and road networks - can be one of the key factors for attracting investment and developing local entrepreneurs. Also of great importance, but often not given much consideration in economic development, is the availability of housing, education, public safety and security, health and recreational facilities. All of these components contribute to the attractiveness and livability of an area.

South Africa, however, is faced with major challenges as only a portion of the population enjoys well-developed and maintained infrastructure. The backlogs in infrastructure development and upgrading and maintenance programmes have greatly contributed to the under-development of localities. This problem is further compounded by high levels of unemployment and poverty. Addressing the efficient and effective delivery of infrastructure within this context requires innovative approaches.

The costs of new infrastructure and services are very high. Module 5 will provide information on budgeting for development needs and accessing government programmes and private funding sources. However, one of the most effective ways that local authorities can address backlogs and develop an infrastructure base necessary for economic growth is by working in partnership with the private sector.

### **1.1 PUBLIC/PRIVATE PARTNERSHIPS (PPPs)**

Municipalities around the world are faced with increasing demands for improved services, fiscal constraints and competition for resources. Many successful local authorities are responding to this challenge by exploring public/private partnerships (PPPs) as a way to improve the delivery of services. This approach uses the expertise, investment and management capacity of the private sector to develop infrastructure as well as to improve and extend efficient services to all residents. These partnerships are increasingly viewed as an important tool for meeting infrastructure and service needs in the face of limited resources. According to the 1997 Green Paper on Local Government, "where this type of partnership is municipally-driven, and aims to harness the capacity of the private sector to meet public interests, substantive benefits can be derived, including getting cheaper services, of better quality, to more consumers".

Whilst local government has the ultimate responsibility for ensuring that infrastructure and services are delivered, local authorities do not necessarily have to provide these services directly. However, it is necessary for local authorities to ensure that partnerships, serve the public interest and guard against monopoly pricing, provide equitable access to services and prevent unfair labour practices.

---

<sup>16</sup> These local economic development strategies were extracted from 'The Local Authority's Role in Economic Development: A Handbook for Councillors and Officials. IRI, NBI, Barlow Limited: 1998.

## **1.2 APPROACHES TO PUBLIC/PRIVATE PARTNERSHIPS**

There are many different approaches that local authorities can take to building partnerships for infrastructure and service delivery. These approaches vary in the degree and form of private participation. However, they all have the potential to make a positive contribution to public objectives by mobilising private sector investment, achieving greater efficiency and creating cost savings.

### **1.3 MAIN APPROACHES TO PPP**

The main approaches to PPP's include the following:

#### **1.3.1 Service and Management Contracts**

With this option, the local authority enters into a service or management contract with the private sector to render a municipal service on its behalf. An example could be the rendering of a refuse service. The local authority will pay a private contractor to collect refuse in terms of a service contract. This could be a cost effective option for dealing with increasing demand. Instead of purchasing additional trucks and related materials, the local authority appoints the contractor to undertake the service. The local authority retains overall responsibility for rendering the service. It is important that performance factors and monitoring mechanisms are incorporated into these contracts so that the desired level of service is rendered. Furthermore, regular open tenders should be used to identify potential private sector service providers and ensure healthy competition.

#### **1.3.2 Leasing**

A lease agreement is signed between the local authority and a private sector agency whereby the private sector agency pays a fee to the local authority to provide a service. The private sector agency renders the required service and is responsible for collecting income from users of the service. This may be attractive to communities with low administrative capacity. The local authority will need to ensure that performance factors are specified in the lease agreement and regular open tenders are used.

#### **1.3.3 Concessions**

A private sector agency can be granted a concession to render a specific service for a long-term period, usually 20 to 30 years. In terms of the concession, the private sector will use existing infrastructure but will have to develop it further. The private sector agency usually will be responsible for collecting income for the service. The concession agreement specifies the tariffs as well as the infrastructure that must be developed for the period of the concession. The transfer of staff from the local authority to the private sector agency can also be incorporated into the concession agreement. At the end of the concession, the infrastructure, including that developed by the private sector agency, could again become the property of the local authority.

#### **1.3.4 Privatisation**

Privatisation means the complete transfer of ownership from the public to the private sector. Operation, maintenance and upgrading of infrastructure and facilities are the responsibility of the private firm as well as billing and debt collection. Because this is the most extensive form of transfer, it deserves lengthy thought and preparation. However, there are instances in which a publicly owned concern is no longer feasible or relevant and is a burden on the local authority's finances. An example might be a stadium or arena which can be more profitably and efficiently run by private business.

## **APPENDIX E: DWAF GUIDELINES ON INFRASTRUCTURE TRANSFER**

### **DEPARTMENT OF WATER AFFAIRS AND FORESTRY**

#### **TRANSFER OF GOVERNMENT WATER WORKS POLICY, GUIDELINES AND PROCEDURES TO TRANSFER GOVERNMENT WATER SUPPLY AND SEWAGE WORKS**

##### **1. INTRODUCTION**

##### **2. SCOPE AND PURPOSE**

##### **3. PRINCIPLES**

##### **4. INSTITUTIONAL RESPONSIBILITIES**

4.1 DWAF Central

4.2 DWAF Regions

4.3 Local Government

##### **5. POLICY AND GUIDELINES**

5.1 Existing Infrastructure

5.2 New Infrastructure

5.3 Personnel

5.4 Operating assistance

5.5 Refurbishment

5.6 Capacity and competency of the Water Service Institution

5.7 Provincial Transfer Steering Committee

##### **6. PROCEDURES**

##### **7. TIME-FRAME**

##### **Appendixes**

A: Definitions

B: Performance staff secondment letter

C: Typical contractual agreement between DWAF & recipient

## **1. INTRODUCTION**

The mission of the Department of Water Affairs and Forestry is to ensure that all the citizens of South Africa have access to at least basic water and sanitation services. This does not imply that the provision of these services should be the direct responsibility of the Department, but rather that the Department should enable and support local government authorities to provide local services.

With the re-incorporation of the ex-homeland administrations into South Africa in 1994, existing water supply and sewage infrastructure in these areas was transferred to the Department of Water Affairs and Forestry. Since no local government structures were in place at the time, the Department by default became directly responsible for the execution of the day to day activities to operate and maintain these water schemes.

At the same time the Government recognised the lack of development in these areas and introduced the Reconstruction and Development Programme (RDP) to address the development backlog. Funds are made available to the Department to plan and construct new water schemes for basic levels of service especially in rural areas. One of the main conditions to construct a new water scheme is the acceptance and willingness of the beneficiaries to operate and maintain the completed scheme.

Constitutionally local government is designated to provide local services to persons residing within its area of jurisdiction.. This includes the responsibility to recover costs to fund these functions. It is expected from beneficiary communities that they will contribute to the cost of their water and sanitation services and that these contributions should at least cover the operation, fueling, maintenance and replacement cost at a basic level of supply. For higher levels of service, the recovery of capital cost may also be required.

To enable local government to fulfil its constitutional obligation, it is the Department's policy to transfer water supply infrastructure to them if it is appropriate in terms of their capacity. Where necessary and appropriate, regional bulk water supply and waste water infrastructure will be transferred to second tier organisations such as Water Boards. If no such organisation exists, the Department will for the interim operate the regional bulk schemes under its Trading Account and provide local government with bulk supply.

## **2. SCOPE AND PURPOSE**

The objective of this document is to set the policy regarding the transfer of government water supply and sewage disposal infrastructure to competent second and third tier organisations. It further aims to link the policy with general guidelines and procedures to be followed.

## **3. PRINCIPLES**

The following general policy principles as obtained from the South African Constitution, the draft Water Services Bill and the White Paper on Water Supply and Sanitation Policy were adhered to:

- Transfer should be regarded as a process and not an event.
- Transfers should take place with full cognisance of the draft Water Services Bill and once the bill is promulgated be in full compliance thereof. Of special importance is the role and functions of the Water Supply Authority (WSA), the Water Supply Provider (WSP) and the Water Boards.
- Transfers shall be a consultative process between DWAF, local government authorities, Water Boards, organised labour and other relevant institutions.

- User pays for the services received. These tariffs should cover at least the operation, fuel, maintenance and replacement costs for basic levels of service. A sinking fund may be required which makes provision for replacement expenditure.
- Local government has the constitutional responsibility to provide local services which include water supply and sanitation services.
- The transfer of ownership of infrastructure will only be negotiated with statutory organisations such as local government authorities, Water Boards or other Government Departments. Although provision is made in the law to establish water committees as statutory bodies, this will only be considered in exceptional circumstances.
- Local government as the WSA may appoint a WSP as an agent to operate and maintain the infrastructure, and to bill and collect tariffs on their behalf.
- In rural areas village water committees will be seen as integral to the operating system, particularly the distribution at village level. These committees are regarded as WSP's and accountable to local government authorities.
- Existing Departmental staff are not to be prejudiced by any transfers that take place.
- Transfers must be viable and sustainable and no interruptions of service at any stage during the transfer process must occur.
- Assistance to refurbish infrastructure to an acceptable and functional level must be provided.
- For existing schemes, user ownership may initially be transferred for a predetermined period, normally five years depending on existing capacity, until competency has been demonstrated. Full ownership will be considered after the successful completion of the user ownership period. If capacity and competency already exist (established local government authority) full ownership can be transferred immediately.
- Operating assistance to existing schemes that are transferred can be provided and should be phased out over a maximum period of five years. No physical or financial operating assistance will be provided for new schemes.
- All financial or physical assistance to operate, to maintain or to refurbish will be conditional and subject to scheme specific circumstances.

Definitions of the WSA, the WSP and Water Supply Development Plan as described in the Water Services Bill are included in appendix A.

## **4. INSTITUTIONAL RESPONSIBILITIES**

### **4.1 DWAF NATIONAL (Head Office)**

The role of DWAF Head Office, and specifically the Director: Water Services Operations, in the transfer of government waterworks is:

- Set overall policy and establish guidelines.
- Establish procedures and implementation strategy.
- Set targets for the Transfer Programme (TP) in consultation with Regions.
- Provide support and assistance to DWAF Regional Directors.
- Monitor and regulate transfer activities at a national level.
- Co-ordinate Government approach regarding transfer.
- Monitor the TP and keep a register of transfers.
- Monitor the operating assistance provided.

### **4.2 DWAF REGIONAL**

The role of DWAF Regional ~Directors in the transfer of government water works:

- Co-ordinate provincial transfer initiatives through consultation with local government authorities and other affected role players at provincial- and district forums and establish a TP. It is proposed that a Provincial Transfer Steering Committee be established (see item 5.6).
- Link the TP to a refurbishment programme, training and capacity building programme, time schedule and a budget.
- Implement the TP and inform Head Office of progress.
- Administer operating assistance.
- Promote and support transfer of existing schemes within new project development.
- Monitor transfer activities and the joint competency (capacity) of the water service authority and the water service provider where applicable according to the established criteria.
- For new projects, ensure that finance for the transfer activities is allowed for in project budgets' and that the Implementing Agent has made adequate financial provision to prepare the project, the water service authority and the water service provider for the transfer. DWAF Regions should under no circumstances operate a new scheme even for an interim period as this is not conducive to capacity building at all.

### 4.3 LOCAL GOVERNMENT

The role of local government in the transfer of government water works:

- Formally request the transfer of schemes from DWAF to local government within their area of jurisdiction.
- Establish internal structures to effectively operate schemes or appoint an operating agent to operate schemes on their behalf.
- Where applicable, demonstrate management and operating competency over the five year user ownership period before full ownership can take place.
- For new projects, local government must be fully involved from inception. It is the responsibility of the project Implementing Agent to ensure that capacity and competency is established within the local government authority during the implementation phase and/or to appoint a water service provider (agent) to operate the works on their behalf.

The actions outlined above should preferably be taken in the context of a Water Service Development Plan.

### 5. POLICY

All water supply and sewage infrastructure currently operated and maintained, or new infrastructure funded by the Department, must be transferred to the appropriate second and third tier organisations. In the case of basic levels of services, the transfers of the capital works will, subject to the necessary approval having been obtained, be effected free of charge and outstanding debts, if applicable, will be written off subject to certain performance criteria. In the case of infrastructure that supply a higher level of service, capital and other liabilities, if applicable, may need to be recovered.

#### 5.1 TRANSFER OF EXISTING INFRASTRUCTURE

All water supply and sewage infrastructure currently operated and maintained by the Department must be transferred to the appropriate second and third tier organisations when appropriate in terms of their capacity.

The transfer of existing schemes will normally take place in three stages:

- 1) Refurbishment of the scheme to an acceptable and functional level in certain circumstances;
- 2) user ownership of the scheme for a predetermined period, normally five years depending on the existing capacity of the water service authority and the water service provider, during which period operating assistance may be provided; and
- 3) full ownership.

Where established competent local government authorities exist, the transfer of use~ ownership need not to be necessary.

The provision of assistance for operation and/or refurbishment should not be regarded as a general commitment, but rather a conditional concession by the Department based on the scheme specific conditions and on the achievement of specified performance criteria.

The refurbishment of the scheme, if necessary, can take place during the user ownership period. If the appropriate organisation does not exist or does not have adequate capacity yet to operate the bulk infrastructure, DWAF remains responsible for the operation thereof.

DWAF will only in exceptional circumstances and only for an interim period operate and maintain reticulation networks for internal services to the end consumer. Part of the transfer process is to assist local government authorities to appoint a WSP who will be accountable to the WSA and can physically operate and maintain the scheme.

All schemes operated by DWAF must be operated under the Department's Trading Account in order to "ring fence" the scheme to keep accurate record of the operating expenses, water sales and to calculate the unit cost of water of each scheme.

#### **5.1.1 Reticulation networks**

Reticulation networks is the infrastructure for internal service provision, i.e. the distribution to the end consumers within a community. It includes standpipes and, in the case of on-site services, household connections up to and including the water meter. It excludes storage reservoirs which are regarded as part of the bulk infrastructure. The WSA for reticulation networks will normally be local government authorities.

##### **Guidelines**

- Procedures to transfer full ownership of reticulation networks to local authorities such as Urban-, Local- and Rural (also called Representative) Councils should immediately be initiated.
- The Department should not operate and maintain reticulation networks.
- No financial or physical operating assistance will be provided to the service authority or service provider of the reticulation networks. Training and capacity building facilitation may however be provided.

#### **5.1.2 Dedicated bulk infrastructure**

Dedicated bulk infrastructure is the bulk infrastructure that exclusively supplies within a single local authority's area of jurisdiction or exclusively to a single institution.

##### **Guidelines**

- Procedures to transfer user ownership of dedicated bulk infrastructure to local government authorities such as Urban-, Local-, Rural- or Representative Councils (TLC's, TRC's) should immediately be initiated. Operating and refurbishment assistance, if necessary, may be provided.
- Full ownership of infrastructure dedicated to institutions such as hospitals, clinics, prisons, police stations, etc. must be transferred to the relevant local government authority. No financial operating assistance will be provided by the Department. The institution receiving the benefit of such a dedicated service must take full financial responsibility.
- Also see guidelines in paragraphs 5.1.1 and 5.1.3

### 5.1.3 Regional bulk infrastructure

Regional bulk infrastructure is the bulk infrastructure that serves more than one local government (TLC, TRC). It includes the abstraction works, waterworks, bulk meters and bulk pipelines up to and including the storage reservoirs. The water service authority for regional bulk infrastructure will normally be DWAF or regional water institutions such as Water Boards.

### 5.1.4 Guidelines

- Bulk supply schemes should be operated under the Department's Trading Account as a first step in preparation to transfer the infrastructure to the relevant institution.
- Procedures to transfer regional bulk infrastructure to regional water institutions such as Water Boards (where they exist) should immediately be initiated.
- If a regional water institution is not in existence, regional bulk infrastructure will be operated by the Department under the Trading Account. A WSP (agent) may however be appointed by the Department.
- Operating assistance, financial or other, subject to the necessary approval, may be provided to the WSA responsible for the bulk infrastructure and phased out over five years (see item 5.4)
- A formal contractual agreement between the WSP for the bulk supply (Water Board, DWAF) and the relevant local authority as the WSA must be entered into. It should be regarded as a purely commercial agreement i.e. payment for the water supplied and an undertaking to supply/take certain minimum quantities of a specified quality.

## 5.2 TRANSFER OF NEW INFRASTRUCTURE

It is accepted that new infrastructure constructed under the RDP or any other programme will be at an acceptable and functional level. Provision is made in the RDP Business Plans for training of the WSA and the WSP and also for a one year mentor period during which the Implementing Agent will oversee and assist the WSA and/or the WSP to operate the scheme. It is therefore assumed that adequate capacity exists within the WSA and the WSP to effectively operate and maintain the scheme and to recover costs to fund its actions.

The Implementing Agent is responsible to ensure that all the necessary actions in preparation of the transfer control, including the entering into of an agreement as provided for in paragraph 6.6, are timeously done.

### Guidelines

- Transfer of new schemes to "new" local government:
  - user ownership for the one year mentor period transferred on the date of commissioning
  - full ownership transferred after the one year mentor period
- Transfer of new schemes to "established" local government:
  - full ownership transferred if appropriate in terms of their capacity on date of commissioning

- No operating assistance will be provided to both new and established local government authorities.

### **5.3 TRANSFER OF PERSONNEL**

This is usually the most sensitive part of the transfer process and should be handled in a fair, transparent and unbiased way.

In principle there is no limit to the mobility of officers and employees between departments, between national and provincial spheres of government or between different provinces. In practice however this often results in serious personal inconvenience and therefore should be treated with great sensitivity. Recognised staff associations and organised labour must be informed and involved at the earliest possible stage and consulted throughout the process. Any transfer, whether initiated by the Department or at the request of the officer/employee, should be conducted through the official channels. Any final decision or notice of transfer should be in writing.

The transfer of staff is normally preceded by secondment which may not be effected without the approval of the official concerned. The secondment is usually necessary to allow sufficient time to formalise the re-deployment of the official by the organisation concerned.

Existing Departmental officers/employees who are in any way involved with the operation and maintenance of water supply schemes to be transferred will be given a choice to:

- 1 ) be transferred, initially on secondment, to WSA or the WSP concerned with a view to eventual employment; or
- 2) be transferred to other sections of the Department if a suitable vacancy exists

#### **Guidelines**

1. Inform all stakeholders of the intention to transfer (awareness stage)
2. Survey existing DWAF staff in terms of their skills, rank, qualifications, experience, etc.
3. Secondment of staff to the water services institution for a period of one year in order to provide adequate time to negotiate the transfer with all relevant stakeholders. Secondment should be according to the approved procedure. Attached in appendix B is a proforma letter as approved in the Departmental Bargaining Council that should be used officially to inform staff of their secondment.
4. Determine the establishment of the receiving institution  
It is the prerogative of the receiving institution (the WSA and the WSP) to determine the organisational requirements (i.e. the number of personnel required, skills level, qualifications, etc.), salary scales and to effect the filling of posts.
5. Advertise and evaluate applications  
Existing staff should be first in line to be offered a job if appropriate in terms of their skills and qualifications. The process of advertising the posts on the establishment of the receiving institution and the evaluation of candidates is however the sole responsibility of that organisation and will not be compelled to take over any specific staff member.

#### 6. Actions to handle staff not absorbed

The affected officer/employee should be consulted and any representation which he/she may make must be taken into consideration. A staff member cannot be compelled to take up employment with the institution who has taken over the Departmental functions. Officers/employees who can not be accommodated will be declared supernumerary and placed on the central database according to existing procedures as agreed to in the Central Bargaining Chamber (detailed procedure can be obtained from the Directorate: Human Resource Management).

The Directorate: Human Resource Management (HRM) must be involved at all times to assist. Detail procedures will be provided by the D:HRM.

#### 5.4 OPERATING ASSISTANCE

Operating assistance to the WSA must be available on application for existing water services infrastructure currently operated by the Department. This does not apply to reticulation networks, new schemes or any other scheme not currently operated by the Department.

The operating assistance will not exceed the amount currently being used by the Department to operate and maintain the scheme and will be phased out over a maximum period of five years as indicated in the schedule below.

##### Guidelines

- To determine the current operating cost for each scheme, all schemes should be operated under the Department's Trading Account.
- Operating assistance can be financial, physical (personnel, equipment, etc.) or both.
- This operating assistance provided should be reflected in the tariffs charged to the WSP for distributing water to the end consumer. It is expected that the local government authority should improve its tariff collection from the end consumer over a period of five years in order to pay the bulk supply in full.

- Schedule for phasing out operating assistance:

YEAR (Start of year)	NEW LOCAL GOVERNMENT THORITY	AU	ESTABLISHED LOCAL GOVERNMENT AUTHORITY
	PERCENTAGE OF CURRENT OPERATING COSTS		PERCENTAGE OF CURRENT OPERATING COST
1	100%		100%
2	80%		60%
3	60%		30%
4	40%		0%
5	20%		
6	0%		

The above schedule should be regarded as a guideline only. Operating assistance and the phasing out thereof for each specific scheme should be agreed upon and approved for every transfer.

### 5.5 REFURBISHMENT

It is accepted that infrastructure need to be at an acceptable and operational level before the transfer of full ownership can take place. The refurbishment of infrastructure, if necessary, should therefore be completed over the proposed five year period when operating assistance is provided. Refurbishment coupled to improved operations must receive preference e.g. bulk meters, leak reduction, telemetry, pump efficiency, electrification, etc. As with operating assistance, refurbishment is conditional and subject to scheme specific circumstances.

#### Guidelines

- Initial funding to do the refurbishment can be provided from the Department's Regional Directors' budget or dedicated RDP funds.
- Funds released due to the operating assistance being phased out should be utilised for refurbishment.
- A refurbishment programme linked to the Transfer Programme must be compiled

### 5.6 CAPACITY AND COMPETENCY OF THE WATER SERVICE INSTITUTION

It is the prerogative of the WSA and the WSP to determine its organisational requirements. This includes the total number of personnel required, salary scales, benefits, skills required and its working procedures. Regional Directors should however evaluate the establishment against the minimum requirements to ensure sustainable operations. This is applicable for existing as well as for new schemes.

## **Guidelines**

- The WSA and, where applicable the WSP, should jointly be evaluated against required managerial, technical, administrative and financial capacities.

### **5.7 PROVINCIAL TRANSFER STEERING COMMITTEE**

The transfer of schemes will involve negotiations and debate between a number of stakeholders. The establishment of a Provincial Transfer Steering Committee is recommended to provide a forum for these negotiations, the sharing of information and to facilitate the "buy in" from the different parties. This committee could be a sub-committee of any existing forum in the province such as the provincial planning forum. The creation of new structures should be discouraged.

The suggested composition should include representatives from DWAF Regions and Head Office, District-, Local- and Representative Councils, Water Boards, Provincial Government and organised labour.

The role of the Steering Committee would be to facilitate the process, to assist in prioritising schemes for transfer and to monitor progress.

## **6. PROCEDURES**

### **6.1 Identify water supply infrastructure for transfer**

The first priority for transfer will be new and existing water supply projects where the basic or higher level of supply is provided and where the infrastructure is in a good and operational order, and those water works within the area of jurisdiction of a well established local authority or Water Board.

Most of the new projects are constructed under the RDP programme and will supply at least the basic level of water. Infrastructure will be new or upgraded and should therefore be in a good operational condition. Provision in the business plans should be made to fund training and capacity building programmes to develop the WSA and/or the WSP in order to effectively manage, operate and maintain these schemes.

Existing schemes where the level of supply is less than the basic minimum or where the infrastructure is not in a good and operational condition must be upgraded to an acceptable level by the Department, or be negotiated as a delegated management contract where upgrading will be provided by the contractor before transfer of full ownership can be considered.

### **6.2 Identify water service authority and negotiate transfer**

Identify the government structure politically responsible for providing water in whose area of jurisdiction the water supply infrastructure identified for transfer is situated. The willingness to accept the transfer of all water works in their area of jurisdiction need to be confirmed.

Local government is the WSA and is primarily responsible for ensuring the provision of water services to individuals and industries.

The negotiation should not only cover the transfer of the water services infrastructure, but also the transfer of immovable assets such as housing, office buildings and store rooms, the transfer of staff and of movable assets such as maintenance equipment, tools, office- and administration

furniture, vehicles, etc., and operating assistance.

### **6.3 Identify and select water service provider**

Although the WSA remains responsible, a WSP may be appointed as an agent to operate and maintain the water supply scheme on its behalf. The WSP will be accountable to the WSA and may be used to refurbish and upgrade operations as well.

### **6.4 Apply for transfer**

The WSA should apply in writing to the Department's Regional Director for transfer of water supply projects to it.

The application should state the WSA who is politically responsible to provide services and, if applicable, the WSP that will be appointed.

Included should also be an asset register of all the equipment and infrastructure affected by the transfer stating the service level, the value, the condition and the replacement cost. If available, "as-built" drawings should be provided.

A list indicating the minimum skills required (technical, financial and administrative) to operate and maintain the scheme should be matched to the existing skills of the WSA and the WSP. If the current skills are lacking, a training and capacity building programme to obtain the required skill should be provided.

### **6.5 Recommend transfer**

The Regional Director should evaluate the application and reject or approve the transfer. If the application is rejected, the reasons should be stated. The Regional Director should actively facilitate to remedy the factors that lead to rejection. Rejection cannot be an excuse for maintaining the status quo.

If the application is satisfactory, the Regional Director will arrange a joint inspection of the water works and infrastructure. The Regional Director, the WSA and the WSP will jointly inspect the water works and infrastructure. Refurbishment required before transfer of full ownership needs to be determined and must state clearly who will be responsible for the required repairs, the expected completion date and cost thereof. This may form part of the five year contract with the WSA during which DWAF can provide operating and refurbishment assistance while the WSP is expected to upgrade operations.

After the agreed date of completion, a final joint inspection will be carried out. If approved, the application and the signed final joint inspection will be forwarded to DWAF's Directorate: Legal Services.

### **6.6 Negotiate a contractual agreement**

The Regional Director, in consultation with the Director: Legal Services, will negotiate and prepare a formal contract with the WSA to transfer the assets. A draft contract which can be adapted to suit scheme specific requirements is attached as appendix C.

Legal Services will also:

- obtain approval from the Office of the State Attorney (as per Treasury instructions);
- obtain approval from the Department of State Expenditure (in terms of section 179(1)(c) of the Water Act, 1956);
- present the final contract to the Manager: Corporate Services for final approval (Delegation of powers in terms of section 165 of the Water Act, 1956; Government Notice 785 of 22/04/1994); and
- present the final contract to the Manager: Water Services for administrative adjustments to budgets and update of the register of assets.

## **7. TIMEFRAME FOR TRANSFERS**

1. A transfer programme of the major schemes per Region, should be compiled and available by end July 1997.
2. Government water works dedicated to institutions like hospitals, police stations, prisons, etc. should be transferred to the relevant local government authority by the end of 1998.
3. By the end of 1998 the major regional water systems should be transferred to regional water institutions where they exist or operated under the Department's Trading Account.
4. All government water supply schemes and sewage works should be transferred to the relevant organisation by the end of the financial year 2001 /2.

## **DEFINITIONS**

### **Water Service Authority (INSA) (definition as per draft Water Services Act)**

A water service authority is any local government body which is under any law responsible for providing water services (in previous documents also called the operating authority). Local government is the water service authority primarily responsible to ensure service provision to individuals and industries. The water service authority may also be the water service provider responsible for the delivery of services.

### **Water Service Provider (WSP) (definition as per draft Water Services Act)**

A water service provider is the organisation responsible for the physical and organisational arrangements to provide water services. It is any organisation which owns or manages water services infrastructure and which has a statutory or contractual obligation to provide water or to collect wastewater (in previous documents also called the operating agent). There may be more than one water service provider in a water service authority's area of jurisdiction.

### **Water Service Development Plan (definition as per draft Water Services Bill)**

A water service development plan means a development plan for water services which has been approved by the water service authority (WSA) concerned and published in the provincial gazette.

### **Established Local Government Authority**

Local Authorities which have had budgets, assets, staff, etc (i.e. have capacity and experience) before local government elections even if boundaries were altered.

### **New Local Government Authority**

Local Authorities which did not exist before local government elections and therefore in most cases do not have budgets, equipment and staff besides elected councillors in their employ.

### **User ownership**

User ownership entails that government waterworks will remain the property of Government, but the function and responsibility for the management, control, operation; fueling, maintenance and replacement thereof are transferred. It also includes cost recovery to fund these functions. For the transfer of user ownership, Ministerial approval is required.

### **Full ownership**

All assets relating to the government waterworks are transferred, including the functions and the responsibilities.

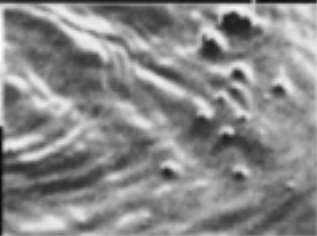
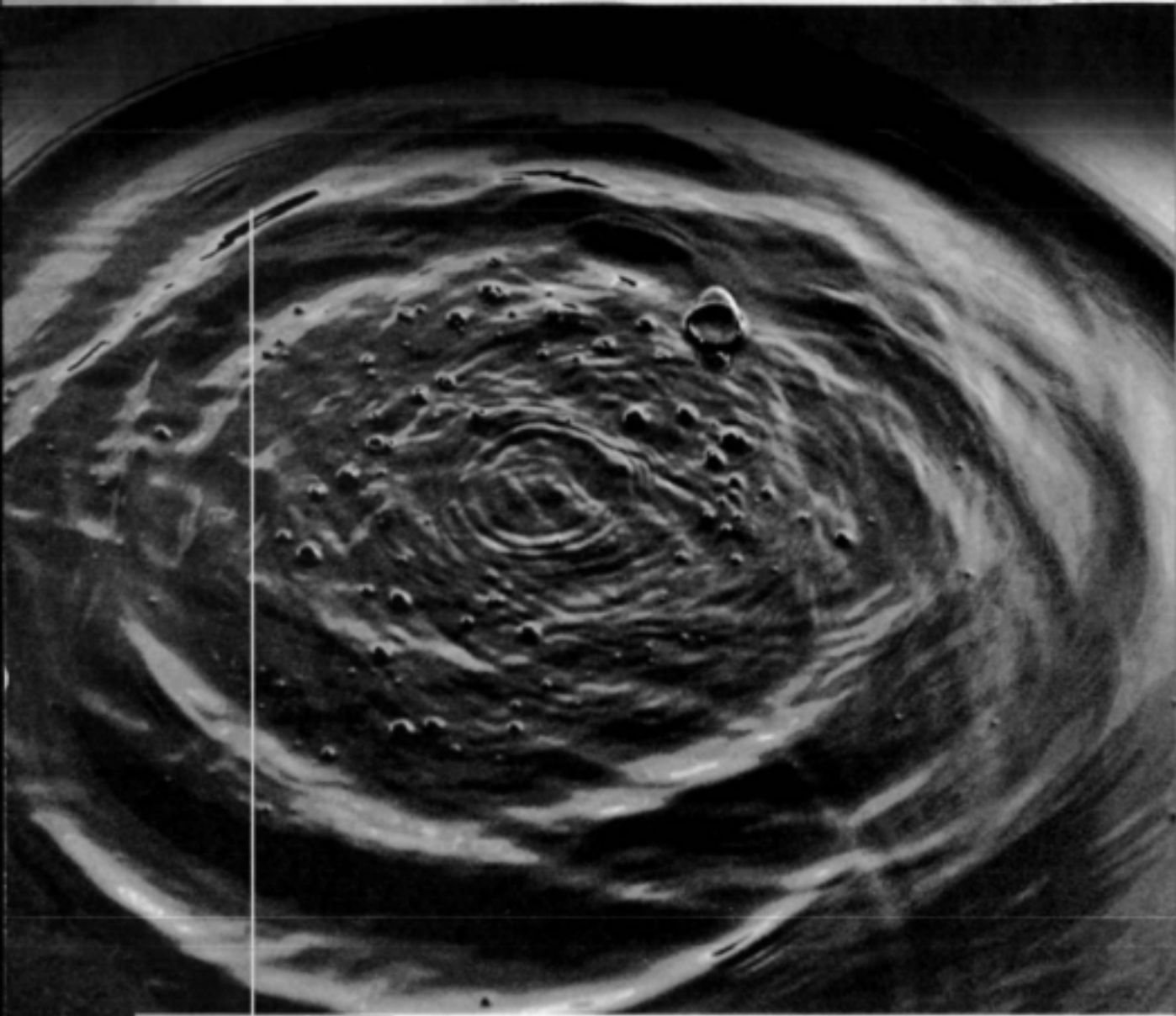
For the transfer of full ownership, Parliament's approval and prior approval from the Department of State Expenditure is required.

### **Transfer Programme**

Prioritised programme of schemes to be transferred linked to a refurbishment programme, training and capacity building programme; budget and time scale.

### **Existing government schemes**

All schemes currently operated, controlled and maintained by the Department of Water Affairs and Forestry.



**Water Research Commission**

PO Box 824, Pretoria, 0001, South Africa

Tel: +27 12 330 0340, Fax: +27 12 331 2565

Web: <http://www.wrc.org.za>



1868457026