

Red tape not insurmountable for those looking to help boost water supply

According to SRK Consulting senior environmental consultant Scott Masson, there are an encouraging number of businesses and individuals who are pursuing initiatives to boost water supply in the Western Cape. What often obstructs them though is the necessary red tape around water provision.



Image source: www.pexels.com

“There are people who have a spring on their property – or would look to build desalination plants – who believe they could augment the affordable water supply in their area or beyond,” said Masson.

Many of these are in a position to provide water to the municipality very quickly, but are unsure of the legal implications, said SRK associate partner and principal consultant Sharon Jones.

“So the challenge for them is to understand the legal requirements, and what they must put in place to be compliant at every stage in their endeavour,” said Jones. “Most of them are prospective new entrants to this market, but often have considerable infrastructure in place to move a project along if given the opportunity.”

These stakeholders are recognising the urgent need for new supply to be brought on stream, and are offering cost-effective ways of doing so. With fresh water designated as a national resource, it can become a complex matter for private entities to engage in bulk supply for commercial purposes.

Water restrictions

Mining in the Western Cape is among the many sectors where solutions are being sought to maintain a steady water supply to keep operations on track.

“Our clients in this industry are considering strategies that range from reduced consumption to the use of boreholes, to the treatment of effluent,” said Masson.

The Department of Water and Sanitation has now instructed farmers in the Berg-Olifants and Breede-Gouritz water management areas to reduce groundwater consumption by 60%, added Jones, while domestic and industrial users in the same water management areas must reduce groundwater consumption by 45%.

“Many businesses are saying that they have reduced consumption as much as they can, but if they can’t find alternative sources of water, these restrictions are going to be difficult to abide by, and could even lead to businesses shutting down,” she said. “It is therefore imperative that other sources of water must be found – and new supply must be actively encouraged.”

Departments lend a hand

The good news is that many government agencies are proactively helping to clarify the legal requirements and facilitate the necessary steps that compliance demands.

“The Department of Water and Sanitation, for example, are talking to us directly about various details of the application processes for abstracting water, and are working to speed up the bureaucratic process where possible,” said Jones. “It has become more complex as there are now certain exemptions in place for requirements such as Environmental Impact Assessments (EIAs) – and it is important to understand which legislation allows such exemptions and which does not.”

Similarly, SRK has been engaging closely with experts in the national and provincial Departments of Environmental Affairs regarding aspects of the process, and is receiving useful guidance and referrals to the right people in other relevant departments.

“These ‘behind the scenes’ efforts are very encouraging, and allow SRK in turn to provide reliable advice and appropriate services to our clients who are active in this field or wanting to get involved,” she said.

While a large project involving a bulk water supply would normally have to undertake a lengthy and detailed EIA process, the Western Cape Department of Environmental Affairs issued Section 30A directives to all the province’s municipalities in May 2017.

“Section 30A of the National Environmental Management Act (NEMA) allowed for these directives to be issued after the Western Cape was declared a disaster area – triggering an emergency situation in terms of NEMA,” said Masson. “These directives are essentially instructions to municipalities, who are the water service providers in their areas, to identify alternative water sources; they are also released from the normal EIA requirements when doing this.”

However, municipalities are still required to have the necessary management measures in place to ensure their duty of care in protecting the environment when implementing such water projects; these measures usually include a generic environmental management programme. The intention of the directive is just to give municipalities the ability to implement projects more quickly, given the severity of the drought.

Drought declared a national disaster

14 Mar 2018





Options

Where the prospective water suppliers are private entities, they can apply to the municipality to become included under the conditions of the directive.

“Perhaps the best way for them to do this is to get their project included under their municipality’s water resilience plan,” he said. “The attractiveness of any proposal would usually be based on how much it could reduce the demand on the municipality’s water supply.”

Another route for a private developer is to apply directly to the Western Cape Department of Environmental Affairs for their own Section 30A directive. This would be considered on a case by case basis and may be granted, for instance, if a company risked closing down due to lack of water – with impacts in terms of job losses.

A third option, according to Masson, would be just to go through the normal EIA process, with the required cost and time implications.

Other authorisations

“However, the EIA is not the only authorisation that water activities require,” said Jones. “If you are abstracting from or affecting a fresh water resource, for instance, you would still need some form of water use authorisation from the Department of Water and Sanitation.”

Using water from the marine environment has its own legal requirements. “Taking a desalination plant as an example, many plants discharge brine back into the ocean – so they would need a coastal waters discharge permit (CWDP) from the Department of Environmental Affairs’ Oceans and Coasts division, irrespective of the volume of brine to be discharged,” said Masson.

While there are thresholds applicable to the listed activities triggering the need for environmental authorisation, it would in practice be unlikely that a desalination plant could avoid an EIA process – as they would generally discharge brine into the sea and also construct infrastructure below or within a certain distance from the ocean’s high water mark.

Jones emphasised that the legal requirements should not be viewed by project champions as a major stumbling block, especially as government was in many areas doing its best to promote the process of responsibly unlocking new water sources.

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