DEPARTMENT OF WATER AND SANITATION NOTICE 1027 OF 2015

REGULATIONS ON AFFORESTATION GENUS EXCHANGES IN TERMS OF THE NATIONAL WATER ACT, 1998 (ACT NO.36 OF 1998)

I, Nomvula Mokonyane, Minister of Water and Sanitation, duly authorised thereto under section 26(1)(g) and section 69(1)(a) of the National Water Act, 1998 hereby publish in the Government Gazette, for public comment the draft regulations requiring the authorisation of afforestation genus exchanges in order to protect water resources, instream or riparian habitat.

Interested persons who wish to submit written representations or comments in connection with the draft regulations are invited to do so within 60 calendar days of the date of publication of this notice. All representations and comments must be submitted in writing to Mr. Xolani Hadebe, Directorate: Compliance Monitoring-Afforestation, Department of Water and Sanitation, Private Bag x 313, Pretoria, 0001; Fax No. (012) 336 6836; email sfra@dws.gov.za.

NOMVULA PAULA MOKONYANE
MINISTER OF WATER AND SANITATION

Date: 01. 07.15

SCHEDULE

1. Definitions

In these regulations, any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned unless the context indicates otherwise:-

"afforestation or plantation" means the cultivation of a group of trees for exploitation of, amongst others, its wood, bark, leaves or essential oils, but excluding plantations which serve as windbreaks:

"afforestation permit" means any authorisation lawfully issued by the relevant authorities for purposes of afforestation between 1972 – 1998 in terms of section 7(1) of the Forest Act, 1984 (Act No. 122 of 1984) or any other appropriate legislation;

"applicant" means a person applying for genus exchange under these regulations;

"area exchanges" refers to an application process followed to change the authorised location of a compartment to a new location mostly due to the ecological sensitivity of the original location;

"genus exchange" means a change in the lawful genus;

"delineated watercourses" include determining the edge of watercourses according to the document "A practical field procedure for identification and delineation of wetlands and riparian areas";

"genus (or genera)" means a specific taxonomic grouping of plant species, for example, Acacia spp, Eucalyptus spp. and Pinus spp. all belonging to distinct genera;

"jungie" means stands or patches of uncontrolled, unmanaged self-sown alien trees from the Acacia, Eucalyptus and Pinus genera;

"Stream Flow Reduction Activity water use licence" means a water use licence issued for afforestation in terms of section 21(d) of the National Water Act, 1998 (Act No. 36 of 1998);

"watercourse buffer zone" means an unplanted area between watercourses and plantation, with a minimum width of 20m or as specified in water use licence conditions, measured from the edge of the delineated watercourses; and

"windbreak" means a protective belt, comprised of a row of trees used to break the force of wind.

2. Scope of Regulations

These regulations apply to all afforestation water users but subject to the provisions of regulation 7.

3. Application for authorisation of genus exchange

Any existing afforestation water user who is planning to exchange the genus of their plantation or part thereof, must apply to the responsible authority for authorisation to implement the proposed exchange.

4. Principles of genus exchanges

- (1) The Department must determine the exchange ratio making use of the best available researched information on the water use of the different genera at quinary or quaternary catchment level.
- (2) A genus exchange may not result in an increase in the existing lawful water use of the property. These Regulations allow only for an exchange in the authorised genus of an equal area or a reduced area of the existing lawful afforestation area based on the water use of the different genera. This means that:-
 - (a) An exchange to a higher water using genus will therefore result in the amendment of the original authorisation resulting in a proportionally smaller area (hectares) to be planted.
 - (b) Exchanges to a lower water using genus may not increase the planted area (hectares) unless authorised in a water use licence.
- (3) Both total flow and low flow reductions must be considered in determining the amendment in the planted area.
- (4) These regulations permit the Department to amend the authorised genus and hectares of an existing lawful afforestation use without amending the existing lawful water allocation of the use.
- (5) A resulting unplanted area-
 - (a) must be rehabilitated to a standard-
 - (i) where all weeds, invader plants, regrowth and jungles are continuously controlled:
 - (ii) where soil erosion is prevented; and
 - (iii) where sedimentation of watercourses are prevented;
 - (b) would no longer be considered as land authorised for afforestation water use; and
 - (c) should ideally be located next to watercourses in order to consolidate open areas and to increase watercourse buffers.

5. Procedure for genus exchange

- (1) An application for genus exchange must be made in the prescribed form to the responsible authority at his or her address or fax number or electronic mail address.
- (2) The form for genus exchange prescribed for the purposes of subregulation (1) must at least require the applicant concerned to provide the following information to enable the responsible authority to make an informed decision:
 - (a) Information regarding the lawfulness of the afforestation.
 - (b) A current map with numbered compartments indicating the property portion boundaries (preferably a scale of 1:10 000) and compartment list (ha and genus) of the property/ plantation.
 - (c) Electronic shape file of currently planted area.

- (d) Proof of the public participation process followed, if required under subregulation (3).
- (e) A management plan for the rehabilitation of cleared areas as described in regulation 4(5).
- (3) In all provinces, where Stream Flow Reduction Activity Licence Assessment Advisory Committees are not functional, the water user must obtain comment on the genus exchange from affected organs of state.
- (4) A responsible authority may, at any stage of the application process, require the applicant-
 - (a) to give suitable notice in newspapers and other media-
 - (i) describing the genus exchange applied for;
 - (ii) stating that written objections may be lodged against the application before a specified date, which must be not less than 60 days after the last publication of the notice:
 - (iii) giving an address where written objections must be lodged; and
 - (iv) containing such other particulars as the responsible authority may require;
 - (b) to take such other steps as it may direct to bring the application to the attention of relevant organ of state, interested persons and the general public; and
 - (c) to satisfy the responsible authority that the interests of any other person having an interest in the genus exchange will not be adversely affected.

6. Record-keeping and disclosure of information

- (1) The registered water user must ensure that the following information is available to the Responsible Authority at all reasonable times:
 - (a) Information regarding the lawfulness of the afforestation water use before a genus exchange.
 - (b) Written confirmation from the relevant authorities authorising a genus exchange.
- The responsible authority may require a water user, at the water user's own cost, to provide it with proof of compliance with the provisions of subregulation (1)(a) and (1)(b).

7. Matters excluded from regulations

- (1) The following matters are excluded from these regulations:
 - (a) The allocation of additional water.
 - (b) The authorisation of wattle or other genus jungles.
 - (c) Genus exchanges from Eucalyptus, Pinus or any other genera to Acacia species.
 - (d) Area exchanges.

8. Revocation of authorisations

The responsible authority may, within a reasonable period, revoke any approval given in terms of these regulations if the approval is found to have been made on false or misleading information provided by the water user.

9. Offences and penalties

A water user, who negligently or intentionally contravenes, fails to comply or comply inadequately with these regulations or with any directive issued in terms of section 53 of the Act, shall be guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding five years.

10. Commencement

These regulations shall come into effect on the date of publication thereof in the Gazette.

Annexure A - Application form

AFFORESTATION GENUS EXCHANGE APPLICATION FORM

This form is developed to aid the official in determining the exchange between an authorised and proposed genus based on the existing lawful water use. This document must be accompanied by a DWS part 1 and part 2 application form for the SFRA.

Name of applicant:			This application should be accompanied by copies of the following supporting docum
•			
Property name and number:	mber		# 1972 or 1994 aerial photo or closest flight available after this date (with flight, strip and photo
			number visible) - if pre72 or pre94 plantings exist on the property.
Property portion:			Permits/ licences issued for the property, associated map, re-inspection reports and original application form (if available).
(An	(An application form is required for each property portion)	or each property portion)	■ WARMS (DWAF) registration certificate and aerial photos of 1998.
Title deed number:			 1:50000 topographical map (with map no. indicating farm boundaries and portions) Current compartment/ plantation map and compartment list indicating hectares and genera
hidden and the state of the sta	The state of the s	Control to the second s	planted, preferably at scale of 1:10 000 or 1:20 000.
Te abivida	Company	Community	 Electronic shape file of the currently planted area Proof of public participation process followed - if required.
Water User	Water Services	National/ Provincial	Management/ Rehabilitation plan for the property portion.
Association	Povide	Government	
* Mark application type with X.	- Contractive Cont	on and the state of the state o	

	1 1	7 3	
		ns	
		Genus	
		O.	
	R	Turk.	177
	S	-	
	Existing SFRA		
	XIS		
	habati	യ	
		ctar	
		Hectare	
		. 0	
			ates and a second
	And the second s	g d	
		Genus	
		in gr	
	1	w)	
		en	
-		9	
FR	RA	6	
g	S		
stin	Registered SFRA		
ex	liste		
in e	Rec	7.47	
be		Hectare	
scri		cta	
De		Ž	
-	Bi:		
മ	Ê		
able 1		- A	
3E table 1) Describe the existing SFRA		AN AN AN	
(GE table 1		TO A STATE OF THE PARTY OF THE	
(GE table 1		TO A STATE OF THE PARTY OF THE	
(GE table 1		TO A STATE OF THE PARTY OF THE	
(GE table 1		TO A STATE OF THE PARTY OF THE	
(GE table 1		TO A STATE OF THE PARTY OF THE	
	Property size (ha)	TO A STATE OF THE PARTY OF THE	
	Property size (ha)	1000	
	Property size (ha)	TO A STATE OF THE PARTY OF THE	
(GE table 1	Property size (ha)	1000	
	Property size (ha)	1000	
	Property size (ha)	1000	
	Property size (ha)	1000	
	Property size (ha)	1000	
	Property size (ha)	1000	
	Quat number Property size (ha)	1000	
	ion Quat number Property size (ha)	1000	
	Quat number Property size (ha)	1000	
	ion Quat number Property size (ha)	1000	
	rty & portion Quat number Property size (ha)	1000	
	erty & portion Quat number Property size (ha)	1000	

* DWS - Alert applicant to correct registration information if differences occur.

	Total Lawful	Area (G)		
	1998 Existing	Lawful Use (F)		
	Permit / licence	<u>area cancelled</u> (E)		
e property?	Pre72 or 94	genus (in 1998) (D)		-
t is lawful SFRA on th	d Area planted	before 72 (or 94) (C)		
(GE table 2) Wha	Authorised	Genus (B)		
	Authorised	Hectares (A)		
	Properties affected	by permit/licence		
	Permit no. or	licence no.		

	ent no.	3700							
	Compartment no.	- 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1	and the second s						
	A Comment of the Comm	snus							
	Act of the second of the secon	Proposed genus		10 To					
plied for	applied for	snuə							
us exchange ap	Exchange	Current g					:	,	
(GE table 3) Genus exchange applied for		Current hectare							
		3		804889500COCK					
	Quaternary no.	The second secon	A CONTRACTOR OF THE CONTRACTOR					-	
	Property & portion				-				
	Prop					-			

sen existing and	Genus	
e the currently planted SFRA with the existing lawful SFRA per property & portion Total existing SFRA Total lawful SFRA Difference between existing and Indianal SFRA DIFFERA DIF	Hectare	
er property & porti	Genus	
ing lawful SFRA pr Total lawf	Hectare	
FRA with the exist	Genus	
currently planted S Total existi	Hectare	
GE table 4) Compare the		
(GE tab		

	Low flow volumetric water use of proposed genus (area proposed for exchange) [m³]	7.20 m²		Low flow reduction ratio	1:0.375				
	woff wol nedian low flow (mm)	Cod		5.					ያ signature
	Total volumetric water use of proposed genus (area proposed for exchange)	14050 m ³		Total flow reduction ratio	69	arian	ure)		yr: (Print name & signature)
ation	Gush median total	140.5		tal flow rec	1:0.69		(Print name and signature)	•	approved t
vater use determin	Proposed genus (determination based on proposed hectare exchange)	Eucalyptus -	(GE table 6) Genus exchange ratio				Technician: (Print name and signature	-	Assessment reviewed and approved by: Date:
GE table 5) Genus water use determination	Low flow volumetric water use of current genus (area proposed for exchange) [m3]	270 m³		Proposed genus	Eucalyptus		Techn		(Signature) Asses:
(OFFICIAL USE)	Gush median low flow (mm)	P.C.	OFFICIAL USE					ned	(Sig
OFFIC	Total volumetric water use of current genus (area proposed for exchange) (m³) (mm x ha x 10 = m³)	9710 m²	9	Current genus	Pine			Approved/ Not Approved	Provincial Head: Date:
	Gush median total flow (mm)	97.1							/ed
	Current genus & proposed hectare exchange	Pine - 10ha		Quaternary catchment	Eg. X13F		Signature)		DWS date stamp (application received
	Ona	Eg. X38		Quaternar	Eg.		Applicant:		DWS date stamp