**6. REPORT OF THE PORTFOLIO COMMITTEE ON WATER AND SANITATION OVERSIGHT VISIT TO LIMPOPO PROVINCE 15-17 AUGUST 2017, DATED 22 NOVEMBER 2017**

**1. Introduction**

The Constitution of the Republic of South Africa, 1996 states that Parliament has the power to conduct oversight of all organs of state, including those at provincial and local government level. This report serves to provide an account of the oversight visit conducted by the Portfolio Committee on Water and Sanitation (Portfolio Committee) to the Limpopo Province 15- 17 July 2017.

**Delegation:**

Members:

Mr M Johnson (ANC) (Chairperson); Mr HP Chauke (ANC); Mr T Makondo (ANC); Ms Bilankulu (ANC); Mr D Mnguni (ANC); Mr LJ Basson (DA), Ms MS Khawula

Staff

Mrs M Solomons (Committee Secretary); Ms S Dawood (Content Advisor); Mr T Manungufula (Committee Researcher) and Ms Z Kula (Committee Assistant)

**2. Objectives of the Oversight Visit**

The Portfolio Committee initially visited the province in 2015 to address the concerns raised in a petition by the communities in the Greater Tzaneen area in relation to the non-availability of water supply in Wards 24, 25, 26, 27 and 34. As a follow-up to the 2015 oversight, the Portfolio Committee on Water and Sanitation (the Portfolio Committee), undertook an oversight visit to Limpopo from 15 – 17 August 2017, and based its oversight mandate within the following objectives:

* To receive a progress report on whether the 2015 commitments to a petition by communities of Wards 24, 25, 26, 27 and 34 in Tzaneen, which highlighted the non-availability of water supply were complied with. This entailed the Portfolio Committee engaging with the Executive Mayor and officials of the Mopani District Municipality and Executive Mayor and officials of the Greater Tzaneen Local Municipality.
	+ Defined site visits to ascertain progress and challenges in water infrastructure development for water supply related to the above wards were also undertaken. This entailed visits to the Tours Bulk Water Supply Scheme (upgrade of Tours Water Treatment Works); Tours Bulk Water Pipeline (18-borehole refurbishment, the drilling of 5 boreholes and construction of a 17km bulk pipeline); Thabina Bulk Water Supply (construction of the water reticulation system in Thabina Village).
* Briefing at the Greater Tzaneen Local Municipality on water use allocation and reform, and specifically its impact on emerging black farmers. This entailed the Portfolio Committee engaging with the Executive Mayor and officials of the Greater Tzaneen Local Municipality, officials from the Departments of Water and Sanitation and Agriculture, Forestry and Fisheries and African Farmers Association of South Africa. The Department of Rural Development and Land Reform was unavailable to input to this meeting.
	+ Defined site visits to the Middle Letaba Dam and engagements with emerging farmers.
* Briefing at the Mopani District Municipality on Resettlement and Compensation of surrounding communities around the Nandoni Dam.
	+ Defined site visits to Nandoni Dam
	+ Giyani Water Treatment Works

**3. Progress report by the Mopani District Municipality on initiatives and interventions taken to address concerns of communities on non-availability of water supply to Wards 24, 25, 26, 27 and 34**

The initial presentation by the officials from Mopani District Municipality on interventions taken to address concerns raised by communities in a petition referred to the Portfolio Committee in 2015 and thereafter in 2017 was rather sketchy in terms of providing details of progress to date on whether water supply was provided to the relevant communities. The report provided a simplistic and basic input on what appeared to be “insurmountable challenges” faced by the Mopani District Municipality in adhering to the basic right to water within an intergovernmental framework.

The report maintained that the District Municipality faced a number of challenges within the infrastructure component of its work in the provision of water supply to the affected wards. Vandalism, ageing infrastructure, non-functioning boreholes, illegal connections, theft and a low ground water table prohibited the full realisation of water supply to the areas.

**3.1 Overview of intentions of interventions by Mopani District Municipality**

The presenters argued that since 2015 to date, 55 of 87 boreholes were non-functional in the wards that signed the petition. The short-term intervention and progress made to date focused on the intentions, and not concrete deliverables, by the Mopani District Municipality. The intentions focused on the following:

* The implementation of water reticulation projects through the Water Services Infrastructure Grant, which was commissioned in June 2017;
* The construction of an online booster pump station to pump water to Zanghoma, Sedan, Mafarana and Mulati (Ward 24). The outstanding work includes the installation of pumps, replacement of the roof that was vandalized and electricity connection points;
* To deal with non-functioning boreholes, the District Municipality is in the process of procuring spares for repairs and working on appointing service providers to refurbish the vandalized boreholes (all affected Wards);
* The refurbishment of the vandalised Coop booster pump (Ward 25) will begin in the 2017/18 financial year;
* Whilst the seven villages under Ward 26 receive bulk water supply from the Tours Water Scheme, the existing bulk pipe line is perforated with illegal connections. The District Municipality has however appointed a service provider to upgrade the bulk pipeline, and a site handover is to be conducted on 24 August 2017;
* New boreholes are being constructed in villages where there is no source of water supply; and
* A bulk water supply project in Lephephane is currently being implemented, which will cover the three villages of Rasebalane, Long Velly and Khopo in Ward 34. The project will obtain water from underground sources.

**3.1.1 Members response to initial “intentions” briefing report by Mopani District Municipality**

The Portfolio Committee was extremely concerned at the initial briefing by Mopani District Municipality, as it did not provide substantive details of tracking progress of water supply in affected wards. Members argued that the presentation was intended to be a collaborative working document between the Mopani District Municipality, Department of Water and Sanitation and Lepelle Northern Water Board. Instead, it merely highlights the challenges confronting Mopani District Municipality in its efforts to honour its commitments to affected communities. Other issues of concern emanating from the ‘intention’ report to Members of the Portfolio Committee comprised the following:

* The extent to which the District Municipality can and is able to determine and plan appropriately by taking in the following variables, that is, population vs yield vs demand with the necessary infrastructure and budget, inclusive of operations and maintenance for present and future use. There should be definitive time-frames for each planning phase, which is absent in the document presented;
* The costs of the initial construction of a borehole with its associated cumulative costs attached to it through vandalism and theft of parts of the borehole;
* The crisis in the affected areas is not being addressed, and although money has been disbursed through the Water Services Infrastructure Grant to provide the necessary services, very little benefit is seen by the communities. The application of the Water Services Grant, Municipal Infrastructure Grant and Regional Bulk Infrastructure Grant by different stakeholders require further scrutiny on achievements and challenges experienced toward water supply to communities within the entire water value chain;
* The reliance on boreholes and ground water required systematic, scientific technology to ascertain the availability of ground water for current and future requirements. The Portfolio Committee requested a detailed report of projected available amounts of groundwater, as it appears as if the District Municipality is doing a ‘trial and error’ construction of boreholes in the region. As soon as the water resources in a particular borehole is depleted, another borehole is drilled;
* The way in which the three stakeholders apply the inter-governmental relations framework in the application of their work appears to be a top-down approach by national, provincial and local level of government, with very little or no attention paid to participation of community members;
* Consultation or lack thereof of projects in the affected communities create further tensions with people arguing that it is far more feasible to make use of illegal connections, rather than rely on legal processes;
* Criminalisation of offenders of water infrastructure required further scrutiny by all three levels of government, as the National Environmental Management Act, had created sound mechanisms for compliance and enforcement of transgressions in the water sector. The application of by-laws need to be tightened;
* The use of tankering to augment water supply to communities and the cost to municipalities, and whether infrastructure is deliberately being vandalized to secure tankering services; and
* Illegal water connections have a detrimental effect on water supply affecting the bulk water supply and interventions by the Mopani District Municipality to curb this practice, appears to be “reluctantly slow” due to tensions with district municipality officials and community members.

The concept of inter-government relations and working together from national, to provincial and local was entirely lost and could have been further developed if the contributors had focused on the construction of new water infrastructure, the functionality of these, and budgets assigned to work, and the consultants involved in the projects. The Portfolio Committee requested the three stakeholders mentioned above to rework the document, and provide an input on the following day. The revised input is captured in 3.1.2 below.

**3.1.2 Revised report from three stakeholders – Department of Water and Sanitation, Mopani District Municipality and Lepelle Northern Water Board**

The Groot Letaba River Water Development Project (GLeWaP) is a major initiative by the Department of Water and Sanitation in support of the Limpopo Provincial Government’s developmental strategy. The project intends to impact positively by increasing the safe, reliable water supplies for domestic, agricultural and industrial use. The project includes a number of infrastructure projects such as the raising of the Tzaneen Dam and New Nwamitwa Dam.

**3.1.2.1 Backlog of water supply**

In terms of the backlog on water supply, the three stakeholders utilised statistics from Census 2011 and Integrated Development Plan, 2017 of the Mopani District Municipality. The statistics show that in the Mopani District Municipality, 249 384 (81%) of the 296 320 households have access to water supply, with a 19% backlog. In the Tzaneen Local Municipality, 85 998 (77%) of the 111 371 households have access to water supply, with a 24% backlog.

**3.1.2.2 Reliance on boreholes**

The reliance of boreholes in Mopani District Municipality, and dependence of communities on ground water in the region create huge challenges to address supply and demand of water in the area. There are 1 270 boreholes in the Mopani District Municipality. Of the 1 270, 551 boreholes are concentrated in the Greater Tzaneen Municipality, which constitutes 43% of the boreholes within Mopani District Municipality.

In 2015, there were 108 boreholes in the identified five (5) wards. Seventy-five (75) were non-operational and 33 were operational. Since 2015, there have been operations and maintenance activities to address water supply challenges. Of the 75, 48 were refurbished, 9 were found to be dry, 2 were of poor quality, 6 were decommissioned due to low yield and 10 were re-drilled. An additional 9 new boreholes were drilled in 2015/16 and 2016/17.

Currently, there are 130 boreholes in the identified wards. Seventy-two (72) boreholes are non-operational and 58 boreholes are operational.

**3.1.2.3 Status of water supply to Wards 24, 25, 26, 27 and 34**

In Ward 24 (Muhla Headkraal, Sasekani, Petanenge, Zangoma) and Ward 25 (Bonn, Mafarana, Mulati, Ntsako and Sedan), the communities are served by the Nkowankowa Water Works. The challenges encountered in Wards 24 and 25 in 2015 and subsequent interventions comprise the following:

* Damaged pipelines during road construction. The damaged pipeline has been repaired. A large majority of the population is receiving water, but due to severe leaks, some people have not as yet received water supplies;
* Illegal connections and vandalism of reticulation network. The booster pump station and main has been reinstated and is operational. Reticulation has been provided;
* The booster pump station at Coop was totally vandalised, and illegal connections between Coop and Gabaza were common. To date, the stakeholders argue that the operations and maintenance will be addressed in the 2017/18 financial year. Ideally, pipes need to be replaced, but due to budget constraints, the project has been deferred; and
* The asbestos cement pipeline via Mafarana to Bonn was damaged during road construction in 2017. This was fixed and completed in April 2017.

In Ward 26 (Bordeaux Hoveni, Hweetji, Masoma, Nyanyuka, Rhulani and Solani) and Ward 27 (Makhubidung, Mogapeng, Pharare, Shiluvane), the communities are served by the Tours Water Works, with the exception of Lephephane, which receives water supply from the Thabina Water Works. The challenges encountered in Wards 26 and 27 in 2015 and subsequent interventions comprise the following:

* Vandalisation of standpipes, illegal connections and non-functioning of existing infrastructure. To date, the procurement of contractor has been completed. The technical report on bulk provisioning has been approved. R38 million out of R93 million has been allocated for Phase 1 in 2017/18 with the site handover in August/September 2017; and
* In Lephaphane, which receives its water from the Thabina Water Works, the booster pump station has been discontinued, and there is no bulk water in these villages, and thereby communities are dependent on stream water. To date, the determination made was that the completion of the booster pump station and damaged pipeline was not feasible. The contract was terminated at 62% of the implementation of the project, which entailed source development (extension and upgrade) and reticulation.

In Ward 34 (Serare, Maake, Bokgaga, Mphame, Mogoboya, Rasebalane), the communities are served by the Nkowankowa Water Works. The challenges encountered in Ward 34 in 2015 and subsequent interventions comprise the following:

* Loss of water along the bulk pipeline through illegal connections. The illegal connections were removed along the pipeline from Thabina Water Treatment Works to Lenyenye. To date, there has been movement toward the replacement and upgrading of the bulk pipeline. The consultant has been appointed to conduct a feasibility study. The study is anticipated to be completed by end of November 2017. However, there is no progress of the bulk system due to financial constraints.

**3.2 Site visits**

**3.2.1 Tours Water Treatment Works**

The construction of the Tours Water Treatment Works upgrade started in June 2015 with a project timeline of 24 months, with Lepelle Northern Water Board being assigned the implementing agent. The main purpose of the project is the upgrade of the existing water treatment works capacity of 9.2 megalitres by an additional 4.5 megalitres in order to meet the increasing water demand.

The project is currently at 70% completion, with the outstanding work still to be completed including the fitting of the mechanical work as most of the construction work, including the access roads have already been completed. This project is currently 55 days overdue but an application has been made for its extension with completion anticipated by September 2017 should the extension be approved.

The value of the contract of R581 million which is sourced from the Municipal Infrastructure Grant. The project has created 40 jobs and part of the conditions of the project include the inclusion of local contractors and sub-contractors. The project has had an impact on the skills development of the local labourers, as the on-site training provided, is not accredited.

The project has experienced delays because of community unrest, rain and delayed payments to contractors. The Mopani District Municipality anticipates that funding for ongoing maintenance of this project after its completion can be sourced from the Water Services Infrastructure Grant of the Department of Water and Sanitation.

**3.2.1.1 Issues raised by Members on the Tours Water Treatment Works**

Key issues include the following:

* Whether budgetary provision has been made by the Mopani District Municipality for ongoing maintenance at the completion of the project and the extent of adherence to the “Back-to Basics” programme of the Department of Cooperative Governance and Traditional Affairs wherein 10% of budget set aside for maintenance of infrastructure; and
* Skills transference by the Lepelle Northern Water Board to the Mopani District Municipality; local sub-contractors and local laborers.

**3.2.2 Lephephane Bulk Water Scheme**

The project is located in the jurisdiction of the Greater Tzaneen Municipality. Greater Tzaneen Municipality is one of the five (5) local municipalities that fall within the Mopani District Municipality. Greater Tzaneen is located in the north-eastern part of the Limpopo Province, about 120km from Polokwane. Lephepane is one of the group of settlements under Greater Tzaneen Municipality. The proposed project was implemented with the overall objectives of the Department of Water and Sanitation for developing water source for Lephepane villages, extending the accessibility of water to poor communities.

**3.2.2.1 Work done and outstanding work on Lephepane Bulk Water Scheme**

The scope of work comprised the construction of 14.7 km bulk pipeline. The main activities include the design, construction of refurbishment of 8 reservoirs, refurbishment of boreholes and bulk line to link the main reservoir to supply reservoirs. The work done thus far is the following:

* Refurbishment of 8 reservoirs;
* Refurbishment of 3 boreholes;
* Construction of 14.7 km of new bulk line, with pipes varying from 63 mm to 250 mm diameter;
* Construction of new pump station and
* Drilling of 5 boreholes.

The outstanding work to date is listed below:

* Erecting of gates for fence;
* Sealing of 8 reservoirs;
* Refurbishment of 9 reservoir chambers;
* Mechanical works on the pump station;
* Electrification of the pump house; and
* Electrification of the 5 drilled and equipped boreholes.

Tangos Consultants was appointed by the Mopani District Municipality to undertake the design, construction and supervision of the Lephephane Bulk Water Scheme, and refurbishment of boreholes and bulk pipeline. The project falls under Greater Tzaneen Municipality. Due to poor performance of the contractor (KTS), the contract was terminated by Mopani District Municipality on 28 February 2017.

**3.2.2.2 Financial aspects**

The construction budget of R32 million was approved by Mopani District Municipality for the Lephepane Bulk Water Scheme.

**3.3 Recommendations**

In deliberating on briefings received and sites visited, the Portfolio Committee derived certain recommendations, proposed to Parliament of the Republic of South Africa:

* The concurrent functions of water highlighted in the Constitution of South Africa, 1996, are not fully understood by parliamentary officials who refer petitions to the relevant Portfolio Committees. Whilst there may be overlap in the functioning of work in the entire water value chain, the Constitution and the relevant pieces of legislation, the National Water Act, 1998 and Water Services Act, 1997 are clear in the obligations of the national Department with regard to water resources management; and local government charged with water services and supply within their jurisdictions. Therefore, it is important that when a petition is referred to Parliament, there should be an understanding of whether it falls within the ambit of water resources management or water services and supply delivery. In this instance, the petition clearly talked of lack of water services and supply to affected wards in the Mopani District Municipality, which is clearly the purview and interests of the Portfolio Committee on Cooperative Governance and Traditional Affairs.
* The officials charged with the Lephepane Bulk Water Scheme to provide a breakdown of the R32.9 million spent on projects – which should include the value of projects and the amount paid to consultants (Tangos Consultancy);
* A detailed report on the financial (amounts for three (3) projects valued at R59 million; R32 million and R32 million) and non-financial progress report of all work undertaken by the sub-contractor, KTS and consultant, Tangos Consultancy to improve water supply infrastructure and construction of boreholes in the Greater Tzaneen Local Municipality; and
* A progress report on the interventions to be taken by the Mopani District Municipality to build community relationships, participation and trust in respect of future water projects and in addressing the huge number of illegal connections, which negatively impact on supply to the bulk water infrastructure schemes.

**4. The efficacy of water use allocation and reform for emerging black farmers in Limpopo – a case study of the Middle Letaba Farms**

**4.1 Overview by content advisor on the importance of integrating water rights, land reform and agrarian reform within the developmental agenda**

The tensions emanating in South Africa around the issue of water rights and the control over the allocation of water rights to emerging black farmers need further engagement. Recent debates in South Africa have focused on the way in which the fragmented approach to address and enhance the interconnectedness of water rights, land reform and agrarian reform, specifically to move the developmental agenda have not, as yet, been realised. The arguments advanced by the work of Barbara Schreiner and Barbara van Koppen on water allocation to small-scale farmers in South Africa speak to major problems in the issuing of water use licenses with the introduction of the National Water Act in 1998. They argue that water use in the agricultural sector still remain in the hands of the white minority, and that water allocation reform has not progressed to any measurable extent.[[1]](#footnote-1)

In another study, van Koppen, et al, 2009[[2]](#footnote-2), maintain that in implementing land restitution and redistribution, riparian water rights were not always completely registered as part of the land entitlement. In a few cases, water rights tied to land under claim were sold, leaving an asset of lesser value. In the late 1990s, the then Department of Water Affairs and Forestry (DWAF) introduced a policy which stated that the trading of water rights of land under claim should not be approved.

In critiquing the water allocation reform process initiated in the mid-2000s, the authors argue that the water allocation reform process in its current form risks exacerbating inequities in water entitlements, instead of moving toward its initial goal, which was to implement distributive water reform. They further argue that the current form of water allocation reform, with its concomitant regulatory mechanisms of ensuring ecological reserve, legally complex licensing process, verification and validation, and general authorisations, whilst necessary for water resource management, could become a bottleneck in agrarian reform, instead of a support system for emerging farmers. The authors contend that the Department of Water and Sanitation should ensure that mechanisms exist for releasing sufficient water from vested players for new, accelerated programmes toward agrarian reform.[[3]](#footnote-3)

The principle of “common but differentiated” more specifically used in climate change literature and international law was used by the content advisor as an analogy to argue that whilst, we as South Africans are equal before the law, the apartheid system manifested deep divisions of inequity in access to resources, specifically water. Although the Department has recognised historical differences, questions remain of the extent to which the contributions of various departments are creating enabling environments to advance and create sustainable livelihood for black emerging farmers within the developmental agenda espoused in the National Development Plan (NDP). The concept of commonality of humanity in South Africa was distorted and emanated in differentiated legal and regulatory approaches to access to basic resources. To remedy this, the stakeholders involved in creating opportunities and spaces for emergent black farmers, in utilising the same legal and regulatory mechanisms for all users, need to understand the special requirements of black farmers, and ensure that water resource management, reform and allocation should encourage and support rural initiatives.

**4.2 Submission of Department of Water and Sanitation to Water Allocation Reform in Limpopo**

The Department of Water and Sanitation in its submission noted that water allocation is a way of sharing the limited water resources in the best interests of the country as a whole. Water Allocation Reform is addressed through the National Water Act, 1998 that deals with the balancing and protection and use of water sources; and redressing inequalities of the past. In this regard, the Department reported that the Olifants Proto Catchment Management Agency is the driver of the Water Allocation Reform (WAR) programme in the Olifants Management Area and the long-term strategy is on compulsory licensing as contained in the National Water Act and the National Water Resource Strategy.

In terms of water availability in the Olifants River Catchment, it was reported that groundwater is available throughout the catchment, although it varies in the quantities, which is dependent on the hydrological characteristics of the underlying formations. There are 16 large dams in the Olifants Catchment with a supply capacity of 3,078 square metres per annum. The Groot Letaba sub-area is estimated to receive 168 million square metres per annum. which is derived from the yield of the Tzaneen and Ebenezer dams, as well as significant run-of-river abstraction. The contribution of groundwater to the available water resource in the Groot Letaba sub-area in estimated in the National Water Resource Strategy to be 12 million square metres per annum. The irrigators downstream of the Tzaneen Dam generally experience a low assurance of supply with severe restriction placed in water use during periods of drought. There is a relatively large groundwater source in this catchment estimated to be about 30% of the utilisation of the sub-area. This ground water use is mostly upstream of the Middle Letaba Dam where it is used to supplement water supplies for irrigation.

The Department reported that in the short term, the Department will set aside 50% of allocable water for blacks in catchment areas. This is done through a Ministerial declaration and was subsequently implemented by the Department.

**4.3. Submission by the Department of Agriculture Forestry and Fisheries**

The Department of Agriculture, Forestry and Fisheries noted that support to emerging black farmers was primarily through the Comprehensive Agricultural Support Programme, which seeks to contribute towards food security, job creation and poverty alleviation. Specific interventions to emerging black farmers finds expression in Operation Phakisa, which is the establishment of a Presidential War Room, which focuses on unlocking water for emerging farmers. Experiences in the agricultural sector dictate that many emerging farmers, or farmers who are beneficiaries of the land restitution cannot afford the water use charges issued to emerging farmers. This is particularly debilitating to emerging farmers who are charged water used charges for poor functioning or defunct water schemes. These water use charges financially affect emerging farmers, with a resultant impact that growth toward increasing production is limited.

Although the official from the Department of Agriculture, Forestry and Fisheries alluded to some black farmers using water without licenses in farming activities, she did not provide full details of the study undertaken by the International Water Management Institute. The study found that in some cases in Limpopo, black farmers invested in their own water infrastructure to improve their productivity. Some of the farmers have registered water use with the Department of Water and Sanitation, whilst many argue that they have a right to use water under local customary practices. The study further found that in the Inkomati catchment, some small-scale farmers are convinced that their water use is legitimate, and are unaware of licensing requirements or the concept of existing lawful use in the act. They are operating in the knowledge that water is necessary for their livelihoods, and not because of a formal entitlement.[[4]](#footnote-4)

**4.4. Submission by African Farmers Association (AFASA)**

The African Farmers Association noted two key challenges to emerging farmers in the region. These include access to water rights as well as water charges for nonfunctional or dilapidated boreholes and irrigation schemes.

**4.5. Responses to presentation by the Portfolio Committee**

The key concerns raised by Members include the following:

* Delays in the raising of the Tzaneen Dam wall, which is meant to increase the capacity of Tzaneen Dam have a detrimental impact on the emerging farmers within the region;
* Abstraction by Existing Lawful Users, in particular the water rights of ZZ2 Farms impacts negatively on emerging and black farmers downstream. There does not seem to be a sense of urgency on the part of the Department of Water and Sanitation to resolve the matter;
* Serious concerns were raised regarding the billing of emerging and black farmers for dilapidated and non-functional canals, boreholes and irrigation schemes; and
* The over reliance on boreholes for water supply for emerging farmers, whilst boreholes are meant to be a temporary short-term intervention.

**4.6. Site visits to the Greater Letaba Farms**

The Portfolio Committee conducted site visits to the Makhepisi Agri Business within the Mooketsi area falling under the Mopani and Vhembe districts. This farm is one of the flagship land restitution programmes of the Departments of Agriculture, Forestry and Fisheries and Rural Development and Land Reform. The new operating entity (Makepisi Agric (Pty) Ltd took over the functions of the old Montina partnership and became operational on 1 January 2015. The business generates an annual turnover of more than R200 million and provides permanent jobs for more than 1 659 people and an additional 231 seasonal jobs. The Department of Rural Development and Land Reform acquired the 20 farms with 44 title deeds, totaling 7 352 hectares to the value of R235 million in December 2014. One of the main goals of Makepisi Agri is to enrich and empower the various communities involved, through skills development and training.

One of the key challenges noted by Makhepisi Agri was that water access is limited, and one of the major contributory factors is that ZZ2 Farm upstream were abstracting water at the source of the Middle Letaba Dam, which greatly reduced water supply to the downstream Makhepisi farms.

The Department of Water and Sanitation noted that investigations were conducted on the 24 May 2017 and 1 June 2017 respectively on properties, (Gemsbokspruit Farm, Paardedood Farm and Heuningplaas), owned by Bertie Van Zyl (Edms) Bpk (trading as ZZ2 Farms) around the Middle Letaba, Olifants Management area. The investigations found that ZZ2 operations on the properties investigated are lawfully using water in terms of the National Water Act of 1998, in that the water users were found to be Existing Lawful Use by the Department through the Validation and Verification process in 2014. Water use licensee holders are authorised to abstract and store water. These were the only users identified and confirmed to be taking place onsite during investigation. The sources of water are both surface and ground. During the course of the investigation by the Department of Water and Sanitation, six dams, boreholes and abstraction points were visited.

The investigation found that ZZ2 did not release water to downstream users, nor does it have water-measuring devices installed to ensure that they stay within their allocation. The implications of not releasing water is that the Reserve (basic human and ecological needs) for downstream users is not met. Lack of measuring devices makes it impossible to determine whether ZZ2 is abstracting and storing the authorised volume of water. The Department, in its investigation noted that, the lack of monitoring and non-release of water to downstream users are not necessarily non-compliance issues.

**4.7. Recommendations**

During the deliberations on whether the water use allocation and reform programme is an effective tool for emerging black farmers in Limpopo, Members of the Portfolio Committee resolved that:

* Further interrogation is needed by the various departments to evaluate and monitor the efficacy of various programmes and policies, related to assisting poor resource farmers, to advance the developmental agenda in South Africa;
* The setting aside of 50% of allocable water for emerging black farmers by the Department of Water and Sanitation, and other interventions in the short-term requires further enquiries on whether the interests of vested farmers are of primary importance, compared to black emerging farmers. The interventions by the Department on this issue requires further scrutiny and examination by the Portfolio Committee;
* Providing more information on how the issue of water use by ZZ2 affects and impacts on water users downstream;
* The revision of the National Water Act, 1998 and Water Services Act, 1997 provides an opportune time for the Department to evaluate whether current systems and principles underpinning water allocation reform, is a feasible one within the transformational developmental agenda.

**5. Giyani/Nandoni**

**5.1. Site visit to the Giyani Water Treatment Works**

The challenges at the Giyani Water Treatment Works related to the slow pace of the 6-megalitre expansion project, which affected water supply to the town of Giyani and fifty-five (55) of its surrounding villages.

Twenty-eight (28) villages had access to bulk water, and twenty-seven (27) villages relied solely on boreholes. Due to poor operation and maintenance of the scheme, the design capacity of the scheme diminished from 30 megalitres to 15 megalitres. Other challenges noted were the poor reliability of supply and frequent failure of water supply.

When the plant was handed over to the municipality, the plant was fully operational. However, it was reported that the system is non-operational due to the problems experienced with the filters and leakage of the settling tank. These faults were discovered six months after the liability period had expired. At this point, the contractor had been released from retaining the contract. The Giyani Water Treatment Works has been handed over to the Mopani District Municipality, which is attending to the matter.

**5.2. Site visit to the Giyani Bulk Water Supply Project**

The Portfolio Committee conducted site visits to the Giyani Bulk Water Supply pipeline. The scope of work of the Giyani Emergency treatment works was extended to include the repair of existing infrastructure. The repair of the infrastructure is the replacement of eight pipelines to connect to the existing reservoir, with a combined pipeline distance of 354 kilometres. Of the eight pipelines, only one has been completed, with the remainder seven pipelines anticipated to be completed by December 2017. It should be noted that the anticipated dates for completion are provisional and dependant on the availability of funds. The availability of funding is one of the key causes of delays.

Whilst on site, Members noted illegal connections to the bulk water supply, and noted that this will have a negative impact through the diversion of water from the bulk pipeline to unlawful users. Further concerns raised by Members include the extension of scope of work by the Department of Water and Sanitation to focus on the reticulation, which is primarily a municipal function.

**5.3. Concerns raised by Members regarding the Giyani Water Treatment Works and Giyani Bulk Water Supply Project**

**Delays in paying contractors**

Serious concerns were raised regarding the delays in paying contractors, which put implementing agents, and their contractors at serious risk. The affected stakeholders are LTE and Lepelle Northern Water Board, who between these entities are owed an outstanding amount of R600 million by the Department of Water and Sanitation. The delays in payment is affecting the cash reserves of the water board whilst it awaits payment from the Department.

**Illegal connections**

Members raised serious concerns regarding the illegal connections and its impact on the water supply. The officials on site were reluctant to cut the illegal connections citing that processes needed to be followed in order to do so, which may have constitutional violations in respect of people’s right to water.

**Increasing costs for the Giyani project**

Concerns were raised that the scope of the Giyani emergency works had been extended to include that of reticulation, which was a municipal function. This has a detrimental effect on the ever-increasing costs for the project.

**Capacity for maintenance and operations**

The Portfolio Committee expressed concerns to the Mopani District Municipality and the Greater Giyani Local Municipality in respect of the ongoing operation and maintenance of Giyani Water Treatment Works.

**Vandalism**

Ongoing vandalism is further increasing project costs.

**5.4. Implementation of remedial action undertaken by the Department of Water and Sanitation as per the Public Protector’s Report on the Nandoni Relocation Project**

The Department of Water and Sanitation presented a progress report on the implementation of the remedial action outlined by the Public Protector Report Number 4 of 2009/10 due to the construction of the Nandoni Dam.

The construction of the Nandoni Dam was concluded in 2005. Whilst the primary objective of the project was the supply of water to domestic households in the region, the construction resulted in the relocation of 32 villages to make way for construction. The affected communities lodged complaints with the Office of the Public Protector who initiated public hearings, which led to the investigation of these complaints. The Department of Water and Sanitation employed the services of BKS service provider to address the socio-economic issues as well as to address the outstanding compensation and the building of houses for the affected communities.

The Nandoni community, represented by Nkuzi Development Association approached the Portfolio Committee on Water and Sanitation for intervention and assistance in the resolution of outstanding issues. Following meetings and an oversight visit in 2015, the Portfolio Committee resolved that the following needed to be undertaken:

* Resuscitation of the task team to look again at the current scenario;
* Establishment of the project technical committee;
* Integration of the social facilitation to ensure development in the area;
* Assistance by the Department in terms of water reticulation networks in the area, which are to be completed in 18 months (December 2017);
* Repair of structural defects in all the houses constructed;
* Addressing and providing water to villages surrounding the Nandoni Dam;
* Demolition and rebuilding of houses built on wetlands;
* Social facilitator to engage communities to develop proper interventions; and
* Appointment of local project manager.

The Professional Valuers progress report noted that roadshows were done with each of the affected villages to explain the Expropriation Act, how the compensation will be determined, method of valuations, and factors to be considered. Site inspections were carried out between April, May and June 2017. It was further reported that data collection through engagement with beneficiaries has been completed and the Property Master Register has been finalised. The Valuers will submit the remaining valuation reports by August 2017.

The Nandoni Relocation Task Team meetings are taking place on a monthly basis to track progress and the assessment of houses with structural defects is still ongoing. To date, 10 houses have been repaired, four local sub-contractors have been appointed and labour has been sourced from the surrounding communities. The Department is currently addressing the remedial actions that are outside of the scope of the social facilitator and a workshop on valuation methodology is scheduled to take place on 18August 2017.

**5.5. Representations from communities affected by the construction of the Nandoni Dam**

Nkuzi Development Association, representing the 32 villages affected by the construction of the Nandoni Dam made presentations to the Portfolio Committee on progress made since the Portfolio Committee’s 2015 oversight visit. The key issues raised include the following:

* Fifteen years after the completion of construction of the Nandoni Dam, the surrounding communities still do not have access to water supply from the dam;
* The original claimants are ageing, with the valuation and verification process still ongoing and the concern is that these claimants will pass on without having received justice on the matter;
* The land from which the communities were relocated was communal land, and as a result, the claimants do not have title deeds;
* Claimants received sub-standard housing as compensation, during the 18-month timeframe given by the Portfolio Committee in its 2015 oversight visit, with only 10 houses had been repaired;
* The initial deadline of 18 month imposed by the Portfolio Committee has since expired and there has been no real progress or impact on the lives of the communities for the better.

**5.6. Resolutions by Members regarding the Nandoni resettlement**

Members expressed concerns regarding the slow pace of progress in resolving the outstanding issues of the affected Nandoni communities. The communities were relocated without fair compensation, were given sub-standard housing and were left without water access from the Nandoni Dam. Further emphasis was placed on the lack of an effective policy within the Department of Water and Sanitation regarding the resettlement of communities and the Department was instructed to come up with clear policy guidelines in this respect.

**5.7 Recommendations**

The Portfolio Committee noted the following key resolutions, namely:

* The Department to facilitate that the affected community submit all outstanding issues in writing to the Portfolio Committee;
* Process of valuation report by end of September 2017 and that feedback needs to be provided to the Portfolio Committee;
* Department to provide progress report on Housing repairs on a monthly basis;
* Immediate attention needs to be focussed on water access to the communities surrounding the Nandoni Dam.
* Department to provide an update in writing in respect of its investigations into the disruption of water supply at ZZ2 Farm to farmers downstream.
* The Mopani District Municipality through the Department of Cooperative Governance and Traditional Affairs needs to facilitate reticulation from the Giyani main supply line in order to ensure water supply to affected communities.
* Department provides feedback on this report within sixty days.

**Report to be considered.**

1. Barbara Schreiner and Barbara van Koppen, ‘Water allocation is not flowing through to small-scale farmers: South Africa has not adequately reformed the licence system and rural users are at a disadvantage”, 7 June 2017, <http://www.businesslive.co.za> [↑](#footnote-ref-1)
2. Barbara van Koppen, Hilmy Sally, Michael Aliber, Ben Cousins and Barbara Tapela, 2009, “Water resources management, rural redress and agrarian reform”, Development Bank of Southern Africa: Developing Planning Division Working Paper Series No. 7. [↑](#footnote-ref-2)
3. Barbara van Koppen, Hilmy Sally, Michael Aliber, Ben Cousins and Barbara Tapela, 2009, “Water resources management, rural redress and agrarian reform”, Development Bank of Southern Africa: Developing Planning Division Working Paper Series No. 7. [↑](#footnote-ref-3)
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