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A guide to Verification of water use

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This booklet:

- Explains how the lawfulness of Existing Water Use is determined, through the process of verification
- Explains how this forms part of Water Resource Management
- Answers some commonly asked questions about verification

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How the lawfulness of Existing Water Use is determined

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About this guide

This guide is aimed specifically at Existing Lawful Users of water. It explains who Existing Lawful Users are, how verification will affect you, and how you can participate in the process.

Section 1 — defines Existing Lawful Use and explains what verification is.

Section 2 — explains the scope of verification and why it is needed, and outlines the actual verification process, so that water users can see how the DWAF checks water use.

Section 3 — answers some common questions asked by water users about verification and new water resource management processes.

DRAFT

Foreword by the Minister of Water Affairs and Forestry

South Africa's quest for a rational, just and equitable way to manage its national water resources has brought many changes to the lives of water users.

Today, our country has, in the National Water Act, a sound legal framework for managing its limited water resources. We have also developed, through long and careful consultations, a considered approach to how our limited water resources should be shared out. Existing water users are one of the key stakeholders in these processes. Many of these users are making productive use of our water resources, in industry, agriculture, forestry, mining, and in local government. Their contribution to the economy and employment is significant, and we need to ensure that water is made available to sustain and grow those contributions.

As custodian of the national water resources, the Department of Water Affairs and Forestry must also promote the beneficial use of water in the best interests of all South Africans. We believe that the new approaches to Water Resource Management embodied by the National Water Act provide the means to balance the protection and use of our water resources. We are also keenly aware of the need for a just and carefully considered approach to water allocation, so as not to unfairly or unnecessarily prejudice those who make productive use of our limited resource.

We have asked, in the past years, for commercial users of water to register their use to help us gather baseline information on water use throughout the country. However, that alone cannot guarantee a future of sound water resource management, and registration of water use was only a first step. What we need now is to make sure that our water use details are accurate, and that those using water are doing so lawfully; unlawful water use is one of the greatest threats to sharing our water fairly, and curbing these practices means we make water available to support new demands for water without the need for extensive curtailments to existing lawful water users.

Verification is part of the procedure provided by the National Water Act to verify the extent of existing lawful water use. I would like to call on registered water users to support work to verify the extent of existing lawful water use, as this is in the best interests of the nation as a whole.

Water belongs to the nation – it is only with the nation's participation that we can properly manage this precious and scarce resource.

XXXXXXXXXXXXXXXXXXXXX **Minster's signature**

Verification at a glance

Verification is a process to check the volume of water registered by existing users and its lawfulness under previous legislation, so as to certify the **extent of Existing Lawful Use (ELU)**.



Existing Lawful Use is one of the four ways that water use can be authorised (the others are Schedule 1 uses, licences, and general authorisations). *(See “The ways water use can be authorised” on page 4)* ELU allows anyone who was using water lawfully before the introduction of the National Water Act in 1998 to **continue to use that water, provided you registered that use**, until such time as **Compulsory Licensing** is introduced in your catchment. At that time, all existing lawful users will be called on to apply for licences.

The DWAF uses **remote sensing techniques** (satellite, aerial photographs, etc) to determine if the **volume** of water use you registered in 1998 was in fact **accurate (validation)** and that the **volume** of water use you registered was **lawful (verification)** under the legislation in force during the qualifying period.

The DWAF uses the same techniques to determine your current water use and to check for unlawful water use.

This information is fed into a **data base** – called WARMS – which provides an accurate picture of water use throughout the country, to assist in the rational, fair and equitable management of South Africa's scarce water resources.

Verification is being carried out in a **phased approach throughout the country**, starting with catchments or areas where there is the **greatest water stress** or there is concern about the **extent of unlawful use** of water. This includes catchments where Compulsory Licensing is being implemented.



When verification is introduced in your catchment, you will be invited to attend a **public meeting** where the DWAF will explain how we have calculated the extent of each registered user's existing lawful water use (**validation**). You will then be called on to **apply for verification** through a registered or hand-delivered letter explaining what you are required to do. *(See example of the letter on pages 23-24)*

Individuals can also apply for verification at any time if they want to have their water use certified (for example, if they want to sell a property).

If water users have made **any changes** to the volume of water they registered in 1998, they must **re-register their water use**, giving reasons for the changes.



What is Verification?

In this section:

- The National Water Act
- Existing Lawful Use and Verification

The National Water Act

The National Water Act (NWA) – which was passed on the 8th October 1998 – recognises that **water is a scarce and unevenly distributed natural resource requiring careful management in the best interests of the nation**. Accordingly the Act makes national government, through the Minister, responsible for protecting and managing the country's water resources, and as such **all water use must be authorised**. The Act **replaces previous "ownership" of water with an entitlement to use water for a given period, and under certain specified conditions**.

The ways water use can be authorised

Entitlements to use water may be:

Schedule 1 use – Schedule 1 of the National Water Act allows people to use water for a garden, or to water household animals or for small-scale non-commercial food gardens, without a licence and without having to register this use. This category of authorisation includes treated water supplied to households by Water Services Authorities.

General Authorisations – these can be issued to permit the use of raw water without a licence in specific areas. General authorisations can be granted to specific groups of people in a catchment so that they can make use of certain water resources without having to apply for a licence.

Licences – these are issued by the DWAF under the Act to people or organisations that apply to use or store large amounts of raw water. Every licence is issued with conditions which state how long it is valid.



Existing Lawful Use (ELU) – this allows people or organisations who were using raw water for commercial purposes **before** the new Act came into effect in 1998 to **carry on using that water until such time as they are called upon to apply for a licence under compulsory licensing**. Such users must have **registered the use** and must **apply for verification** of their water use when asked to by the DWAF. Verification confirms how much water may be used lawfully.

Existing Lawful Use and Verification

The Existing Lawful Use (ELU) authorisation is a temporary measure to allow people or organisations who were lawfully using water before the National Water Act came into force in 1998 to continue to use water until such time as licences or general authorisations can be issued to all water users. There are conditions attached to this water use.

Conditions of water use

The NWA authorises Existing Lawful Water Users to continue using water as long as they:

- were lawfully using the water during the two-year **Qualifying Period according to any laws that were in place** at that time.
- comply with the requirements of the NWA, as the responsible authority puts these in place. This includes **registration, the payment of water resource management charges, and applying for verification of the extent of their existing lawful water use**, when called upon to do so by the responsible authority.

Registration of water use

The first legal requirement that existing water users were asked to fulfil under the NWA was to **register their water use**. The call for Existing Lawful Water Users to register their commercial water use was made in the Government Gazette on 12 November 1999, in terms of Section 26 1c of the NWA. The call for registration was also widely promoted in the media and with water users.

Existing Lawful Water Users were asked to register their water use as it **actually took place, on the day of registration**. It was also made clear that the **verification** of the extent of existing lawful water use would be based on the information provided with registration, and that the onus was on water users to provide correct information.



South Africa now has more than 67 000 registered water users. But, a registration certificate does not mean that the water use is lawful. The challenge for the DWA is to ensure that we work with water users to certify (verify) that water use that was registered, is both accurate, and lawful. This is what verification is all about.



Your registration certificate is **not** a certificate of verified water use.

Verification – confirming your status as an Existing Lawful Water User

Registering your water use did **not** guarantee that **the water use registered is accurate, or lawful**. This is why DWAF is now seeking to work with water users to **check and certify** the details of registered water use, through the process of **verification**. The two key steps in this process are:

Validation, or checking to see that the **volume of water use registered was accurate**, as well as **what the current water use is**, and

Verification, which is checking that the **volume of water actually used was lawful** under the previous water legislation.



The DWAF will issue a **certificate of verification** to **confirm the status of existing lawful use**. (See *example of a certificate of verification on pages 25-26 — note that this is not the same as a certificate of registration*)

The process of verification is fully explained in Section 2 of this guide.

As existing lawful water users, it is in our interests to help the DWAF understand who is using water, how much, where, and for what purposes.



Verification will also assist in eliminating the unlawful use of water and free up water for new and emerging users.

Looking ahead.....

In the next section we explain in more detail what verification is and how it is implemented.



Implementing verification

In this section:

- What is validation?
- How does validation happen?
- What is verification?
- How does verification happen?
- How commercial water users should get involved

What is validation?

During registration water users were asked to register the volume of water that they were using at the time

DWAF is aware that the water use registered was **not always accurate**. In fact, the water use registered could be:

- **Greater than** the use that actually took place on the day of registration, in which case there is a **possible over-registration**
- **Less than** the use that actually took place on the day of registration, in which case there is a **possible under-registration**
- **Equal to** the use that actually took place, in which case the registration is **possibly correct**.
- **Or unregistered**, where someone was using water, but did not register this use.

It is important to note that many users **did not know** the volume of water that they were using. In these cases the DWAF determined the water use based on the area and crop types under irrigation, as well as the type of irrigation practised.

Validation is the process through which the DWAF, or the CMA, checks the volume of water use registered against how much water was actually used in the Qualifying Period, and how much is currently being used.



The main questions that the DWAF wants to answer through validation are:

- How much water do users abstract (take out) every year?
- Where does this water come from?
- How much water do water users store?
- How big are the areas of commercial forests?

A great deal of work has already been done to answer these questions **for every registered water user**, in the Qualifying Period and currently, in order to get an accurate picture of how much water commercial water users actually use – both in the Qualifying Period, and currently.

Validation also involves **checking that all details on the registration forms handed in by commercial water users are correct**, and that these have been correctly entered on the Water Authorisation and Registration Management Systems (WARMS). This process also helps link all the water use to specific property.

How does validation happen?

Step 1 – the DWAF builds a data base

The DWAF builds a **data base**, or geographic information system (GIS), as a management tool to collate and ensure the accuracy of all relevant water use information for all registered water users. The information is taken from many different sources, including registration documents and field surveys, as well as remote sensing methods like satellite imagery, aerial photography, ortho photographs, and topo-cadastral maps.

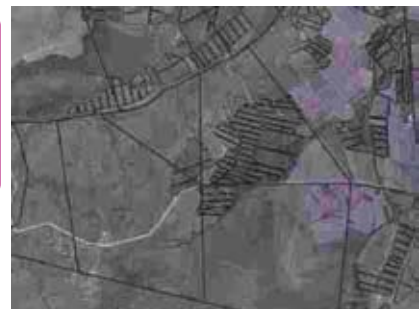
1

Aerial photo showing fields



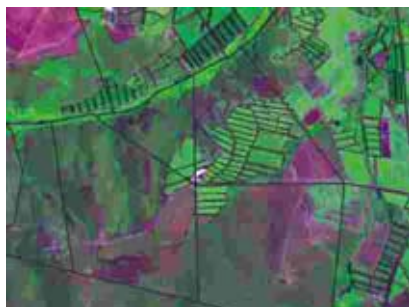
2

Field and farm boundaries marked



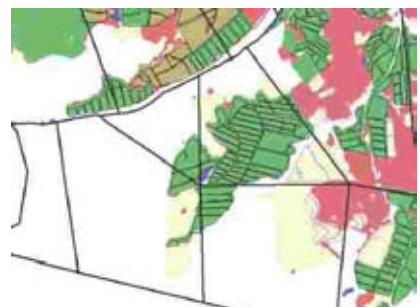
3

Field boundaries on satellite image



4

Extent of irrigation on farm



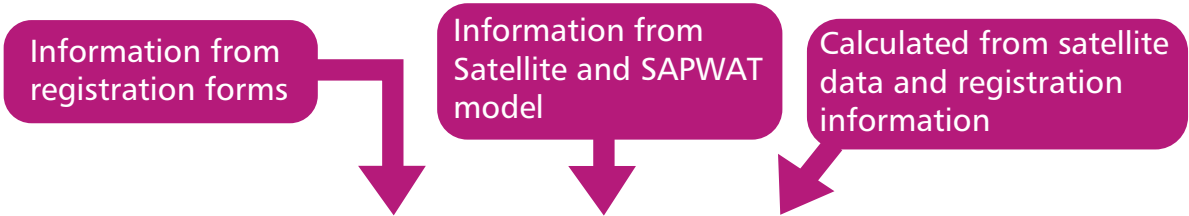
We use the registered information to determine **actual water use**. This may require the use of **irrigation water use models** – like SAPWAT – or other data to determine actual water use from the area under irrigation.

STEP 2 – The DWAF draws up water use tables

Once the actual water use has been calculated using the above-mentioned methods, the DWAF draws up **water use tables** (validation tables), which show the area of forests or under irrigation on each property and how much water the DWAF calculates that they actually used in the qualifying period.

We do this both for the **Qualifying Period** and for what users are currently using. This information is also entered into the Water Use Tables.

Example of a Water Use Table



Farm and Owner name	WARMS Registration			Current Water Use			Qualifying period Oct 1998		
	Registration No.	ha	m3/a	SAPWAT/Sat ha	WARMS m3/a	SAPWAT/Sat ha	WARMS m3/a		
farm name	xxxxxx	UNSPECIFIED		0.2	1655	5.0	43362		
farm name	xxxxxx	161	1505800	0.2	1654.7	2279.276149	5.0	43362.3	
farm name	xxxxxx	68	829600	9.1	UNSPECIFIED	111105.4	54.8	315503	
farm name	xxxxxx	203.0	1019900.0	121.0	1501664	608005.0952	89.3	1182961	
farm name	xxxxxx	5.0	61000.0	0.0	NA	0	0.0	NA	
farm name	xxxxxx	26.5	362500.0	7.4	86998	100939.1509	32.0	269088	
farm name	NOT REGISTERED			NA	NA		NA	NA	
farm name	NOT REGISTERED			10.8	127528		10.8	127528	
farm name	xxxxxx	8.4	102480.0	8.3	97853	101256.096	13.7	128453	
farm name	xxxxxx	112.0	488000.0	32.4	365604	141261.6214	40.4	394922	
farm name	xxxxxx	31.0	391000.0	41.5	428037	524064.8677	16.5	182718	
farm name	xxxxxx	10.0	118000.0	5.8	64823	68252.38	7.3	123419	
farm name	xxxxxx	40.2	195000.0	97.1	1009267	471237.8731	80.6	771780	
farm name	xxxxxx	6.2	54000.0	6.5	144423	56844.58065	5.8	126446	
farm name	xxxxxx	13.0	42720.0	4.6	17307	15112.69292	4.4	15163	
farm name	xxxxxx	3.0	48000.0	0.0	0	0	0.0	0	
farm name	NOT REGISTERED			4.0	NO CROPS	N/A	4.0	NO CROPS	
farm name	xxxxxx	(CLOSED)		2.5	44520		2.5	44520	
farm name	NOT REGISTERED			NO USE			NO USE		
farm name	xxxxxx	3.1	17400.0	0.1	1372	653.3419355	UNSPECIFIED		
farm name	xxxxxx	8.5	102000.0	12.0	297734	143476.8	10.3	243205	
farm name	xxxxxx	5.0	78000.0	3.1	77908	47837.4	4.5	114751	
farm name	xxxxxx	5.0	61000.0	7.8	66305	94776.92	6.5	55198	
farm name	xxxxxx	1.0	12200.0	0.7	17918	8496.08	0.7	17159	
farm name	xxxxxx	26.0	317200.0	26.2	388511	319934.02	13.6	239996	

The information provided on the registration forms is then used to calculate the volumes being used. Users are flagged for further attention where the area under irrigation or trees has increased significantly since 1998.



The validation process is carried out by the DWAF, but users may be contacted during the validation process, to help confirm some of the information.

What is verification?

The **actual volume of water use** in the Qualifying Period also needs to be **lawful in terms of any previous laws**. Previous agreements, (including customary laws) may have limited the use of water based on a **fair share principle**. In many cases therefore previous water court orders further limit the use in the Qualifying Period. Even riparian water users could be limited by a fair share principle, if they were taking more than their fair share of the water.

Verification is, therefore, the process through which the DWAF makes sure that the **actual volume of water use during the Qualifying Period** was **lawful** under the Water Act, 54 of 1956, or any other applicable law in place at the time.

If the current water use is **greater than the use in the Qualifying Period** then some of the current use **may be unlawful**.

If the water use that was actually taking place during the Qualifying Period was greater than what was allowed by the applicable legislation at that time, then a portion of that use could be **possibly unlawful**.

How does verification happen?

The process of verification proceeds as follows:

1. The responsible authority collates all the information from the validation process, flagging those users where the actual water use in the qualifying period differs from the registered water use or the current use.
2. The responsible authority then examines any previous legislation which may have further limited the water use in the qualifying period, and makes a fair and reasonable assessment of the extent of existing lawful water use, based on all available information.

Example of a Draft Water Use Table showing assessment of extent of existing lawful water use

Existing Legal Water Use determined by comparing the use in the Qualifying Period to what is lawful

Farm name	WARMS			Qualify period Use m3/a	Existing lawful water use			Notes
	Registration No.	ha	Info m3/a		G water m3/a	From River m3/a	TOTAL m3/a	
farm name	XXXX	161	1505800	46921	0	0	0	Groundwater use of XXXX not exercised
farm name	XXXX	68	829600	668316		669000	669000	Limited by use in qualifying period
farm name	XXXX	203.0	1019900.0	448722	300150	148850	449000	Limited by use in qualifying period
farm name	XXXX	5.0	61000.0	0		0	0	No use in qual period
farm name	NOT REGISTERED					0	0	No use in qual period
farm name	NOT REGISTERED					18200	18200	Must register and back pay to get water
farm name	XXXX	8.4	102480.0	167475		65520	65520	Limited by use in qualifying period
farm name	XXXX	112.0	488000.0	175818		0	0	Rights sold to another user
farm name	XXXX	40.2	195000.0	391053		50680	50680	Limited by court order
farm name	XXXX	6.2	54000.0	50759		36000	36000	Must share 63000 m3/a on original farm
farm name	XXXX	13.0	42720.0	14515		27000	27000	Must share 63000 m3/a on original farm
farm name	XXXX	3.0	48000.0	0		0	0	No use in qual period
farm name	NOT REGISTERED					0	0	No use in qual period
farm name	XXXX (CLOSED)					0	0	Closed registration
farm name	NOT REGISTERED				0	0	0	No use in qual period, Groundwater XXXX not exercised
farm name	XXXX	3.1	17400.0			0	0	No use in qual period
farm name	XXXX	8.5	102000.0	123564		84000	84000	
farm name	XXXX	5.0	78000.0	70175		48000	48000	
farm name	XXXX	5.0	61000.0	79741.64		54000	54000	Must Share 307000 on original farm
farm name	XXXX	1.0	12200.0	8496.08		6000	6000	
farm name	XXXX	26.0	317200.0	165824.84		115000	115000	
farm name	XXXX	20.5	153000.0	97180.37561		126000	126000	
farm name	XXXX	19.0	163000.0	85550.12105		97000	97000	Must Share 249000 on original farm as per court order
farm name	XXXX	0.9	8000.0	24428.44444				
farm name	XXXX							
farm name								

3. All users in a specific area are then asked to come to a public meeting, at which the water use information collected during validation is made available to all stakeholders. The Draft Water Use Tables (see example above) show what the extent of each registered water user's existing lawful use is.

4. The process of verification and the timeframes for the process are then explained to stakeholders. This meeting allows stakeholders to ask questions on how the validation data were collected.

5. Individual stakeholders are then asked to **apply for verification of the extent of their existing lawful water use**. Notice is given either by a hand delivered or registered letter. The letter – called a “Section 35 letter” – specifies a **timeframe for this process**.



(See example of a Section 35 letter on pages 23-24)

6. Any person who has an interest in the matter may also **provide input** at this time.
7. If users wish to **dispute** the information obtained from the validation process, they may **provide additional information at their own cost** – for consideration.
8. Once a final determination of the extent of existing lawful water use has been made, any **unlawful water use must be stopped**.
9. Anyone who has not applied for their use to be verified, when asked to do so, by the date specified, **must stop their water use**. (The responsible authority may accept late applications under certain conditions).
10. Anyone wishing to **appeal** the determination of the extent of existing lawful use may **apply to the Water Tribunal**.
11. Only once a registered water use has been **validated and verified** can the DWAF issue a **certificate of verification** outlining the extent of an Existing Lawful Use (ELU).



Note: The registration certificate is ***not*** an indication of the extent of existing lawful water use.



(See example of the certificate of verification on pages 25-26)

12. The certificate of verification, telling you how much water is your Existing Lawful Water Use will remain valid until:
- You want to **increase your water use**, in which case you will **need to apply for a licence** under the NWA. This licence may be refused.
 - You want to **trade some of your water use**, in which case you will have to **relinquish your ELU (or part of it)**, and the new user will have to apply for a licence. This licence may be refused.
 - **Compulsory Licensing** is introduced in the catchment, and **all users are asked to apply for licences**.

Compulsory Licensing

Compulsory Licensing is the mechanism by which the National Water Act allows the DWAF to **review all water use** in a catchment and to **reallocate** water if necessary. Compulsory Licensing will allow us to make sure that:

- Water is shared fairly
- Everyone, especially HDIs and women, has a fair chance to benefit from using water
- Water is used in the best way possible, to benefit the public and the nation
- Our water resources are protected, and kept clean and healthy.

In time, Compulsory Licensing will be put in place **in all catchments**.

The information gathered about water use for commercial purposes through the verification process is an essential foundation for the Compulsory Licensing process as it will identify who is making efficient use of water. The information will also allow the DWAF to address any unlawful use of water, and also to identify opportunities for new, productive uses of water.

It is important to recognise that Certified ELU **may be curtailed in a Compulsory Licensing process**; however, it is a principle of the Water Allocation Reform process that the **efficient water users should be the last to be curtailed, and by the least amount**.

*(For more about Compulsory Licensing refer to the **Guide to Compulsory Licensing**, available from **XXXXX**.)*



The DWAF will use fair, reasonable and justifiable methods to determine the Existing Lawful Use, so that we do not unfairly prejudice the individual or other users. Approaches will be discussed with stakeholders.

When will verification be introduced in a particular catchment?

The law allows for verification to be put in place **at any time**, but certain factors will encourage this to happen **sooner, rather than later**. The main reasons why verification will be started in a catchment are:

- Where there are water shortages from time to time, possibly as a result of unlawful use.
- To **provide a baseline for water use** from any resource for water resource models.
- To **inform the Compulsory Licensing process**. In areas where Compulsory Licensing is to be introduced, water may need to be reallocated. The verification process provides the **baseline information** on the **efficiency of water use** by local users; this information will inform discussions and support decisions taken in developing a draft Water Allocation Plan and will guide any decision taken around curtailing water allocations.
- When water users request it, or where the DWAF is contacted for more information.

How should water users respond?

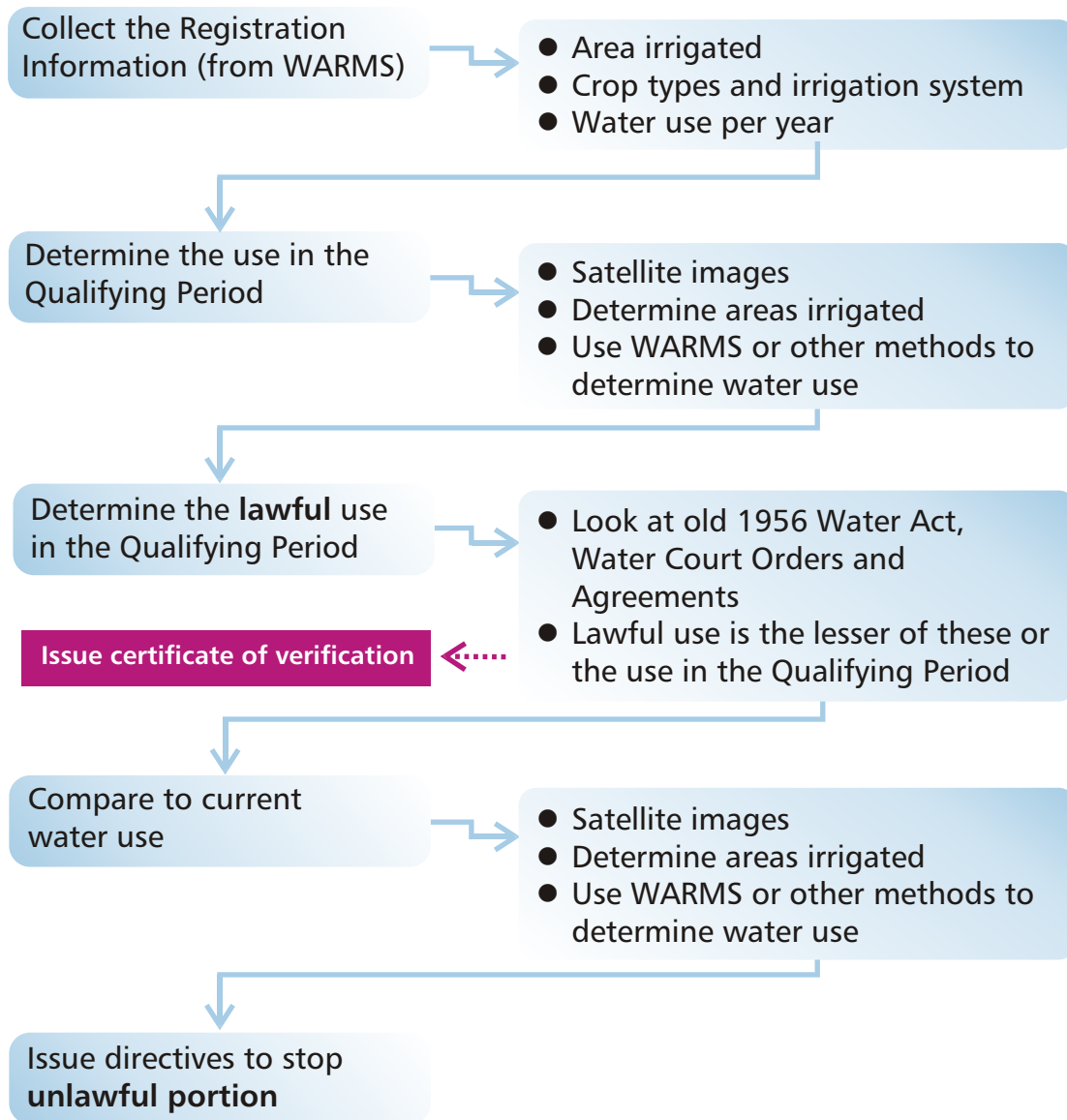
In general, registered water users will first become involved in the verification process when called to a public meeting to discuss the Water Use Tables that the DWAF has drawn up through the validation process. At this meeting, all the details of the process will be fully explained and all stakeholders will have the opportunity to ask questions and make their own inputs.

It is in everyone's best interests to participate in the verification process when called upon to do so. Firstly the process helps us all **address unlawful water use**, freeing up water for emerging water users. Secondly it provides the **information to better manage the water resource** particularly where water is becoming limited. Thirdly, it will help minimise the impacts of Compulsory Licensing on existing lawful users.

Why you should respond

- If you get a letter about **verification**, it means that the DWAF is very concerned about **unlawful water use** in your area, or is **preparing to implement Compulsory Licensing**. This means that the water resource in your area is **under stress**, and water supplies for all uses must be protected.
- Your own water use must be **lawful**, if it is to continue. The DWAF can get a directive to seal pumps to prevent unlawful water use. In the Compulsory Licensing process, water users who are unlawfully using water will have this water taken away first.
- You will also need to make sure you know the lawful extent of water use allowed on your property should you wish to sell it.
- You need to participate to help address unlawful water use, so that we can all benefit from the use of water in a fair and equitable manner.

A summary of the verification process....



Looking ahead.....

Section 3 provides answers to some of the commonly asked questions about V&V.



Your questions answered

In this section:

We answer some commonly asked questions about validation and verification.

1. I haven't yet registered my water use. What should I do now?

You have not acted lawfully by ignoring the call for registration but you could apply for registration, pay a late registration fee, and pay the outstanding water use charges. Users who have not registered their water use, or are overusing their water, may be last in line to be given an allocation if the water resource is over utilised.

Remember: if you want to use water, but did not actually use it in the Qualifying Period, then you need to apply for a licence, not registration.

2. I have not received a letter asking me to apply for verification, but some of my neighbours have. What now?

(Does this mean that verification is not being conducted in my catchment?
How can I find out when verification will be called for in my area?)

Contact your DWAF regional office or CMA and ask if a Section 35 letter has been sent to you. You only need to respond if a letter is sent to you via registered mail, or delivered by hand. If you have not received a letter it may mean that the verification process has not started in your area. You can ask the DWAF regional office or CMA when verification might be started in your area, or request that your water use be verified, even if it is not a priority for the Department.

3. I ignored the letter I got asking me to apply for verification. What should I do now?

The provisions of the National Water Act outlined in the letter are clear: if you have not responded by the due date your water use becomes unlawful. However, you may make a late submission. If you do not react, DWAF may issue a directive forcing you to respond, which may result in a court order to force you to cease using water.

4. I have already applied for a licence. Do I still need to apply to be verified?

No. Verification is needed **only** for water used for commercial purposes before October 1998. Anyone who started using water after that needs to apply for a licence; if that licence has already been issued under the National Water Act, you do not need to apply for verification. Registration is automatic when new licences are issued.

5. I have my certificate of verification showing the volume of water that I may lawfully use on my property. Do I still need to apply for a licence?

You will need to apply for a licence when a call for licences is made under Compulsory Licensing. Otherwise you need only apply for a licence if you want to increase your water use above what your ELU is – in some circumstances this licence may be refused. You should also make sure exactly what certificate you have. Remember, a Registration Certificate is not a certificate of verification. *(See examples of these certificates on pages 21-22 and 25-26)*



6. Am I guaranteed my water supply once I have obtained a certificate of verification?

Unfortunately not, as we cannot guarantee that water use in the entire region will not need to be cut back in a severe drought. Also, under Compulsory Licensing it may be necessary to re-allocate some of the water to achieve equity and/or beneficial use of the water.

7. Once I have a certificate of verification showing the volume of Existing Lawful Use, how long is this ELU valid?

Your ELU is lawful until applications for Compulsory Licences are requested for that area.

8. What steps is the DWAF taking to identify and put an end to unlawful use of water? (or, why should I have to apply for verification when there are some users who have not even registered their use?)

The verification process will identify those water users who are using water unlawfully. The DWAF will address these users by issuing a letter under Section 35 of the Act *(See example of a Section 35 letter on pages 23-24)*, asking for the water user to apply to have the water use verified. If there is no reaction, we can issue a directive and court order to have the water use stopped.



9. If I am actually now using less water than the amount I was using in the Qualifying Period – because I have introduced more efficient irrigation practices – will I only be granted authority to use this lesser amount, through the verification process, and not the full amount I registered?

If verification indicates that the volume of water you were using in the Qualifying Period was lawful, then this is the extent of your existing lawful water use. You can reduce your volume registered to pay lower water use charges, or expand your irrigation to use the ELU volume per year. You must however be able to indicate that you do not exceed the ELU volume. You may also still lose some of your ELU during Compulsory Licensing.

10. If the amount of water I am certified to use through verification is less than I registered, will I be refunded the money I have been paying since registration for the larger volume?

No. The onus was on the user to provide the correct information. You can request a refund by giving the reasons why more water was registered than what was supposed to have been registered but this does not guarantee that you will receive a refund. (The water use charges are calculated by dividing the total costs of managing the water resource in the area, with the amount of water registered. If you have deliberately over-registered the costs per unit water would have been lower. Correcting this now could mean higher costs for all).

11. I have extended my irrigation since registration. How will this affect my verification certification?

Any additional use of water, over and above that used in the Qualifying Period is unlawful. This means you may only expand an irrigation area by improving your water use efficiency.

12. I want to have my water use verified before I buy new irrigation equipment. What do I do?

Apply to your DWAF office or CMA to have your water use verified under Section 35 of the NWA. The DWAF office of the CMA may ask all other users affected by this process to have an input into the verification.

13. I want to sell my property – do I need a certificate of verification in order for transfer to take place?

No. The water use will transfer to the new owner of the property and a certificate is not required. The buyer could, however, request a verification letter to cover themselves, and ensure that they know the lawful extent of the water use on their property.

The new owner may also be subject to verification in future, and if some of the water use is unlawful he or she will have to stop that water use.

Any debt in terms of unpaid water resource management and other charges also resorts to the new owner. The buyer should therefore request an outstanding debt certificate.

14. I want to buy a farm. How can I be sure that the water use on that farm is lawful? Can I, as the buyer, apply for verification?

You should not buy the farm based on the Registration Certificate since this does not necessarily indicate lawful water use. The existing farm owner must apply for verification of the ELU. The Registration Certificate is not an indication of ELU.

15. Is the existing lawful use (ELU) vested in the property (ie. Registered in the title deed) or is it vested in the owner? In other words, if I buy a farm and verification has already been conducted on that property, is the ELU status of the farm automatically transferred to me, or do I have to re-apply for verification to take place in my own name?

Water use is no longer linked to the property. However the ELU that is certified by verification does resort to the owner's successor in the title deed. The original owner should de-register that use, and you as the new owner would have to register that use.

16. If I have a licence under the new NWA, will I have to apply for verification at any time in the future?

No. Verification refers only to ELU and not to licence holders. The certificate you have from the DWAF will state whether it is a registration certificate, a certificate of verification or a licence.

17. How long does the verification process take?

For a whole catchment the process can take anything from one to two years to complete. But the process can be quicker for individual applications; if information for the data base is already with DWAF these can take a week – depending on work load and availability of the personnel concerned.

18. If I have a borehole that I use for domestic purposes only (household and garden), do I have to register it and will I have to apply for verification?

No. Domestic water use is regarded as a lawful water use under Schedule 1 of the NWA. It does not have to be registered and is not subject to verification.

19. Can I sink a borehole for irrigation and domestic use after I registered my water use?

A borehole can be sunk but any new use of water that is not covered by Schedule 1 of the Act or under a general Authorisation must be licensed. So you will need to apply for a licence before using the water for irrigation for commercial purposes. If this borehole is to replace another, then you may need to write a letter to the DWAF regional office explaining the situation and requesting guidance.

20. What if I do not agree with your validation figures? What do I do? What forms of proof/evidence will DWAF/the authority recognise?

You can provide any records that show that you were actually using the water in the Qualifying Period, and that this use was lawful. This could include documentation proving electricity use where water is pumped, bills of sale for the crops, information from the local farmers coop indicating fertiliser use etc. You may also approach the Water Tribunal.

21. Why must I pay to prove that in my view the DWAF's estimate of my water use is incorrect – why doesn't the DWAF pay all the costs of verification?

The onus was on you as a user to provide the correct information at the time of registration; if we have now found that this was not correct, you would need to correct it at your expense.

22. We have no CMA – how do I participate?

Verification is done by the “Responsible Authority” – this is either the CMA (if one is in place) or by the DWAF, as the proxy CMA. You might also get involved in your water user forums.

23. My neighbour is over abstracting. What do I do?

Report this to your regional DWAF office. The Department will also be working with all users to identify and stop unlawful water use.

24. Squatters have hijacked the water supply. How can they be stopped?

If these users are using water for domestic use only, or for domestic cattle, their use is lawful under Schedule 1 of the Act. It is also unlikely that this use would be significant enough to reduce water availability. But, if they are using water for productive purposes, they must either have a General Authorisation, an ELU or a licence. The DWAF may be asked to investigate a possible unlawful use of water.

25. Is it fair that I have been asked to apply for verification while water users in other parts of the country have not been called on to do so?

The verification process will eventually be rolled out across the entire country. We are just starting with the priority areas. Also, it is in your interests to know the volume of ELU on your property.

26. I have applied for verification but have not had a response from the relevant authority and find it impossible to communicate with them. What can I do?

Try to find out what the problem is. If necessary take up the issue with someone higher up in the office.

27. Is verification considered good practice in other parts of the world, or is this a South African innovation?

While registration was done in other countries, SA is the only one to have undertaken such a rigorous analysis of registered and actual water use.

28. Registration happened a long time ago and many things have changed in the intervening years (area of land under irrigation, types of crop, types of irrigation, etc) How will these changes be considered by the registering authority when it comes to verification? What consequences will there be for me?

The onus was on you to re-register any changes. The volume of ELU is determined from the crops and irrigation that were in place in 1998 when the NWA came into affect. If a better irrigation system is now being used, or crops with different irrigation needs have been planted, it is possible that more hectares can be irrigated with the same volume of water. However, no matter the changes, the volume of ELU cannot be exceeded. You can also apply for a water use to be declared an ELU, even if you did not use water in the qualifying period, provided that you had taken steps in good faith to use the water.

29. How accurate are the DWAF's remote sensing techniques (satellite etc)?


Remote sensing techniques vary from 80-99% accurate depending on a variety of factors. We will employ a variety of techniques to improve the accuracy of the data.

If you have any other questions concerning verification and how it might affect you, please contact your DWAF regional office, or your CMA – we are waiting to help you.




Examples of documents

Document A: REGISTRATION CERTIFICATE (first page)

 Department: Water Affairs and Forestry			
National Register of Water Use Certificate			
National Register of Water Use Certificate is issued in terms of the regulations requiring that a Water Use be registered, promulgated under Section 26(1)(c) of the National Water Act (Act 36 of 1998) to:			
Applicant			
Applicant Type:	INDIVIDUAL		
Name:			
ID Number:			
Address:			
VAT Registration Number:			
Property			
Deeds Office:	PRETORIA		
Registration Division:	LS		
Property Name:			
Property Number:			
Portion of Property:			
Title Deed Number:			
Property Owner			
Name:			
ID Number:			
Address:			
Water Management Area			
Name:	LIMPOPO		
Water Uses			
Section 21(a) Taking water from a water resource.			
See attached Annexure(s)			
Office: LIMPOPO OFFICE Regional Office :LIMPOPO REGION CMA: LIMPOPO CATCHMENT MANAGEMENT AGENCY	Date stamp of issuing office		
DISCLAIMER : This certificate is :- <ol style="list-style-type: none"> 1. not an acknowledgement of an entitlement to the registered water use; 2. issued without alterations or erasures and is invalid if it contains alterations not in conformity with the Department's official copy; and 3. in substitution of any National Register of Water Use Certificate the Department may have previously issued and the information is valid as at the date of issue. However, in the case of any water use having been identified as a licensed water use, this certificate is not to be regarded as a replacement of the applicable licence certificate. The licence conditions that are applicable to the water use are not currently incorporated in this National Register of Water Use certificate. 			
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Document A: REGISTRATION CERTIFICATE (second page)

 Department: Water Affairs and Forestry National Register of Water Use Certificate		
Taking water from a water resource in terms of Section 21(a) of the National Water Act		
Water Use Identification		
Register Number:		
Water Use Number:	3	
Water Use Start Date:	1981/01/01	
Water Use Status:	REGISTERED	
Lawfulness Authentication		
Finding	PARTIALLY LAWFUL	
Finding Date	2006/08/07	
Finding Reason	OFFICE DECISION	
Finding Confirmed	NO	
Water Use Details		
Water Use Sector (i.e. Purpose of Water Use): SCHEDULE 1		
Source Type:	BOREHOLE	
Water Resource Name:	BOORGATE	
Point of Abstraction:	Latitude	Longitude
Datum Type:	CAPE (MODIFIED CLARKE 1880)	
Quaternary Drainage Region:	A72A	
Registered Volumes		
Start Date	Registered Volume (m³)	Time Interval
1981/01/01	600	PER YEAR
Comment		
<p>DISCLAIMER : This certificate is :-</p> <ol style="list-style-type: none"> 1. not an acknowledgement of an entitlement to the registered water use; 2. issued without alterations or erasures and is invalid if it contains alterations not in conformity with the Department's official copy; and 3. in substitution of any National Register of Water Use Certificate the Department may have previously issued and the information is valid as at the date of issue. However, in the case of the water use having been identified as a licensed water use, this certificate is not to be regarded as a replacement of the applicable licence certificate. The licence conditions that are applicable to the water use are not currently incorporated in this National Register of Water Use certificate. 		
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Document B: Section 35 letter calling on water user to apply for verification (first page)

Address and logo of relevant authority

Water User Address

Dear,[please include the name of the person or company]

WESTERN CAPE REGION: OLIFANTS DOORN WATER MANAGEMENT AREA

APPLICATION FOR THE VERIFICATION OF EXISTING LAWFUL WATER USE IN THE JAN DISSELS RIVER CATCHMENT IN TERMS OF SECTION 35 OF THE NATIONAL WATER ACT

PROPERTY DESCRIPTION: [as per table]

OWNER: [as per table]

The Cluster Manager: Southern Region acting as the responsible authority of the Department of Water Affairs and Forestry has, in terms of section 35(3)(b) of the National Water Act, 1936 (Act No. 36 of 1998), has conducted an investigation into the veracity and lawfulness of all water use falling within the Jan Dissels River catchment.

The Jan Dissels River catchment is defined as the Jan Dissels River, including all the tributaries of the Jan Dissels River, upstream of its confluence with the Olifants River. This investigation included all surface water, underground water, as well as any water received via the Olifants River Government Water Control [check the name] area directly from the Clanwilliam Dam.

In terms of the NWA an existing lawful water use is one that had taken place at any time during a period of two years immediately before the commencement of the NWA and was authorised by or any law in force at that time. For all water resources, except surface water outside the area of a government water control area, the two year period is 1 October 1996 to 31 September 1998 (i.e. the qualifying period).

Document B: Section 35 letter calling on water user to apply for verification (second page)

The property outlined above falls within the ambit of this investigation. The proposed extent of existing lawful water use on this property was discussed at a meeting in Clanwilliam on 25 July 2006, to which all water users were invited. The methodology used to calculate the proposed extent of existing lawful water use for your property was outlined at this meeting, and stakeholders were invited to provide any additional pertinent information in writing to the Department¹. The final proposed extent of existing lawful water for your property incorporating any approved changes is outlined as follows:

		Abstraction		Storage
Description	Hectares	Volume (m³/a)	Source²	
Use in qualifying period				
Use in 2005				
Proposed extent of existing lawful water use				

[² You should include the source of the water in this column eg groundwater, Jan Dissels, Klip River, Taaibosckraal, Schedule from Clanwilliam Dam]

You are kindly requested to complete the attached application form in order for the responsible authority to make the final determinations.

An application form must be completed irrespective of whether you concur with the above-proposed determinations. Should you disagree with the above-proposed determination, you may make representation on any aspect to the responsible authority in writing for his or her consideration. Any person has an interest in any determination may make similar representations. Additional information on all water use in the Jan Dissels River catchment is available from the Department's offices in Clanwilliam.

The final determination will limit the extent of your lawful water use in terms of section 32(1) of the NWA. Existing water use registration information will be modified were necessary.

Your attention is respectfully drawn to the fact that once the final determination has been made by the responsible authority, all water use over and above the determined volumes will be regarded as a contravention of the NWA.

¹ Detailed reports on the methodology followed are available from the Regional office

Document C: Certificate of verification (first page)

OFFICE OF THE CHIEF DIRECTOR: CENTRAL CLUSTER

Sanlam Plaza East, 285 Schoeman Street, Pretoria

Fax No: (012) 392-1438

✉ P/Bag X995

☎ M L J Botha

PRETORIA

☎ (012) 392-1308

e-mail: bothar@dwaf.gov.za

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☎ 082-808-9560

📁 27/2/11A21C/7

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Clidet No 69 (Pty) Ltd
P.O. Box 70406
BRYANSTON
2021

Sirs

GAUTENG REGION: CROCODILE(WEST)-MARICO WATER MANAGEMENT AREA

APPLICATION FOR THE VERIFICATION OF EXISTING LAWFUL WATER USE IN TERMS OF THE NATIONAL WATER ACT, 1998 (ACT 36 OF 1998) – CONFIRMATION OF EXISTING LAWFUL WATER USE IN TERMS OF SECTION 35(4)

PROPERTY DESCRIPTION :
OWNER DETAILS :

In terms of section 35(4) of the National Water Act (Act 36 of 1998), the Department wishes to inform you that it has been determined that the extent and lawfulness of the water use on the above-mentioned property are as follows:

Description	Taking of Water: Agriculture				Total Storing (m ³)
	Source	Irrigation		Watering Livestock	
		Extent (ha)	Volume (m ³ /a)	Volume (m ³ /a)	
Permit Restrictions	Jukskei River		N/A		N/A
Other Restrictions	"	146.2	2 349 434		114 000
Recent Field Survey - April 2004	"	49.7	798 679	5 432	158 667
1998 Satellite Image	"	49.7	798 679	5 432	158 667
2001 Colour Aerial Photograph	"	49.7	798 679	5 432	158 667
Registered Water Uses	"	49.7	798 679	5 432	158 667
Possible existing lawful water uses	"	49.7	798 679	5 432	114 000
Possible unlawful water uses	"		0	0	44 667
Present day water use according to DWAF ²	"	49.7	798 679	5 432	158 667

² As prescribed by the National Raw Water Pricing Strategy. Calculated by SAPWAT V.2.6.1 of April 2003 (Computer Model for the calculation of crop irrigation requirements). This model is based on a specific climatic zone (precipitation and evaporation) and irrigation system.

Document C: Certificate of verification (second page)

^{*2} Please find attached hereto partly completed registration forms for the storing of water, considered to be correct by the Department. Please initial at the bottom of each page and return to this office in the stamped/addressed envelope included herewith.

This implies that the extent and lawfulness of the water use on your property is:

- (a) The water use for Taking of Water: Agriculture as registered by you, of 798 679 m³/a for irrigation of pastures and 5 432 m³/a for livestock watering, is correct.
- (b) The water use for Storing Water not Containing Waste as registered by you, of 158 667 m³, was not registered correctly. Please complete the attached registration application forms necessary to amend the existing registration.

Yours faithfully

CHIEF DIRECTOR: CENTRAL CLUSTER

Date: _____