

**THE PRESIDENT OF THE REPUBLIC OF INDONESIA**

**ELUCIDATION TO**

**THE REPUBLIC OF INDONESIA**

**LAW NO. 7/2004**

**ON**

**WATER RESOURCES**

**GENERAL**

1. Water resources constitute the blessing of the One and Only God that provide benefits to all of the Indonesian people in all aspects of life. In line with Article 33, paragraph (3) of the Republic of Indonesia 1945 Constitution, this law declares that water resources are controlled by the state and should be used for the maximum welfare of the people in a fair manner. In controlling said water resources by the state, the state guarantees the right of every person to obtain water for the fulfillment of daily basic needs and to conduct the regulating of water rights. The state's control of water resources should be conducted by the Government and/or regional governments by maintaining the recognition of and respect for traditional legal community unities and their traditional rights such as the community's local traditional law, traditional rights and other similar rights, so long as they are still existent and in accordance with the social progress of the people and the principles of the Unitary State of the Republic of Indonesia.

2. Control over water rights should be manifested through the establishment of use water rights, namely the right to obtain and use or operate water for various purposes. Use water rights by this definition does not constitute the ownership of water, and is instead only limited to the right to obtain and use or operate an amount (a quota) of water in accordance with the allotment stipulated by the Government for water users for those requiring a license or without any license required. Use water rights for the fulfillment of rudimentary daily needs, small-scale agriculture, and non-commercial activities is defined as Beneficial Use Water Rights, whereas water rights for commercial purposes, as raw material for production activities, the utilization of its potentials, as commercial media, as well as that for production supporting material, is defined as Commercial Use Water Right.

The amount of stipulated water allotment is not absolute and must be granted as mentioned in the license; however it can be reconsidered if the requirements or conditions used as a base for the granting of the license and the conditions of water availability at the related water source have changed significantly in comparison with the water availability conditions on the stipulating of the allotment.

3. Use water rights for the fulfillment of rudimentary daily needs of individuals and small-scale agriculture located within an irrigation system, should be guaranteed by the Government or regional governments. The said beneficial use of water rights for the fulfillment of rudimentary daily needs of individuals and small-scale agriculture includes the right to flow water from or to one's land through another

person's land which borders one's land. The Government or regional governments guarantee such allotment of water for the fulfillment of rudimentary daily needs of individuals and small-scale agriculture by giving attention to the condition of water availability in the related river area and by maintaining discipline and security.

4. The increasing public need of water encourages an increasingly stronger economic value of water in comparison with the social value and function. This condition could potentially cause inter-sector or inter-regional conflicts of interest among parties related to water resources. On the other hand, water resources management that relies more on the economic value tends to side more with capital owners and may neglect the social function of water resources.

Based on these considerations, this law provides weaker economic groups of society with better protection by implementing the water resources management principle that is capable of harmonizing social, environmental and economic functions.

5. The existence of water as a natural source of people's life is of a dynamic nature, flowing to a lower level without recognizing any administrative boundaries.

The existence of water follows a hydrological cycle that relates closely with the weather conditions of an area that results in uneven water availability in every time and location. In line with the growing population and the increase of social activities, the environmental function changes and brings a negative impact on

water resources harmony and the increase of water damaging potentials. It demands a total water resources management at the upstream and downstream based on river areas under a water resources management pattern, without being affected by administration area boundaries along the rivers.

6. Based on the above matter, the regulating of water resources authorities and responsibilities by the central government, regional, provincial, regent/municipal governments, is based on the location of the related river area, namely:
  - a. Cross provincial, cross country, and/or national strategic river areas are the authority of the central government.
  - b. Cross-regent/municipal river areas are the authority of the provincial government;
  - c. River areas that are entirely within a regent/municipal area are the authority of said regent/municipal governments.

In addition, this law also provides village heads or known under different names with water resources management authority, so long as the existing authority has not been exercised by the public and/or by higher-level governments.

Said water resources management authorities and responsibilities include regulating, stipulating and granting licenses for the permanent designating, provision, use and operation of water sources in river areas for conservation and control of water damaging potentials.

7. Water resources management pattern constitutes a basic framework for the planning, execution, monitoring and evaluation of water resources conservation and utilization and water damaging potential controlling activities, based on the principle of integrity of surface waters and ground waters. Water resources management pattern should be prepared coordinately among relevant agencies, based on the principles of harmony, social function balance, environment, and economy, public benefits, integrity and harmony, justice, independence, and transparency and accountability. This water resources management pattern should subsequently be specified in the water resources management plan.

The drafting of this management pattern should optimally involve the role of the People, enterprises, regional-owned business entities, and private business enterprises. In line with the principle of democracy, the people are not only provided with roles in the preparation of water resources management pattern, but they should also have a role in the processes of planning, construction execution, operation and maintenance, monitoring, and supervision of water resources management.

8. The water resources management plan constitutes a principal plan of water resources conservation and the controlling of water damaging potentials that should be prepared coordinately based on river areas. This plan should be the basis in the drafting of the water resources management program to be specified further in the activity plans of the respective related agencies. This water resources management plan should include water resources supply and water resources operation plans. Water supply for the fulfillment of rudimentary daily

needs and small-scale agricultural needs in the existing irrigation systems constitutes the main priority of supply among other needs. Due to the variety of water resources availability and the type of water resources needs in an area, the order of priority of water resources supply for other needs should be stipulated in accordance with the local requirements.

9. The water resources operation should be conducted by maintaining attention to water resources social functions and environmental harmony. The water resources operation covering a river area may only be conducted by a state-owned business enterprise or a regional-owned business enterprise in water resources management or a cooperation of the two, with the aim of maintaining the priority of harmonious management principles in water resources social, environmental and economic functions.
  
10. Water resources operation at a certain location may be provided to state-owned business entities or regional-owned business entities who are not water resources managers, private business entities and/or individuals based on operational plans that have been prepared through public consultations and the procedures of obtaining operational licenses issued by the government. The regulating of the water resources operation is aimed at the regulating and allotment of raw material water for certain business activities. Said water resources operation may constitute the operation of raw material water as the production of raw material, as one of the main media or elements of a business activity such as drinking water regional enterprises, mineral water enterprises, other packaged drinks enterprises, hydraulic power generators, river rafting sports, and as a production process

## *English Translation*

ancillary material, such as water for water cooling systems or water for the washing of mining exploration results. Said operational activities do not include the controlling of water sources, but are only limited to the right to use water in accordance with the stipulated allotment and to use part of the water source for the purposes of required infrastructure building, for instance the operation of infrastructure facility buildings on sites. This water resources operation should be conducted in accordance with provisions that are stipulated in the enforced norms, standards, guidelines, and instruction manuals (NSPM).

11. Water in hydrologic cycles may constitute water in the air comprising vapor and rain; on land it constitutes snow and river surface water, channels, dams, lakes, swamps, seawater, and ground water. Seawater has different characteristics that require specific handling and regulating, whereas seawater on land should observe the provisions in this law. The utilization of seawater on land for operational purposes through technical or natural engineering due to the impacts of ebbs, should give attention to the environmental functions and should be provided with a license from the central government or regional governments in accordance with the relevant authorities, and based on licensing procedures and standards according to stipulated technical and administrative guidelines.
12. For the realization of sustainable water resources management, receivers of water resources management service benefits are in principle required to bear the management expenses according to the benefits received. This obligation does not apply to users of water for daily basic needs and for social and public safety purposes. Due to the capacity limitation of water user farmers, water use for the

purposes of small-scale agriculture are exempt from the obligation to pay for water resources management services without omitting their obligation to bear the expenses of tertiary system development, operation and maintenance.

13. This law should be comprehensibly prepared and contain an integrated operation that does not only encompass water resources management affairs, but also encompasses the water resources management process. Since water resources involve the interests of various sectors, the flowing areas transgress administrative borders, and constitute a basic need for the continuation of people's lives, this law stipulates the need to establish a water resources management coordinating organization that comprises representatives of related parties consisting of governmental and non-governmental elements. This coordinating organization is established at the national and provincial levels, whereas those at the regent/municipal and river area levels should be established as necessary. It is expected that this coordinating organization is capable of coordinating various purposes of agencies, institutions, public and other water resources stakeholders in water resources management, and of encouraging the improvement of the public role in water resources management. In the execution of its tasks, this coordinating organization should technically be guided by the central government, in this case the ministry that is in charge of water resources.
  
14. To ensure the manifestation of legal certainty and enforcement in matters related to water resources management, in addition to investigators from the Republic of Indonesia Police, it is necessary to provide investigative authority to civilian civil servant investigators. Subsequently, the public is entitled to file representative

claims due to various water resources that incur losses to them; the public may seek settlement of various water resources disputes in court or outside court through arbitrary or alternative dispute settlements in accordance with legislative regulations.

15. To adjust the change of paradigm and to anticipate the complexity of progressing water resources issues; placing water in harmoniously social, environmental, and economic dimensions; realizing an integrated water resources management; accommodating decentralization and regional autonomy requirements; realizing a more democratic water resources mechanism and policy formulation process and management plan, it is deemed necessary to stipulate a new law to replace Law No. 11/1974 on irrigation.

## **ARTICLE BY ARTICLE**

### Article 1

Sufficiently clear.

### Article 2

The principle of conservation contains an understanding that the utilization of water resources is conducted by maintaining the conservation of water resources functions in sustainable manners.

The principle of balance contains an understanding of a balance of social, environmental and economic functions.

The principle of public benefit contains an understanding that water resources

### *English Translation*

management is carried out to effectively and efficiently provide optimal benefits for public interest.

The principle of integrity and harmony contains an understanding that water resources management is conducted integrally in establishing a harmony for various interests by taking into account the dynamic nature of water.

The principle of justice contains an understanding that water resources management is conducted equitably to all social strata throughout the country so that every citizen is entitled to receive equal opportunity to play a role and enjoy the actual results.

The principle of independence contains an understanding that water resources management is conducted by taking into account local human resources capacity and excellence.

The principle of transparency and accountability contains an understanding that water resources management is conducted in transparent manners that can be accounted for.

### Article 3

What is intended by water resources management being conducted comprehensively is that it encompasses all management aspects that comprise conservation, utilization, and control of water damaging potentials which cover an entire management area encompassing all planning, implementation and monitoring as well as evaluation processes.

### *English Translation*

What water resources management being conducted integrally means is a management that is conducted by involving all inter-sector and inter administrative region stockholders.

What water resources management being conducted with environmental perspectives means is a management that takes into account eco-systemic balance and environmental supportability.

What water resources management being conducted in sustainable manners means is water resource management that does not only target the interest of the present generation but also includes the interests of the future generations.

#### Article 4

Water resources have social functions means that water resources are prioritized for public interests rather than individual interests.

Water resources have environmental functions means that water resources constitute part of the ecosystem as well as the habitat of flora and fauna.

Water resources have economic functions means that water resources can be utilized to support commercial undertakings.

#### Article 5

This provision aims at defining that the state is obliged to carry out various efforts to guarantee water availability for every person living within the territory of the Unitary

## *English Translation*

State of the Republic of Indonesia. This guarantee should be the mutual responsibility of the central government and regional governments, including a guarantee of access for every person to a water source to obtain water. The amount of minimum daily need of water is determined based on a guideline stipulated by the central government.

### Article 6

#### Paragraph (1)

Sufficiently clear

#### Paragraph (2)

What is intended by water resources ownership being implemented by the central government and/or regional governments is the authority granted by the state to the central government and regional governments to regulate water resources.

What is intended by similar rights to traditional rights on land are rights that were previously recognized under various names from various regions with the same meaning as traditional rights on land, for example:

Land areas known as *patuanan* in Ambon; *panyam peto* or *pewatasan* in Kalimantan; *wewengkong* in Java, *prabumian and payar* in Bali; *totabuan* in Bolaang-Mangondow, *torluk* in Angkola, *limpo* in South Sulawesi, *mur* in Buru island, *paer* in Lombok, and *panjaean* in Tanah Batak.

Paragraph (3)

In recognizing traditional law, the community's traditional law on land including other similar rights, it should be understood that what is intended by the traditional law community is a group of individuals who are bound by their traditional law order as common members of a traditional law unity based on common living area or ancestors. The traditional legal community's traditional law on land is considered existent if it meets the following three elements, namely:

- a. Traditional community element, namely the existence of a group of individuals who still feel bound by their traditional legal order as common members of a certain legal unity who recognize and implement rules of the unity in their daily lives;
- b. Regional element, namely the existence of a certain traditional land constituting the living area of members of the legal unity where they obtain their daily living needs; and
- c. Relationship element, between the community and their region, namely the existence of a traditional legal order regarding the handling, control, and use of traditional land that still prevails and is observed by members of the legal unity.

Paragraph (4)

Sufficiently clear

Article 7

Paragraph (1)

Sufficiently clear

## *English Translation*

### Paragraph (2)

What is intended by water use rights may be leased or transferred is water use rights that are granted to the holder cannot be leased and transferred to other parties by any reason.

If the holder of the water use right does not use the water rights, the central government or regional governments can revoke the related water rights.

## Article 8

### Paragraph (1)

What is intended by daily basic needs are water to meet daily living needs, used at or obtained from water sources (not from distribution channels) for own purposes for a healthy, clean and productive life, for instance for praying, drinking, cooking, bathing, washing and sanitary needs.

What is intended by small-scale agriculture is cultivating agriculture that encompasses various commodities namely food plants, fishery, cattle farms, plantation and forestry, operated by the people under a certain land area, the water need of which does not exceed 2 liters per second per family head.

What is intended by an irrigation system are irrigation infrastructures, irrigated water, irrigation management institutions, and human resources.

### Paragraph (2)

Provisions under this paragraph are intended for the realization of order in the

## *English Translation*

implementation of water resources supply plan.

What is intended by changing the natural condition of water sources is elevating, lowering and diverting water sources.

Elevating means an action that may cause the raising of water level at water sources, for instance by building a dam or dike. Included in this definition of elevating is to pump water from water source for small-scale farms.

Lowering means an act that may cause the lowering or reduction of water level at water source from the natural level, for instance by river exploiting or dredging.

Diverting means an act that may cause the flow of water and water source channel to turn from the natural track.

### Paragraph (3)

Sufficiently clear

### Paragraph (4)

The right to flow water through another person's land is intended to prevent any obstruction in other persons' water beneficial use rights. If water is used for small-scale agriculture outside an existing irrigation system, the right to flow water through another person's land should be based on the agreement of both parties.

## Article 9

### Article (1)

What is intended by an individual is a non-corporate subject who needs water for his own purposes, for example fishponds and home industries.

*English Translation*

Article (2)

The said agreement should be made in writing.

Article (3)

What is intended by compensation is a repayment provided to a land title holder as a result of the release of rights on land, building, plants, and other assets on land, the amount of which will be determined based on an agreement made by both parties.

Compensation is a repayment provided to a land titleholder due to the land area being trespassed by the flowing of water owned by the holder of Water Commercial Use Rights that cause inability of the land titleholder in enjoying the full benefits of his land rights. The amount of compensation will be determined based on the mutual agreement of both parties. The same applies to traditional law communities.

If a state-owned asset is involved, compensation should be made in accordance with legislative regulations.

Article 10

Sufficiently clear

Article 11

Paragraph (1)

## *English Translation*

What is intended by the public is all of the Indonesian people comprising individuals, groups of individuals, traditional communities, commercial corporations, as well as individuals assembled in social institutions or organizations.

### Paragraph (2)

The principle of integrity of surface water and groundwater should be carried out by taking into consideration the authorities and responsibilities of each institution in accordance with their main duties and functions.

### Paragraph (3)

The involvement of public and business circles in the preparation of water resources management pattern is intended to receive inputs, issues and/or aspirations of the stakeholders to be processed and included in river area water resources management policies. The involvement of public and business circles should be conducted through public consultations that are convened in no less than 2 (two) stages.

The first public consultation is intended to receive inputs, issues and/or aspirations of the public and business circles on river area water resources management.

The second stage public consultation is intended to socialize the existing pattern in order to receive responses from the public and business circles in the related river areas. The business circles referred to here encompass

*English Translation*

cooperatives, state-owned, region-owned and private-owned business enterprises.

Paragraph (4)

What is intended by a balance of conservation and utilization efforts is a proportional effort in water resources conservation and utilization activities.

Paragraph (5)

Sufficiently clear

Article 12

Sufficiently clear

Article 13

Paragraph (1)

Sufficiently clear

Paragraph (2)

The National Board of Water Resources constitutes a coordinating organization at the national level of water resources stakeholders as intended under Article 87.

Considerations of the National Board of Water Resources will be delivered to the President based on the inputs from the related regional government.

Paragraph (3)

Evaluation for the determination of national strategic river areas will be based on the following parameters/aspects:

*English Translation*

1. the size and extent of water resource potentials in the related river areas;
2. the number of sectors and population in the related river areas;
3. the extent of social, environmental, and economic impacts on national development; and
4. the extent of negative impacts resulting from water damaging potentials on economic growth.

Paragraph (4)

Sufficiently clear

Paragraph (5)

Sufficiently clear

Article 14

Letter (a)

Sufficiently clear

Letter (b)

Sufficiently clear

Letter (c)

Sufficiently clear

Letter (d)

What is intended by water sources conservation area is an area that provides a conservation function for water sources, for instance water sources border areas, water absorption areas, and water sources surrounding areas.

Letter (e)

Sufficiently clear

*English Translation*

Letter (f)

The granting of licenses under this paragraph is intended only for surface  
water  
resources.

Letter (g)

Sufficiently clear

Letter (h)

Sufficiently clear

Letter (i)

Sufficiently clear

Letter (j)

Sufficiently clear

Letter (k)

Sufficiently clear

Letter (l)

Sufficiently clear

Article 15

Letter (a)

Sufficiently clear

Letter (b)

Sufficiently clear

Letter (c)

Sufficiently clear

Letter (d)

*English Translation*

Sufficiently clear

Letter (e)

Sufficiently clear

Letter (f)

License granting under this paragraph is intended only for surface water resources.

Letter (g)

Sufficiently clear

Letter (h)

Sufficiently clear

Letter (i)

Sufficiently clear

Letter (j)

Sufficiently clear

Letter (k)

Sufficiently clear

Letter (l)

Sufficiently clear

Article 16

Sufficiently clear

Article 17

The term village as intended under this article should be adjusted to the social and cultural condition of the local people, such as *nagari*, *kampung*, *huta*,

*English Translation*

*bori*, and *marga*; whereas what is intended by communities include traditional legal communities.

Article 18

Sufficiently clear

Article 19

Paragraph (1)

Sufficiently clear

Paragraph (2)

Letter (a)

What is intended by endangering public interests, for instance: the disorder of water source conservation area, especially at the water source upstream area; uncontrolled category C excavation at a river resulting in a threat of damage of bridge foundations, river embankments or other public infrastructure constructions at water sources; or landslides that are assumed to present an extensive threat to public economic activities.

Letter (b)

Dispute settlement may be conducted through: mediation, warning, facilitation, and/or transfer of authority.

Article 20

Paragraph (1)

What is intended by water resources sustainability is the maintenance of

*English Translation*

water and water source availability, including the potentials contained therein.

What is intended by water resources supportability is the capacity of water resources in supporting the life of men and other living creatures.

What is intended by water and water resources absorbing capacity is the capacity of water and water resource in absorbing substances, energy, and/or other components entering or being entered therein.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

Article 21

Paragraph (1)

Sufficiently clear

Paragraph (2)

Letter (a)

Sufficiently clear

Letter (b)

What is intended by control of water source utilization may constitute:

- The regulating of part or the entire utilization of a certain water source; and/or
- The prohibition from part or the entirely utilization of a certain water source.

*English Translation*

Letter (c)

What is intended by water replenishment at water sources includes among others: the diversion of water flow from one river flow area to another, for instance by waterway diversion, interconnection, supplement, and/or replenishment of ground water.

Letter (d)

What is intended by sanitation covers sewage and waste infrastructures and facilities.

Letter (e)

Sufficiently clear

Letter (f)

Sufficiently clear

Letter (g)

Sufficiently clear

Letter (h)

Sufficiently clear

Letter (i)

Sufficiently clear

Paragraph (3)

Sufficiently clear

Paragraph (4)

Vegetative implementation constitutes conservation and preservation efforts conducted by planting trees or plants that are suitable with the related water catchment or water source border areas.

## *English Translation*

What is intended by technical civil method is conservation and preservation efforts conducted by way of technical engineering, such as the construction of sediment restraining walls, the building of terraces, and/or water source riverbank reinforcement.

What is intended by social, cultural, and economic approaches is that the implementation of water resources conservation and preservation through said various efforts should be conducted by taking into account the social, cultural and economic conditions of the local people.

### Paragraph (5)

Sufficiently clear

## Article 22

Sufficiently clear

## Article 23

### Paragraph (1)

Sufficiently clear

### Paragraph (2)

What is intended by improving the water quality at water sources covers among others aeration efforts conducted at water sources.

### Paragraph (3)

Efforts made to prevent water pollution from entering water sources, include preventing the disposing of waste at water sources, and processing waste water before being flowed back to water sources.

### Paragraph (4)

*English Translation*

Sufficiently clear

Article 24

What is intended by the damage of water sources is a reduced water source interceptive capacity or function.

Article 25

Sufficiently clear

Article 26

Paragraph (1)

Sufficiently clear

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

Paragraph (4)

Sufficiently clear

Paragraph (5)

What is intended by the interconnection of rainwater, surface water and groundwater is a condition that is suitable with the hydrologic recycle constituting an integrated system (conjunctive use).

Paragraph (6)

What is intended by every individual is every person and business enterprise.

## *English Translation*

### Paragraph (7)

What is intended by the principle of users paying the management service fee is that participating receivers bear water resources management costs directly or indirectly. This provision does not apply to water users for the fulfillment of daily basic needs and small-scale agriculture as intended under Article 80.

## Article 27

### Paragraph (1)

What is intended by water source utilization zone is an area at a water source (reservoir, lake, swamp, or river) that is allocated for a conservation or cultivation function. For example, allocating the surface of a reservoir, lake, swamp, or river into various utilization zones, among others, areas allocated for fish cultivation, category C mining materials, water transportation, water sports and tourism, conservation of unique or preserved environmental elements, and/or cultural preserves.

Determination of water source utilization zones aims at the optimization of the functions/potentials at the related water sources in sustainable ways, for the interest of the present generation as well as future ones.

In stipulating water sources utilization zones, in addition to determining and clarifying the limits of each utilization zone, it also prepares provision, requirements or criteria for the utilization and control.

### Paragraph (2)

*English Translation*

Sufficiently clear

Paragraph (3)

Sufficiently clear

Paragraph (4)

Sufficiently clear

Article 28

Paragraph (1)

What is intended by the stipulation of water designation at a water source is the grouping of the usage of water at water sources into several water use categories including quality standards, for instance the grouping of river use into several joints according to various types of water use categories for the basic needs of households, agriculture and industry.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

Article 29

Paragraph (1)

Sufficiently clear

Paragraph (2)

The description of types of water resources supply in this paragraph except for basic needs are not in the order of priority.

## *English Translation*

What is intended by water need for agriculture purposes is for instance the need of water for food plants, horticulture, plantations, stock breeding and fishery.

### Paragraph (3)

If conflicts of interests occur between the fulfillment of daily basic needs and the fulfillment of water needs for agricultural irrigation purposes, for instance during extreme draught conditions, priority should be given to the fulfillment of rudimentary daily needs.

### Paragraph (4)

Sufficiently clear

### Paragraph (5)

Compensation may constitute a repayment for loss in the form of the relief of service fees for water resource management that is conducted based on the agreement among users.

### Paragraph (6)

Sufficiently clear

## Article 30

### Paragraph (1)

Sufficiently clear

### Paragraph (2)

What is intended by urgent need is a certain condition that requires immediate decision making to change the water supply plan, as a delay in decision making may cause a more serious loss of property, assets, lives, and

*English Translation*

environment. For instance, changes in the water supply plan to overcome draught and to extinguish forest fires.

Article 31

Sufficiently clear

Article 32

Paragraph (1)

What is intended by the use of media is the use of a river for transportation and river rafting.

What is intended by the use of water as a material is for instance the utilization of water for drinking, household and industrial purposes.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

Paragraph (4)

Sufficiently clear

Paragraph (5)

Damage at water sources may constitute landslides at water source walls, the damage or the breakdown of river embankments, and/or the narrowing of water source joints.

What is intended by paying for compensation is among others by

## *English Translation*

voluntary labor service in building landslide retaining constructions, repairing river embankments, or demolishing buildings that are used for said water collection or utilization.

### Paragraph (6)

Sufficiently clear

### Paragraph (7)

Sufficiently clear

## Article 33

What is intended by force majeure in this paragraph is an emergency situation.

Water resource use for conservation purposes, for instance the spraying of a water source in a city area with a high pollution level (poison outbreak).

Water resource use for the preparation of construction work, for example to overcome sudden damage occurring at a water resource infrastructure (embankment breakdown).

The utilization of water resources for the fulfillment of priority water resources use for instance for the fulfillment of rudimentary daily needs during draught.

## Article 34

### Paragraph (1)

What is intended by development includes the execution of construction activity.

*English Translation*

Paragraph (2)

Sufficiently clear

Paragraph (3)

Letter (a)

Sufficiently clear

Letter (b)

Regional typicality is a certain specific character that can only be found in an area which is positive and productive, and does not contradict legislative regulations.

Example:

- Typicality in water user community irrigation organizations: *subak* in Bali, *Tuo Banda* in West Sumatera, *Dharma Tirta* in Central Java, and *Mitra Cai* in West Java.
- Typicality in governance issues such as special autonomy, villages, or traditional legal communities.

Letter (c)

Sufficiently clear

Letter (d)

Sufficiently clear

Paragraph (4)

What is intended by public consultation is an effort to absorb public aspirations through dialogue and deliberation with all parties concerned. Public consultations aim at preventing and minimizing potentially incurring

*English Translation*

social impacts and encouraging the implementation of transparency and participation in more equitable decision-making.

Paragraph (5)

Sufficiently clear

Article 35

Letter (a)

What is intended by other surface water sources encompass among others lakes, dams, embankments, reservoirs, ponds and spring water.

Letter (b)

Sufficiently clear

Letter (c)

Sufficiently clear

Letter (d)

Sufficiently clear

Article 36

Sufficiently clear

Article 37

Sufficiently clear

Article 38

Paragraph (1)

What is intended by weather modification is an effort by utilizing weather

*English Translation*

parameters and conditions at certain locations for the purposes of minimizing natural disaster impacts caused by weather seasons and weather, such as draught, flood, and forest fire.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

Article 39

Paragraph (1)

Development of the functions and benefits of seawater on land, for example for fishpond businesses and engine cooling system purposes.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

Article 40

Paragraph (1)

What is intended by household drinking water is water with a standard of potability for straight drinking without pre-cooking and declared healthy according to microbiological test (ecoli test).

What is intended by development of potable water supply system is extending

*English Translation*

and improving physical systems (techniques) and non-physical systems (institutional, managerial, financial, public role, and legal) in a holistic unity to provide potable water which fulfills a certain quality standard for the people that leads to a better living condition. Development of installation and network as well as supply system of household potable water includes hydrant pattern and distribution pattern using mobile water tank containers.

Paragraph (2)

Sufficiently clear

Paragraph (3)

What is intended by state-owned and/or region-owned business entities are state-owned and/or region-owned business entities that are in charge of operating the development of potable water supply system.

Paragraph (4)

If there is no potable water operation conducted by state-owned and/or region-owned business entities, the operation of potable water in the said region should be conducted by cooperatives, private business entities and the public.

Paragraph (5)

Sufficiently clear

Paragraph (6)

Sufficiently clear

Paragraph (7)

Sufficiently clear

Paragraph (8)

Sufficiently clear

Article 41

Paragraph (1)

What is intended by irrigation is the effort of supplying, regulating and disposing water to support agriculture the types of which encompass surface irrigation, swamp irrigation, underground water irrigation, pump water irrigation, and fishpond irrigation.

Paragraph (2)

The development of irrigation systems by the central government and regional governments includes a pilot project channel of 50 meters long from tapping construction/tertiary collection.

The criteria of irrigation management allotment of responsibilities is based on the existence of such a network in the related administrative region, and on the area strata, as follows:

- Irrigation area (IA) of less than 1,000 hectares (small IA) that is located in one regency/municipality is the authority and responsibility of the related regent/municipal government.
- Inter-regent/municipal irrigation area (IA) of 1,000 up to 3,000 hectares (medium IA) is the authority and responsibility of the related provincial government.
- Inter-provincial, nationally strategic and inter-country irrigation area (IA) of more than 3,000 hectares (large IA) is the authority and responsibility of the central government.

The implementation of the development of irrigation systems under the central government's authority can be conducted by the regional governments based on legislative regulations.

## *English Translation*

### Paragraph (3)

What is intended by this provision is that tertiary irrigation rights and responsibilities are with farmers, however to a certain extent they can be facilitated by the state.

### Paragraph (4)

What is intended by community is among others, water user farmers associations.

### Paragraph (5)

What is intended by other parties is community groups outside water user farmer groups/organizations, individuals or business entities in ranks according to the respective scale of authority, which due to necessity and based on the government's consideration /advice/recommendation, are deemed capable to develop irrigation systems. Irrigation systems should be in line with the regional landscape plan.

Development, in the sense of construction execution, may be carried out by other parties using the construction design that has been approved by the government.

Irrigation system development may also be carried out by a third party under the government's supervision. The regulating of the government's approval and supervision procedures should be stipulated with legislative regulations.

What is intended by farmers' capacity is an institutional, technical and financial

*English Translation*

capacity.

Paragraph (6)

Sufficiently clear

Article 42

Sufficiently clear

Article 43

Paragraph (1)

What is intended by energy needs, for instance the use of water for electricity generating turbine propellers or as waterwheel propellers.

What is intended by fulfilling own needs is the use of the resulting energy only for the benefit of servicing oneself/ one's group. Whereas, what is intended by to be operated further is the use of the resulting energy not only for one's own purposes but to be marketed to other parties.

Paragraph (2)

Sufficiently clear

Article 44

Paragraph (1)

What is intended by water resources development for communication purposes includes among others those for transportation media, for instance for water transportation and wood transporting through rivers.

Paragraph (2)

Sufficiently clear

Article 45

Paragraph (1)

Sufficiently clear

Paragraph (2)

What is intended by surface water resource operation covering one river area is the operation in an entire water resource system in a related river area starting from the river upstream area down to the downstream area or the related water source.

What is intended by state-owned or regional-owned business entities in water resource management are business entities that are established specifically by the Government or regional governments in managing water resources in river areas.

Paragraph (3)

What is intended by business entities in this paragraph may constitute a state-owned/region-owned business enterprise (which is not a river area water resource management business enterprise), a private business enterprise, or a cooperative.

Cooperation may be conducted in the financing of water resource infrastructure construction, or in the provision of water resources infrastructure services and operation. Cooperation may be conducted by various means, for instance by building, operating, and transferring, joint venture, service contract, management contract, concession contract, and lease

## *English Translation*

contract, etc. The implementation of the above said cooperation should remain within the limits that allow the government to exercise its authority in the regulating, supervision and control of water resources as a whole.

Operational licenses contain among others the legal rights of water and/or part of water sources allotment that can be operated.

### Paragraph (4)

#### Letter (a)

Sufficiently clear

#### Letter (b)

The utilization of a water basin at a certain location includes among others the utilization or use of water sources for water tourism, river rafting sports, or water transportation.

#### Letter (c)

The use of water resources covers among others electricity generating turbine propellers or as waterwheel propellers.

## Article 46

### Paragraph (1)

Stipulated water allotment is not absolute as mentioned in the license, but can be reconsidered if significant changes occur in the requirements or conditions that were used as the basis of the license granting and water availability conditions at the related water source, compared to the water availability at the time of the allotment stipulation.

### Paragraph (2)

## *English Translation*

Water allotment granted for the said operational purposes should take into account water allotment for the fulfillment of daily basic needs and the needs of small-scale agriculture at the related river areas.

### Paragraph (3)

Sufficiently clear

### Paragraph (4)

What is intended by temporary water allotment is an allotment that is calculated based on an estimate of reliable water availability (reliable debit) by taking into consideration the needs of the existing water users.

## Article 47

### Paragraph (1)

Sufficiently clear

### Paragraph (2)

What is intended by facilitating is to absorb, study and investigate claim objects and to respond proportionally/fairly.

### Paragraph (3)

Sufficiently clear

### Paragraph (4)

Public consultation may take the format of meetings with the stakeholders and/or by other more efficient and effective manners to obtain inputs/responses from the stakeholders and the public.

### Paragraph (5)

Sufficiently clear

Article 48

Paragraph (1)

What is intended by a distribution channel is a channel that carries water material constituting open or closed channels between other pipes.

Paragraph (2)

This provision is designated to prevent any operational efforts that go beyond the limits of water resources environmental supportability and threaten their conservation.

Article 49

Sufficiently clear

Article 50

Sufficiently clear

Article 51

Paragraph (1)

What is intended by water damaging potentials includes:

- a. Flood;
- b. Erosion and sedimentation;
- c. [*? Tidak ada di dalam naskah asli*]
- d. Cold lava flood;
- e. Sunk soil;
- f. Change of water chemical, biological, and physical nature and content;
- g. Threat to distinction of certain flora and/or fauna;

*English Translation*

- h. Epidemics;
- i. Intrusion; and/or
- j. Infiltration.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

Paragraph (4)

Sufficiently clear

Article 52

Sufficiently clear

Article 53

Paragraph (1)

What is intended by physical activity is a construction of facilities and infrastructures and other efforts to prevent damage/disaster resulting from water damaging potentials, whereas non-physical activity constitutes software, buildings, and/or applications including among others the arrangement, development, supervision, and control.

What is intended by upstream and downstream balance of river areas is the balance between conservation effort activities at the upstream areas and the utilization at the downstream areas.

*English Translation*

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

Paragraph (4)

Sufficiently clear

Article 54

Paragraph (1)

Mitigation of disasters comprise activities to relieve suffering caused by disasters, for instance the supply of evacuation facilities and emergency repair of collapsed dams.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

Article 55

Sufficiently clear

Article 56

Endangering condition constitutes an extraordinary water condition that goes beyond the limits of the plan which if no emergency action is taken is considered to potentially incur a greater disaster to the public safety.

Article 57

Sufficiently clear

Article 58

Sufficiently clear

Article 59

Paragraph (1)

Sufficiently clear

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

Paragraph (4)

Water resource management plans in river areas within one regency/ municipality is input for regent/municipal landscape plans; inter-regent/ municipal river area water resource management plans are input for the landscape plan of the related regency/municipality; inter-provincial water resource management plans are input for the landscape plan of the related regency/municipality and province.

In addition to being used as inputs for the preparation of regional landscape plan, water resources management plan at river areas is also used as inputs for reconsidering regional landscape plan if changes take place in water resources

*English Translation*

management plans as well as landscape plans within a certain period. The said changes are demanded by changes in conditions and situations.

As such, dynamic and open relations occur between water resource management plans and regional landscape plans for mutual adjustment.

Article 60

Sufficiently clear

Article 61

Paragraph (1)

Water resource inventory activities are designated among others to find information on the hydrological, hydro-meteorological, hydro-geological conditions, the available water resource potentials, and the need of water, regarding the quantity and quality as well as the facilities and infrastructures and the environment including the social, economic and cultural conditions of the population.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

Paragraph (4)

Sufficiently clear

Paragraph (5)

Sufficiently clear

Article 62

Paragraph (1)

The water resource management plan is prepared for short, medium and long terms. Determination of the planning terms depends on the agreement with the related parties participating in the plans in every river area. Short term generally means five years, medium term is 10 years, and long term is 25 years.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Announcement is intended to provide the public with an opportunity to express their objections to a specific plan before it is decided.

Paragraph (4)

Sufficiently clear

Paragraph (5)

Sufficiently clear

Paragraph (6)

Development plans that are related to water resource management include among others, groundwater development programs by agencies in charge of groundwater, area rehabilitation and land conservation programs carried out by agencies in charge of land conservation.

Paragraph (7)

Sufficiently clear

*English Translation*

Article 63

Paragraph (1)

What is intended by construction of water resource infrastructure is an endeavor to carry out a development or construction activity based on a prepared technical plan that may constitute a water resource facility and/or infrastructure building or construction.

What is intended by a guideline is a general reference to be specified further and adjusted with the local characteristics and capacities of the area.

What is intended by a manual is a guideline containing directions for the operating of equipment and/or components of water resource constructions, for instance water gates, flood pumps, and water debit measuring devices.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

Paragraph (4)

Sufficiently clear

Paragraph (5)

Sufficiently clear

Article 64

Paragraph (1)

Sufficiently clear

*English Translation*

Paragraph (2)

What is intended by arrangement in this paragraph includes the arrangement of water allotment, water distribution schedule, water utilization technique, and the utilization of water resource borders.

Paragraph (3)

Sufficiently clear

Paragraph (4)

Sufficiently clear

Paragraph (6)

Letter (a)

Operational execution and maintenance activities of primary and secondary irrigation systems should be conducted by the Government and regional governments, without limiting any possibilities for water user farmers associations to participate in accordance with their needs and capacities.

Letter (b)

Sufficiently clear

Paragraph (7)

Sufficiently clear

Paragraph (8)

Sufficiently clear

Article 65

Paragraph (1)

Sufficiently clear

## *English Translation*

### Paragraph (2)

Information on hydrological conditions, such as rainfall, river debit, and water level height at water sources.

Information on hydro-meteorological conditions, such as weather temperature, wind velocity and humidity of the air.

Information on hydro-geological conditions covering groundwater basins, such as groundwater potentials and aquifer conditions of water carrier strata.

## Article 66

### Paragraph (1)

Sufficiently clear

### Paragraph (2)

Access to water resource information that is available at the data processing centers of government agencies, other bodies or institutions in the community may be conducted by various means, among others by internet, periodically published print media, correspondence, telephone, fax, or direct visits, with a transparent principle for all parties concerned with water resources.

### Paragraph (3)

Sufficiently clear

## Article 67

*English Translation*

Paragraph (1)

Sufficiently clear

Paragraph (2)

What are intended by activities related to water resources are studies, research, seminars, workshops, community empowerment activities, and development activities of facilities and/or infrastructures related to water resources management.

Paragraph (3)

Sufficiently clear

Article 68

Sufficiently clear

Article 69

Sufficiently clear

Article 70

Paragraph (1)

What is intended by stakeholders are water resources stakeholders.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Included in the definition of community groups are community groups with water resources activities, for example the *subak* community and water user farmers community groups.

Paragraph (4)

*English Translation*

Sufficiently clear

Article 71

Paragraph (1)

What is intended specific education is non-formal education that has been conducted in water resources, such as courses, training, and other non-formal education.

Paragraph (2)

Sufficiently clear

Article 72

Sufficiently clear

Article 73

Sufficiently clear

Article 74

Paragraph (1)

What is intended by counseling is an effort conducted by various parties to enhance awareness, behavior and capacity through advocacy, information and technical support by means of seconding and assigning public counsel officers.

Paragraph (2)

Sufficiently clear

Paragraph (3)

*English Translation*

Sufficiently clear

Article 75

Paragraph (1)

What is intended by supervisory activity in this paragraph includes close observation of water resources management execution practices, in terms of appropriateness with the already decided management plans as well as in terms of the compliance context, including the follow-up in accordance with legislative regulations.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

Paragraph (4)

Sufficiently clear

Article 76

Sufficiently clear

Article 77

Paragraph (1)

What is intended by actual need is the fund required solely to finance water resources management for fair implementation in ensuring the sustainability of water resources functions.

Paragraph (2)

*English Translation*

Every type of said financing encompasses three aspects of water resources management, namely water resources conservation, water resources utilization and water damaging potential control.

Letter (a)

Sufficiently clear

Letter (b)

Sufficiently clear

Letter (c)

What is intended by construction financing cost, includes water resources conservation costs.

Letter (d)

Sufficiently clear

Letter (e)

Sufficiently clear

Paragraph (3)

Letter (a)

Sufficiently clear

Letter (b)

Sufficiently clear

Letter (c)

The revenue from the water resource management service fee is obtained from water resources management beneficiaries, for water resources operation purposes as well as for water resources use with the obligation of payment.

Article 78

Paragraph (1)

Other business entities include among others limited corporations and commercial enterprises.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

Paragraph (4)

This provision is designated for the fulfillment of a need that is deemed urgent by a region; however, it is not yet a priority at the national level for inter-provincial river areas and nationally strategic river areas, or is not yet a priority at the regional level for inter-regent/municipal river areas.

Article 79

Paragraph (1)

Sufficiently clear

Paragraph (2)

What is intended by certain limits are the limits of the scope of work for public social services, welfare and safety that can be funded by the central government and regional governments, such as the rehabilitation of embankments and early flood warning systems. The regular maintenance costs remain to be the responsibility of state-owned/region-owned business entities that manage the related water resources.

Article 80

Paragraph (1)

Water resource users who are not charged the water resource management service costs are resource users who use water at or withdraw water for their own use from water sources other than distribution channels.

The water resources management service fee is the fee required to carry out water resources management so that water resources may be utilized in a sustainable manner.

Paragraph (2)

Sufficiently clear

Paragraph (3)

The rationally economic calculation that can be accounted for is a calculation which takes into account the following elements:

- a. Investment depreciation cost;
- b. Amortization and investment interest;
- c. Operation and maintenance; and
- d. Water resource development.

Paragraph (4)

What is intended by value unit of management fee is the amount of management service cost for each unit of utilization, such as Rp. per kWh and Rp. per cubic meter.

## *English Translation*

User groups are for instance: home industry groups, manufacturing industry groups, and operators of packaged water.

What is intended by volume in water resource use volume is the amount of water resource use that is calculated in cubic meters, or used water resource units, or the generated power unit (kWh).

The level of economic capacity of user groups should be considered in determining the unit of management service fee due to the difference in income.

### Paragraph (5)

What is intended by the type of non-business use is the type of water use for non commercial activities such as small-sale agriculture, households, and religious purposes.

### Paragraph (6)

What is intended by funds in this paragraph is the collection of the water resource management service fee.

### Paragraph (7)

Sufficiently clear

## Article 81

Sufficiently clear

## Article 82

Letter (a)

*English Translation*

Sufficiently clear

Letter (b)

The forms of incurring losses as a result of the water resource management, such as the loss of reduced function or rights on land, buildings, plants and other properties found thereon caused by the development of dams, dikes, embankments, channels, and the development of other water resources management facilities and infrastructures.

Repayment for the loss should be conducted in accordance with prevailing provisions on physical and/or repayment to land title owners or workers and/or other items as well as the plants thereon.

Physical repayment may constitute money, relocation, shares or other formats.

Non-physical repayment may constitute a job vacancy, or other living warranty which does not impair social and economic values.

Letter (c)

Sufficiently clear

Letter (d)

Sufficiently clear

Letter (e)

Losses related to the implementation of water resources, such as the allotment of water that is not in accordance with the schedule, allotment and/or water quality that does not meet quality standards.

*English Translation*

What is intended by related authority is water resource managers and other parties whose task and authority comprise receiving claims related to water resource management.

Letter (f)

Sufficiently clear

Article 83

Sufficiently clear

Article 84

Paragraph (1)

The form of public role in the planning process, is for instance to deliver decision making thoughts, ideas and processes to a certain extent.

The form of public role in the execution process comprising the execution of construction, operation and maintenance, is for instance contributing time, manpower, materials, and funds.

The form of public role in the supervisory process is for instance by delivering reports and/or claims to the related authorities.

Paragraph (2)

Sufficiently clear

Article 85

Sufficiently clear

Article 86

Paragraph (1)

What is intended by other names is for instance the provincial water regulating committee and regent/municipal water regulating committee.

Paragraph (2)

Sufficiently clear

Paragraph (3)

What is intended by the representation principle is the representation of interests of related elements, for instance by sectors, regions, and groups of water resources users and operators. Expert, professional association and public organization groups may be involved as sources of information.

What is intended by balanced is a proportional composition of members comprising governmental and non-governmental elements.

Paragraph (4)

Sufficiently clear

Article 87

Sufficiently clear

Article 88

Paragraph (1)

Water source disputes may constitute disputes in water resource

*English Translation*

management and/or water use rights or commercial water use rights, such as disputes among users, operators, between users and operators, inter-regional and between the upstream and downstream areas.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

Article 89

Sufficiently clear

Article 90

Sufficiently clear

Article 91

Sufficiently clear

Article 92

Paragraph (1)

What is intended by organizations with activities in water resources include among others water user organizations, water issue observer organizations, educational institutions, water resources non-governmental organizations, professional associations, and/or other social organizations that are active in water resources.

The right to claim under this paragraph means a representation claim.

Paragraph (2)

Provisions under this paragraph are designated as such that claims made by organizations are only limited to actions related to water resources that involve public interest by appealing to the court that an individual or a business enterprise be warned to undertake a recovery action related to the sustainability of water resources functions.

What is intended by cost for an actual expense is a cost that is actually and verifiably spent by a claiming organization.

Paragraph (3)

Sufficiently clear

Article 93

Paragraph (1)

Sufficiently clear

Paragraph (2)

Sufficiently clear

Paragraph (3)

Civil servant investigating officers should inform investigating officers from the Republic of Indonesia Police (*POLRI*) regarding the starting of the investigation, and the investigation findings should be submitted to the general prosecutor through the investigating police officers. This is intended to

*English Translation*

provide a guarantee that the investigation findings have fulfilled conditions and requirements. The mechanism for the coordination of relations between civil servant investigating officers and police investigating officers should be made in accordance with legislative regulations.

Paragraph (4)

Sufficiently clear

Article 94

Sufficiently clear

Article 95

Sufficiently clear

Article 96

Sufficiently clear

Article 97

Sufficiently clear

Article 98

The said license includes agreements related to the use of water resources made by the central government or regional governments.

Article 99

Sufficiently clear

*English Translation*

Article 100

Sufficiently clear

REPUBLIC OF INDONESIA STATE GAZETTE SUPPLEMENT NO. 4377

The undersigned, **Maria Elvire Sundah, SS, Sworn Translator** by virtue of the Decree of the Governor of the Special Provincial Region of the Municipality of Jakarta (*DKI Jaya*) **No. 3064/2003**, declares that this document has been properly translated from the Indonesian copy of the original into English, in compliance with the requirements as stated in the above decree.

Jakarta, 5 August 2004

Maria Elvire Sundah