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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF WATER AND SANITATION

NO. 1171

13 SEPTEMBER 2019

UPPER VAAL WATER MANAGEMENT AREA: PROHIBITING AND LIMITING THE USE OF WATER IN TERMS OF ITEM 6 OF SCHEDULE 3 TO THE NATIONAL WATER ACT OF 1998 FROM THE LIEBENBERGsvLEI RIVER FOR AGRICULTURAL PURPOSES DURING THE MONTHS OF OCTOBER AND NOVEMBER 2019

It is necessary to shut down the Lesotho Highlands Water Project tunnel system for the required inspection and maintenance during the months of October and November 2019.

I, Ms Nthabiseng Fundakubi, in my capacity as Acting Director-General of the Department of Water and Sanitation, on reasonable grounds, believe that a water shortage is about to occur due to the above-mentioned shutdown and that it is necessary to limit and prohibit the taking of water from the Liebenbergsvlei River during the period of the shutdown within the following area: the farms riparian to the Liebenbergsvlei River from the Sol Plaatjie Dam wall to the confluence of the Liebenbergsvlei River with the Wilge River (the area concerned). This area is situated within the Upper Vaal Water Management Area.

As no Catchment Management Agency (CMA) has been established for the Vaal Water Management Area, all powers and duties of the CMA in this area vests in terms of Section 72(1) of the National Water Act of 1998 (Act 36 of 1998) in the Minister of Human Settlements, Water and Sanitation.

The Minister of Human Settlement, Water and Sanitation may in terms of item 6 (1)(i) of Schedule 3 to the Act limit and prohibit the use of water in the area concerned if the Minister on reasonable grounds believes that a water shortage exists or is about to occur within the area concerned. This power has been delegated to me in terms of section 63 (1) (b) of the Act.

Therefore, in my capacity as the Acting Director-General of the Department hereby under delegated authority in terms of 6 (1)(i) of Schedule 3 to the Act limit and prohibit the use of water in the area concerned during the months as follows:

1. The limitation and prohibition of the taking of water from the Liebenbergsvlei River applies from 1 October 2019 until 30 November 2019.
2. The limitation and prohibition terms of this notice applies only to the taking of water as contemplated in section 21(a) of the Act for agricultural purposes from the Liebenbergsvlei River within the area concerned, and "agricultural purposes" means the use of water for the irrigation of land.
3. No water may be taken from the Liebenbergsvlei River for any agricultural purposes between 06h00 on a Saturday until 06h00 on a Monday succeeding that Saturday.
4. From 1 October 2019 to 30 November 2019 water may be taken as follows:
 - a. Water users on the left banks of the Liebenbergsvlei River may, from 06h00 to 06h00 on Monday, Tuesday and Wednesday, take water for agricultural purposes,

- b. Water users on the right banks of the Liebenbergsvlei River may, from 06h00 to 06h00 on Wednesday, Thursday, Friday and Saturday, take water for agricultural purposes.
5. Water may only be taken with waterworks as they were in operation on 27 September 2019.
6. Left bank of the river is defined as the left side of a person if that person looks in the direction the water flows in the river concerned.

In exercising the powers, I have given preference to the maintenance of the Reserve, treated all water users on a basis that is fair and reasonable, considered the actual extent of the water shortage, the likely effects of the water shortage on the water users, the strategic importance of any water use and any water rationing or water use limitations by a water services institution having jurisdiction in the area concerned under the Water Services Act (Act 108 of 1997).

Placing the limitation and prohibiting the taking of water as set out in this notice is an administrative action affecting the rights of the public as contemplated in section 4 of the Promotion of Administrative Justice Act (Act 3 of 2000) (PAJA). After taking into consideration all relevant factors, including those referred to in section 4(4)(b), I have decided that it is reasonable and justifiable in the circumstances to depart from the requirements referred to in section 4(1)(a) to (e), (2) and (3) and instituted this limitation and prohibition without allowing the water users affected and other role players to comment on the matter before I instituted the limitation and prohibition.

The required inspection and maintenance of the tunnel commence during October 2019 and this does not allow enough time for users affected and other role players to comment on the matter before the required inspection and maintenance of the tunnel commence.

NAME: *Onu Fundakubi*
ACTING DIRECTOR-GENERAL

DATE: *2019/08/31*

