

16th January, 2013

LEGAL NOTICE NO. 8

THE WATER ACT
(No. 8 of 2002)

IN EXERCISE of the powers conferred by section 17 of the Water Act 2002, the Water Resources Management Authority, with the approval of the Minister for Water and Irrigation, makes the following Order:—

THE LAKE NAIVASHA CATCHMENT AREA PROTECTION ORDER, 2012

Citation

1. This Order may be cited as the Lake Naivasha Catchment Area Protection Order, 2012.

Interpretation

L.N.171 of 2007

2. In this Order, unless the context otherwise requires—

“Associations” means the water resources users associations appointed as agents of the Authority under paragraph 6;

“Authority” means the Water Resources Management Authority established under section 7 of the Act;

“feeder rivers” means the rivers Malewa, Karati, Turasha, Gilgil, Nandarasi, Wanjohi, Mkungi, Kitiri, Marmanet, Kinja and Nyamamithi which feed into Lake Naivasha;

“Lake Naivasha Catchment Area” means the area demarcated as hydrological system 2G, as illustrated in the First Schedule;

“Lake Naivasha riparian land” means all that land and water enclosed within the Moi North Road and South Lake Road of Naivasha District which falls below the 1892.8 metres above sea level (6,210 feet above sea level) contour;

“Lake Naivasha Catchment Area Water Allocation Plan” means the water allocation plan as published by the Authority in respect of the Lake Naivasha Catchment Area;

“riparian land” means the riparian land as defined in the Water Resources Management Rules, 2007.

“Soil And Water Conservation Plan” means Soil and Water Conservation Plan as defined in The Water Resources Management Rules, 2007.

Application of the Order

3. This Order shall apply to the use of water of the Lake Naivasha Catchment Area.

Declaration of protected area

4. The Lake Naivasha Catchment Area is declared to be a protected area for the purposes of the Act.

5. (1) The Lake Naivasha Catchment Area Water Allocation Plan shall come into effect within three months of this Order and shall be the basis for allocation of water in the Lake Naivasha Catchment Area.

(2) Prior to the coming into effect of the Lake Naivasha Catchment Area Water Allocation Plan, the Authority shall not consider, issue or otherwise approve new permits for water abstraction or variations of existing water abstraction permits the effect of which would be either to increase the quantity of water which may be abstracted or substantially to alter the primary purpose for which the water may be abstracted under the existing permit.

Appointment of agents.

6. (1) The Authority, by an instrument of appointment, shall appoint such Water Resources Users’ Associations as agents according to the criteria set out in the Second Schedule.

(2) The Associations, as agents of the Authority shall, within their areas of geographical jurisdiction—

(a) gather information about water resources;

(b) monitor the use of water;

(c) facilitate compliance to this Order;

(d) enforce compliance with the conditions of water use permits;

- (e) ensure water use charges are deposited into the Authority's account by the water users;
 - (f) issue receipts upon proof of payment of water use charges;
 - (g) reconcile fees paid with water use;
 - (h) monitor revenue collections and follow up payment on non-revenue generating water used.
- (3) The appointed agents of the Authority shall be entitled to a proportion of the monthly revenues of water use charges collected as agency fees for their services.

Soil and Water Conservation Plan L.No 171 of 2007

7. (1) Every Association shall prepare and submit to the Authority, within such period as shall be specified by the Authority in the instrument of appointment, a Soil and Water Conservation Plan prepared in accordance with the Water Resources Management Rules 2007 in respect to its area of operation.

(2) The Soil and Water Conservation Plan shall apply and be implemented for a period of three years from the date of its submission to the Authority.

Information

8. (1) The Authority shall place signboards in or near the water resource or in appropriate public places frequented by water users and at the Authority's offices to display up to date information about the condition of the water resources of the Lake Naivasha Protected Area.

(2) The public notices shall contain information regarding the action required of water users to conserve and protect the water resources of the protected area.

Water abstraction

9. (1) Every user of water of the protected area shall be required to submit on a monthly basis to the Association operating in the area of the water abstraction, records of that user's total water abstraction.

(2) Every Association shall compile on a quarterly basis, abstraction records and shall submit them to the Authority in such format as shall be specified by the Authority.

(3) Every user of water from the protected area shall ensure that a water meter or other water use measuring device approved by the Authority is installed at their water intakes.

(4) Every user of water from the protected area shall ensure and periodically check to confirm that their water meter or the approved measuring device is not defective.

(5) Every user of water shall take into account the reserve water requirements as determined by the Minister.

Eucalyptus trees

10. (1) No person shall till or cultivate, clear indigenous trees or other vegetation, build permanent structures, develop or operate greenhouses and tunnels used to grow horticultural crops, dispose of effluent or waste water without treatment, excavate soil or rock, plant exotic species, or irrigate within Lake Naivasha and the feeder rivers' riparian land without the prior written approval of the Authority.

(2) The approval shall be issued upon consultation with the Association operating in the area.

(3) In considering an application for approval under this Order, the Authority shall comply with the provisions of section 29(4) of the Act in regard to public consultation and environmental impact assessment.

Prohibited activities

11. All landowners or occupiers of land within the protected area shall be required to uproot, within one year of this Order, all eucalyptus trees growing within the Lake Naivasha and the feeder rivers' riparian land and to replace them with ecologically and economically suitable tree species.

Inspectors

12. (1) The Authority shall appoint inspectors who shall inspect all points of water abstraction within the protected area on a periodic basis and ascertain that water use is in accordance with the Act.

(2) Every landowner or occupier of land shall grant access to the inspectors to enable them to carry out their duties and shall furnish the inspectors such information and produce for inspection such documents as the inspector requires within a period of forty eight hours.

Offences

13. (1) Any person who contravenes this Order commits an offence and is liable upon conviction to a fine of Fifty thousand shillings or to imprisonment for a term not exceeding six months or both such fine and imprisonment.

(2) Any person who contravenes this Order is liable to such administrative actions as may be prescribed by the Authority and not limited to the cancellation of his permit.

FIRST SCHEDULE
(p.2)

MAP 1. LAKE NAIVASHA CATCHMENT AREA
IMAGE

SECOND SCHEDULE
(p.6)

CRITERIA FOR APPOINTMENT OF LAKE NAIVASHA CATCHMENT AREA
WATER RESOURCES USERS ASSOCIATIONS

Feature	Criteria	Indicator
Governance	Registration with Attorney	Registration certificate.
	General.	Constitution.
	Registration with Water Resources Management Authority.	Registration certificate.
	Membership.	Members of the Water Resources Users Association - list/records.
	Elected board/committee – registered no interim arrangements.	Code of conduct by-laws/ operational rules.
	Administrator in place.	Annual plan and budget.
	Quarterly meeting records.	Appointment letter.
	Annual General Meeting.	Signed minutes.
Administration	Office space min: 10 Square metres.	Annual report.
	Official post office box.	Lease agreement/ title deed.
	Official telephone number.	Box rental receipt.
	Email address accessible to all.	Registration of Telephone number.
	Filing system for Official records in place e.g. abstraction, data, etc.	Functional email address
Finance	Bank account for WRUA activities	Filing index.
	Books of Accounts.	3 months bank statements.
Personnel (Administrator)	Education Minimum level	Audited Accounts.
	Interview selection.	KCSE or equivalent.
	Integrity.	Interviewing panel's decision
		Certificate of good conduct.
		References.

PHILLIP OLUM,
Chief Executive Officer,
Water Resources Management Authority.

Approved on the 20th December, 2012.

C. K. NGILU,
Minister for Water and Irrigation.