

ORDINANCE IX OF 1978
BALUCHISTAN GROUND WATER RIGHTS ADMINISTRATION
ORDINANCE, 1978

*An Ordinance to provide for the management of Ground Water
Rights in Baluchistan*

[Gazette of Baluchistan, Extraordinary, 22nd March 1978]

No. Legis. 1-47/Law/71.—The following Ordinance made by the Governor of Baluchistan on the 21st March 1978, is hereby published for general information :—

Preamble.—Whereas it is necessary to provide for a law to regulate the use of Ground Water and to administer the rights of various persons therein.

And whereas the Governor is satisfied that circumstances exist which render it necessary to take immediate action ;

Now, therefore, in pursuance of the Proclamation of the fifth day of July 1977, read with the Laws (Continuance in Force) Order, 1977 (C. M. L. A. Order No. 1 of 1977) and in exercise of all powers enabling him in that behalf, the Governor of Baluchistan is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Baluchistan Ground Water Rights Administration Ordinance, 1978.

(2) It extends to the entire Province of Baluchistan except the Tribal Areas.

(3) It shall come into force at once.

2. *Definitions.*—(1) In this Ordinance unless there is anything repugnant in the subject or context, the following terms shall be defined as under :—

(a) "Provincial Water Board" means a body consisting of such members as may be appointed by the Government to administer the ground water rights and to lay down policies for conservation and development of ground water resources.

(b) "District Water Committee" means a body consisting of such official and non-official members of the District as may be notified by the Government for carrying out the functions mentioned in this Ordinance.

(c) "Basin" means the surface area within a given water-shed.

(d) "Acquifer" means a preable geological formation that stores and transmits water.

(e) "Base Run-Off" means sustained or dry weather flow. In most streams base run-off is composed largely of subsurface run-off.

(f) "Depletion" means the continued withdrawal of water from a surface or ground water stream, reservoir or basin at a rate greater than the rate of replenishment.

(g) "Abandoned Well" means any well whose use has been permanently discontinued. Any well shall be deemed abandoned which is in such a state of disrepair of obtaining ground water is impractical.

3. *Establishment and functions of Provincial Water Board.*—(1) There shall be a Provincial Water Board consisting of :—

(a) Additional Chief Secretary (Development)/Commissioner P & D Government of Baluchistan.

(b) Member, Board of Revenue, Baluchistan.

(c) Secretary, Government of Baluchistan, Irrigation Department.

(d) Two such other non-official members as the Provincial Government may appoint.

(2) The Government may appoint the Secretary, Government of Baluchistan, Irrigation Department as the Director of Board.

(3) The tenure of the office of the non-official members in the Board will be terminated after three years.

(4) The Government may appoint any member of the Board for a second term of three years.

(5) The Government may also make any change in the composition of the Board whenever necessary.

(6) The Provincial Water Board will :—

(a) Lay down policies for conserving and developing the ground water resources in Baluchistan.

(b) Make rules and regulation for use of ground water resources and administering the water rights of various persons ;

(c) Act as a supervising and controlling authority of the various water committees ;

(d) Work as revisional authority against the decisions of Water Committees and other tribunals charged with the administration of Water rights ;

(e) Identify aquifers of ground water and declare such aquifers as it may consider necessary as Designated Ground Water Basins ;

(f) Such basins shall be notified by the Board in the official Gazette ;

(g) The Board will arrange to determine the existing withdrawal of ground water through tube-wells/open surface wells/persian wells/karezes or any other means ;

(h) All the existing open surface wells/tube-wells/karezes/springs and any other device of the extracting ground water will be got registered with the Provincial Water Board.

(i) All such registered wells/karezes/springs and other means of extracting ground water will be notified by the provincial Water Board.

(j) The Water Board will also lay down distances between wells/springs

and karezes within which the District Water Committees shall be allowed to issue permits ; and

(k) It shall also determine the safe yield in respect of each basin beyond which the District Water Committee will not be authorised to issue further permits.

4. *Establishment of Water Committee.*—(1) There shall be a water committee in each District to be constituted by the Government.

(a) The Committee shall consist of Deputy Commissioner, Executive Engineer, Extra Assistant Director Agriculture and one of the non-official members to be nominated by the Government. Executive Engineer Irrigation will be the Secretary of the Committee.

(b) The Committee shall work under the direct supervision and over-all control of the Provincial Water Board for the purpose of carrying out the objectives of this Ordinance.

(c) No person will be allowed to extract ground water within designated ground water basins, without the permission of the District Water Committee.

(d) Any person who wants to extract ground water within designated ground water basin will submit an application on prescribed form to the District Water Committee.

(e) The Committee will invite objections in respect of the above application from various persons having any interest in the ground water either in the vicinity of proposed place of mining of ground water or in the basin as a whole.

(f) The Committee will hear all such objections and will give due opportunity to all such interested persons to produce evidence in respect of their contention. After hearing the parties it will either grant permission to the applicant to mine the ground water subject to such conditions as may be prescribed by it or it may reject the application.

(g) The District Committee while accepting or rejecting the application will give grounds for doing so.

(h) The Committee will have the power to stop the extraction of ground water by any unauthorised person.

(i) The Committee will also have the power of forfeiting any machinery, equipment and tools deployed for the purpose of unauthorised extraction of ground water.

(j) The Committee may also take cognizance of any dispute pertaining to any tube-wells/surface wells/karezes pending before any Revenue Officers.

(k) The Committee will also issue a permit to any person applying for a new tube-well which is a substitute for the abandoned well. The Committee may not hear objections in such cases.

(l) The Committee may allow a permit holder to change the location of his well before the completion of the well. It will amend the permit if it considers that the change of location does not affect the existing water rights of any other person.

(m) While issuing permit the Committee will ensure that the extraction of water by a permit holder does not cause depletion of perennial stream or any other perennial source of water.

(n) The decision of the District Water Committee on an application submitted to it for extraction of ground water will be governed by the decision of the majority of the members.

(o) Any person aggrieved of any order of the District Water Committee may file an appeal before the Commissioner of the Division within a period of 30 days.

(p) The provincial Water Board shall have the power to call for the record of any case relating to the Water rights pending either before the District Water Committee or the Commissioner, to examine and satisfy itself as to the regularity, propriety and legality of these proceedings. It may set aside any of the order and quash the proceedings if it considers that any material irregularity has occurred so as to occasion a miscarriage to justice.

5. *Functions of Water District Committee.*—(1) The District Water Committees shall be responsible :—

(a) To implement the policies and directions given to it by the Provincial Water Board from time to time ;

(b) To issue water permits to various water users ; and

(c) To hear and decide the objections raised by various persons about the use of ground water.

6. *Offences and penalties.*—(1) Any person contravening any of the provisions of this Ordinance shall be punished with imprisonment of either description for a term which may extend to one year or with fine or with both.

(2) The offence under the Ordinance shall be bailable.

(3) The Court shall not take cognizance of offence under this Ordinance unless a complaint in writing has been made by the District Water Committee.

(4) The Court while passing any sentence on a person accused of violating any provisions of this Ordinance may also order payment of compensation to the aggrieved person out of fine imposed on the accused.

7. *Rule making.*—The Government may make rules to carry out the purpose of this Ordinance.