

2022 | 2023

CME ANNUAL REPORT

COMPLIANCE MONITORING AND ENFORCEMENT (CME)

WATER IS LIFE - SANITATION IS DIGNITY

SOUTH AFRICA IS A WATER SCARCE COUNTRY



water & sanitation

Department:
Water and Sanitation
REPUBLIC OF SOUTH AFRICA



BREED-GOURITZ
CATCHMENT MANAGEMENT AGENCY

FORWARD



The Compliance and Enforcement Annual Report focuses on the **2022/2023** financial year in terms of internal compliance monitoring and enforcement technical and financial performance, sectorial performance or behaviour, and joint operations with our sector partners. It further provides a breakdown of strategic matters crucial to the strengthening of regulation, including information management, capacity building and stakeholder engagements.

No legislative provisions or standards can be effective unless it is complied with and enforced where there is non-compliance. The Departments' Compliance and Enforcement unit performs one of the key regulatory functions to realise the Constitutional rights of everyone having access to sufficient food and water with an environment that is not harmful to their health and wellbeing through the compliance monitoring and enforcement of the National Water Act, 1998 (Act no. 36 of 1998) (NWA), and the Water Services Act, 1997 (Act no. 108 of 1997) (WSA), as well as their supporting regulations.

The Compliance Monitoring function promotes and monitors status of compliance of water users to standards, with water use authorisation conditions and regulations across all sectors. The Enforcement function ensures that a set of actions (administrative, criminal, and civil) are taken against non-compliance with the provisions of the National Water Act as a Specific Environmental Management Act (SEMA) under the National Environmental Management Act (Act no. 107 of 1998) (NEMA).

The Department of Water and Sanitation (DWS) constantly strives to enhance the compliance and enforcement procedures, protocols and instruments for effective functioning within the Environmental Management Network. In support of an enhanced compliance and enforcement capacity there are ongoing training and designation of officials as Environmental Management Inspectors (EMI's). The current total of EMI's designated by the Minister of Water and Sanitation is one hundred and twenty-four (124.) The DWS is part of the blue sector (freshwater) and brown sector (waste) and its performance data is also reported under the Environmental Secretariat and EMI network.

A significant part of the DWS Compliance Monitoring and Enforcement (CME) Strategy is the commitment to training and capacity building as well as access to information relating to CME. The National Compliance Information Management System (NCIMS) and the Enforcement Case Management System (ECMS) are operational with future integration planned into one Integrated Regulatory Information System (IRIS) together with Wastewater and Drinking Water (Green Drop and Blue Drop Programmes).

The development of the DWS CME Standard Operating Procedure (SOP) Manual has been finalised to harmonise and standardise operating procedures within the water sector that will allow the CME officials and EMIs to perform their duties in an administrative just and legal defensive manner and conform to the chain of custody process and actions at national, regional and Catchment Management Agency (CMA) levels to result in successful court cases.

A handwritten signature in black ink, appearing to read 'S. Mchunu'.

Minister of Water and Sanitation: Mr Senzo Mchunu, MP

Date: 28 / 8 / 23

ACRONYMS

ARC	Agriculture Research Council
APP	Approved Professional Person
APP	Annual Performance Plan
AOR	Annual operating rules
BGCMA	Breede-Gouritz CMA (will be reported on new name (Breede-Olifants (BO) CMA) from 2023/24 annual report)
CETT	Compliance and Enforcement Task Team
CoT	City of Tshwane
CAS	Criminal Administrative System
CMA	Catchments Management Agency
CME	Compliance Monitoring and Enforcement
CPA	Communal Property Association
DFFE	Department of, Forestry, Fisheries and Environment
DHSWS	Department of Human Settlement, Water and Sanitation
DWS	Department of Water and Sanitation
ECMS	Enforcement Case Management System
EMI	Environmental Management Inspector
FSC	Forestry Stewardship Council
IUCMA	Inkomati-Usuthu CMA
IWMI	International Water Management Institute
MTSF	Medium Term Strategic Framework
NAP	National Assessment Panel
NEMA	National Environmental Management Act 1998 (Act 107 of 1998)
NWA	National Water Act 1998 (Act 36 of 1998)

NWRS-3	National Water Resource Strategy 3
NCIMS	National Compliance Information Management System
NECER	National Environment Compliance and Enforcement Report
PDAs	Provincial Departments of Agriculture
SEMA	Specific Environmental Management Act
SOF	Systems Operation Forum
SOPs	Standard Operating Procedures
WARMS	Water use Authorisation & Registration Management System
WMA	Water Management Area
WUA	Water Use Authorisation
WWTW	Wastewater Treatment Work
WRC	Water Research Commission

GLOSSARY OF TERMS

“APP” means a professional person who has been approved by the Minister of Water and Sanitation after consultation with the Engineering Council of South Africa and is of relevance to dams with a safety risk. For a list of registered APPs got to <http://www.dwa.gov.za/DSO/APP.aspx>.

“Compliance” refers to the “state of conformity” with the law. Means the act or instance of complying, obeying or meeting the conditions of legally enforceable documentation, such as Acts, Regulations, Authorisations, Entitlements.

“Communal Property Associations” means a juristic person holding and managing an immovable property on behalf of a community under a written constitution in terms of the Communal Property Associations Act 28 of 1996.

“Compliance Monitoring” means a planned and scheduled monitoring by the regulated authority in which all the conditions of an authorisation are assessed for compliance, and where the water user is afforded an opportunity to indicate status of compliance with the conditions and is requested to substantiate compliance with proof of evidence. Compliance monitoring are normally conducted in accordance with a prepared systematic scheduled plan and conducted throughout the life cycle of a facility’s authorised activity or project to verify status of compliance against legal instrument such as the water use authorisation. Therefore, compliance inspections will always include follow-up inspections and is not an once off action.

Compliance inspections and compliance audits are instruments applied to ascertain status of compliance of an authorised water user against their water use authorisation.

These include –

- Initial Compliance Inspections (first inspection of the facility)
- Follow-up Compliance Inspections (after initial inspection and action plan timeframe of rectifying non-compliances identified or new stage of project life cycle of facility [construction, rehabilitation, operation, maintenance, decommissioning])
- Joint Compliance Inspections (with other regulating institutions)

“Contravention” means any act or omission which violates the law or conditions of the water use entitlement as issued in terms of the law and is often listed as offences under legislation.

“Dam with a Safety Risk as defined in NWA” means any dam:

- (i) which can contain or store more than 50 000 cubic metres of water, whether that water contains any substance or not, and which has a wall of a vertical height of more than five metres, measured as the vertical difference between the lowest downstream ground elevation on the outside of the dam wall and the non-overspill crest level or the general top level of the dam wall;
- (ii) belonging to a category of dams declared under section 118(2) of the Act to be dams with a safety risk; or
- (iii) declared under section 118(3)(a) to be a dam with a safety risk.

“Enforcement” occurs after one or more contraventions have been detected. It involves taking steps to achieve compliance by the water user and correcting or terminating conditions that put the environment or public health at risk. In other words, if the compliance and enforcement cycle is considered as a system based on a ‘carrot and stick’ approach, enforcement is the ‘stick’ whereas compliance promotion mechanisms are the ‘carrots’.

“Enforcement tool” National Environmental Management Act (Act no 106 of 1998) (NEMA) and the Specific Environmental Management Act (SEMA) have given enforcement an expanded range of tools that can be used to enforce compliance or punish non-compliance. These include –

- Warning letters
- Directives
- Compliance notices
- Instructions to undertake audits
- Admission of Guilt fines
- Civil interdicts
- Criminal prosecutions

“Entitlement” means a right to use water in terms of applicable provision of the NWA, or in terms of an instrument issued under this Act; and includes schedule 1 use, general authorisation, existing lawful use or water use license.

“Interdict” means an authoritative prohibition.

“Investigation” means formally or systematically gathering of admissible evidence as a result of a reasonable suspicion of non-compliance, with the

view of possibly taking enforcement action for corrective measures to be implemented.

An investigation requires a **“reasonable suspicion”** that an act or omission “might constitute” an offence in terms of a breach of the environmental legislation or of permits / WUAs issued under that legislation. Rules for admissibility of evidence for prosecuting non-compliance are more onerous (chain of custody, admissions).

“Non-compliance” refers to where an authorised water user or person that does not adhere to the requirements of the Act or water use entitlement.

“Notices/directives issued” means administrative enforcement tools that are issued to a water user who has contravened the condition/s of the entitlement or transgressed the provision/s of the NWA. These tools instruct the water user to take corrective action (e.g. ceasing an activity, undertaking rehabilitation, submitting information).

“Self-Regulation” means self-monitoring, auditing and reporting by the authorised water user as required in terms of the water use authorisation. The water user is required to monitor and assess its own compliance and report the results, including water use violations, and appoint an independent auditor to audit compliance against the water use authorisation conditions and report findings in prescribed time frames. Internal annual audits and external annual audits as per conditions of a water use license to be conducted or annual environmental audits and/or audit findings per request in terms of the GA GN 509 of 2016 and/or audit findings on request in terms of GA GN 665 of 2013 to be conducted and submitted to the department in a specific timeframe. The Government Notice 704 dated June 1999 pertaining to regulations of mining also requires self-regulation. Self-monitoring records, data and reports are an

integral component of self-regulation as set out in legal instruments. Self-regulation enables the authorised water user to identify non-compliances and rectify it through corrective actions.

It is therefore a screening, early warning and/or red-flag tool of status of compliance of a water user and a planning tool for the Regulator for compliance inspection targets.

Prosecution” means the institution and conducting of legal proceedings against someone in respect of a criminal charge.

“Outcome 10” the environmental sector, which includes all organs of state with an environmental management or impacting function led by the Department of Forestry, Fishery and Environmental (DFFE) (which is responsible for the implementation of Outcome 10 concerned with protected and enhanced environmental assets and natural resources as one of the Government priorities). The 2009 Policy Framework approved by the Cabinet and tabled in Parliament provided the basis for an “outcomes approach”. The Outcome 10 information feeds into the National Environmental Compliance and Enforcement Report (NECER)

“The Act” National Water Act, Act no 36 of 1998.

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1. INTRODUCTION

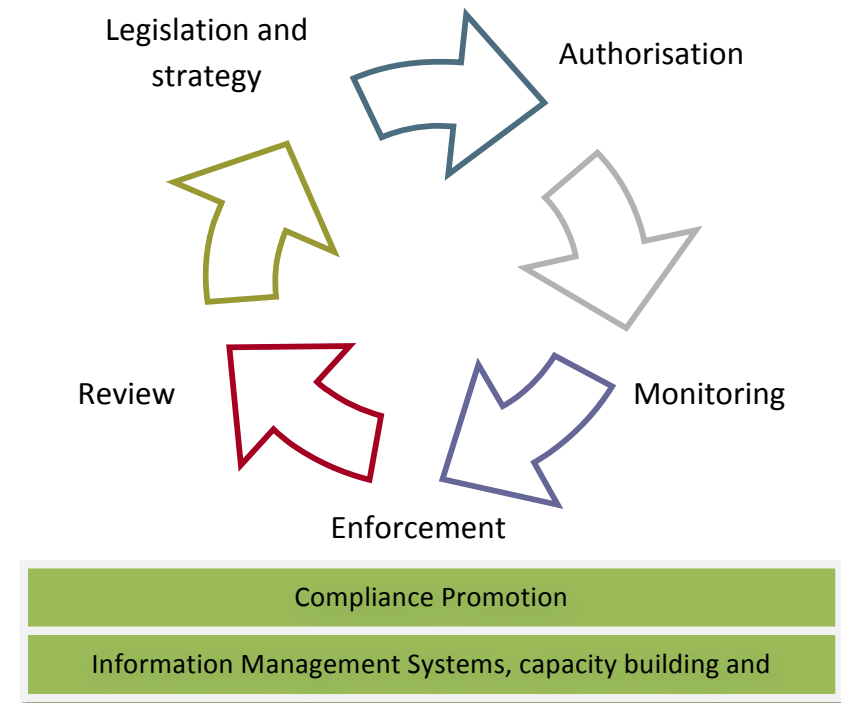
This year marks the 9th year for the Department of Water and Sanitation (DWS) to compile an annual report on Compliance Monitoring and Enforcement (CME) on the previous financial year performance (2022/2023).

This report is aimed at all internal and external stakeholders, including the general public and a range of public and private institutions. In this respect, the report seeks to fulfil information requirements as per the Promotion of Access to Information Act, 2000, Act No 2 of 2000 (PAIA) and the Promotion of Administrative Justice Act, 2000, Act No 3 of 2000 (PAJA) of regulators, the regulated, and the public, interested and affected parties. The report is designed to provide:

- An overview of CME measures undertaken by the Department to contribute to governments initiatives giving effect to Section 24 of the Constitution;
- Non-government organisations and action groups with information related to specific CME activities with regard to certain facilities or sectors;
- Compliance performance evaluation of all sectors and also highlights the performance as per Outcome 10 requirements/targets;
- Awareness by creating an atmosphere where people choose to comply with the relevant legislation rather than to violate it.

The Departmental Compliance and Enforcement strategy (approved 2018) recognises DWS as a key partner in the Environmental Management Inspectorate as well as the benefits provided by the EMI network. The Strategy is benchmarked against the EMI National Compliance and Enforcement Strategy of 2014.

The Strategy sets out CME's role in the regulatory cycle from setting policy and legislation, to authorisation, compliance promotion, compliance monitoring and enforcement.



The strategy accordingly considers issues in respect of all the aspects of the cycle, including those that EMIs are not directly responsible for because –

- the effectiveness of compliance and enforcement depends on all the elements of the regulatory cycle being addressed, and

- the undertaking of any one of the elements has implications for the ability of the other elements of the regulatory cycle to function effectively.

The objectives of CME are to:

- Give effect to the human right of access to water (section 27) and the right to an environment not harmful to our health and wellbeing (section 24) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);
- Promote compliance and self-regulation;
- Guide regular, strategic, effective and efficient monitoring of compliance throughout a water user's project life cycle with DWS legislation;
- Provide prompt and effective enforcement action in the event of a suspected contravention of DWS legislation, including criminal prosecution;
- Inform all stakeholders of the principles that will guide enforcement action in the event of suspected contraventions of DWS legislation;
- Achieve progressive improvement of compliance with DWS legislation; and
- Ensure sustainable water resources through improved water quality and quantity practices.

The main objectives of the DWS CME Strategy that were progressively implemented during the last few years were the basic EMI training of DWS Compliance Monitoring and Enforcement (CME) officials and designation as EMIs where during this reporting period 124 EMIs have been designated. Access to information and information management was also a key drive where the NCIMS and ECMS has been enhanced and CME officials supported in use of these CME IT Application systems and trained on a quarterly basis. DWS CME standard operating procedures (SOPs)

were aligned with DFFE SOPs and developed for DWS functions and processes.

Other compliance monitoring techniques have been explored to increase the outputs of compliance inspections and desktop self-regulation audits in some water sectors have been conducted as an early warning or red flag tool to identify status of compliance of the water users in terms of their self-regulation monitoring, auditing and reporting. A draft SOP for self-regulation audits of water users complying against their WUAs have been developed during this reporting period.

The establishment of a dedicated unit equivalent to the DFFE Capacity building and support Unit in the WUCME office to take responsibility of EMI training, training material, overarching protocol development and systems integration and support has been a major achievement as set as an objective in the DWS CME Strategy.

Strategic Objective as planned in the Master Plan for CME to finalise the CME SOPs has been achieved.

1.1 VISION AND MISSION OF THE DEPARTMENT

Guided by the National Development Plan and the NWRS 3rd Edition (together with national policies and strategies on water and sanitation), the DWS articulates – for itself and the sector it leads – the following vision:

“To ensure equitable and sustainable water and sanitation that support socio-economic growth and development for the well-being of current and future generations”.

Working towards the achievement of its vision, the DWS (together with the sector it leads) defines its mission (aim) as follows:

To ensure access to equitable and sustainable water and sanitation services by:

- Protecting, developing, conserving, managing and regulating water and sanitation services;
- Managing, regulating and providing efficient and effective water and sanitation services;
- Providing strategic leadership and evidence-based policy direction to a coordinated water and sanitation sector for improved sector performance and service delivery
- Building the skills and capabilities of the sector and enhancing information management to inform decision making; and
- Enhancing communication and stakeholder partnerships with communities and sector constituencies to advance the national development agenda.

1.2 ANNUAL PERFORMANCE PLAN: PROGRAMME 2 AND 3

Regulation is planned and reported under Programme 2 (water resource management) and Programme 3 (water services management)

1.2.1 PROGRAMME 2: WATER RESOURCE MANAGEMENT- WATER RESOURCE REGULATION

Is responsible for the protection, use, development, conservation, management and control of water resources in a sustainable manner for the benefit of all people and the environment. It provides for the

development of a knowledge base for proper planning and informed decision making. It also provides for the development of effective policies and procedures as well as oversight of all water resource management institutions.

Water Resources Regulation develops, implements, monitors and reviews water resource regulations particularly raw water pricing regulation; water use authorisation; compliance monitoring and enforcement; dam safety and resource protection and waste.

1.2.2 PROGRAMME 3: WATER SERVICES MANAGEMENT – WATER SERVICES REGULATION

Addresses the water and sanitation services provision across water and sanitation value chain in support to water service authorities. The integration of bulk and retail water services to improve the coherence of the sector and to realise economies of scale and efficient use of water. It also provides for the development of effective policies, strategies, guidelines and procedures and plans as well as oversight and regulation of all water service management institutions.

Water Services Regulation develops, implements, monitors and reviews water services regulations particularly the water service authorities' compliance with water services regulations and norms and standards.

The regulation function is performed by the Branch: Regulation, Compliance and Enforcement and its four business units:

- a) Economic and Social Regulation
- b) Water Use Licensing Authorisation
- c) **Water Use Compliance Monitoring and Enforcement** and
- d) Dam Safety Office

1.3 WATER USE COMPLIANCE MONITORING AND ENFORCEMENT (WUCME)

The Chief Directorate: Water Use Compliance Monitoring and Enforcement (WUCME) functions are the -

- Determination of regulations, norms and standards, processes for monitoring compliance of municipal wastewater service institutions; municipal drinking water service providers;
- Determination of water resources, standards and regulations; development and oversight of implementation of compliance strategies, guidelines and standard operating procedures; enforcement of compliance to regulatory pre-scripts;
- Capacity building, information management and support.

Directorate and unit established under WUCME:

- Directorate: Wastewater Service Regulation (Green drop)
- Directorate: Drinking Water (Blue drop)
- Directorate: Water Resource Regulation
- **Directorate: Compliance Monitoring**
- **Directorate: Enforcement**
- **Capacity Development, information systems and support unit**

The Compliance Monitoring and Enforcement components are responsible for CME functions and processes protocols, procedures, tools and systems to be developed and implemented to enable compliant water sectors and described below in more detail.

An overarching Capacity Development, Information Systems and Support unit within the WUCME office as far back as 2018 when the CME Strategy was approved been identified to be established to coordinate and provide strategic capacity development and training, information management

and integration of systems and legal, scientific and engineering support to water services regulation, water resource regulation and compliance monitoring and enforcement.

1.3.1 DIRECTORATE COMPLIANCE MONITORING

The Directorate: Compliance Monitoring monitors compliance to standards, conditions of authorisations and regulations across the full water value chain in a way that triggers appropriate enforcement or other regulatory enhancing action if needed.

The Directorate Compliance Monitoring is responsible for:

- Developing the national systems, strategies, procedures and protocols required to enable effective compliance monitoring;
- Developing the appropriate training material for compliance inspectors; provision of training and support to officials in DWS and CMAs and its institutions to effectively carry out their compliance monitoring responsibilities as well as its stakeholders;
- Coordinating planning and reporting of compliance monitoring in the Annual Performance Plan and Outcome 10 for DWS and its institutions and contribute to the annual CME report; and
- Coordinating the compliance promotion activities.

1.3.2 DIRECTORATE ENFORCEMENT

Enforcement promotes and enforce compliance to water and other relevant legislation; enables successful prosecution through effective investigations and joint operations; identify, develop and implement appropriate enforcement tools and information management systems based on current experience and best practices locally and internationally to assist in attaining compliance; document and share lessons learnt as

well as case law on water issues to enable the DWS to take effective enforcement action against transgressors and building capacity and skills base of enforcement personnel within the DWS and its institutions as well as its stakeholders.

Description of functions

Technical Support receives; reviews and recommends matters for civil and criminal actions in terms of the National Water Act and other environmental legislation. The unit further engages with Legal Services and the National Prosecution Authority (NPA) regarding referred cases. Enforcement Support capacitates enforcement personnel in dealing with prosecution matters. The unit further provides advice and support on Criminal and Administrative litigation and undertakes awareness initiatives with various stakeholders (SAPS, NPA, and Judiciary). The Development of tools and guidelines relevant to prosecution. Legal review of administrative action and SOP's.

Criminal Enforcement Unit is responsible for the investigation of criminal case opened against transgressors and provides support for such investigations undertaken by regional Environmental Management Inspectors. The unit ensures improvement of existing criminal enforcement tools based on implementation lessons learned and undertakes occasional training of regional officials.

Investigations Unit is responsible for the development, maintenance and implementation of Standard Operating Procedures (SOPs) and guidelines on investigations. Conduct investigations of suspected and reported non-compliance to DWS legislation. Open cases with the South African Police Service (SAPS) when necessary.

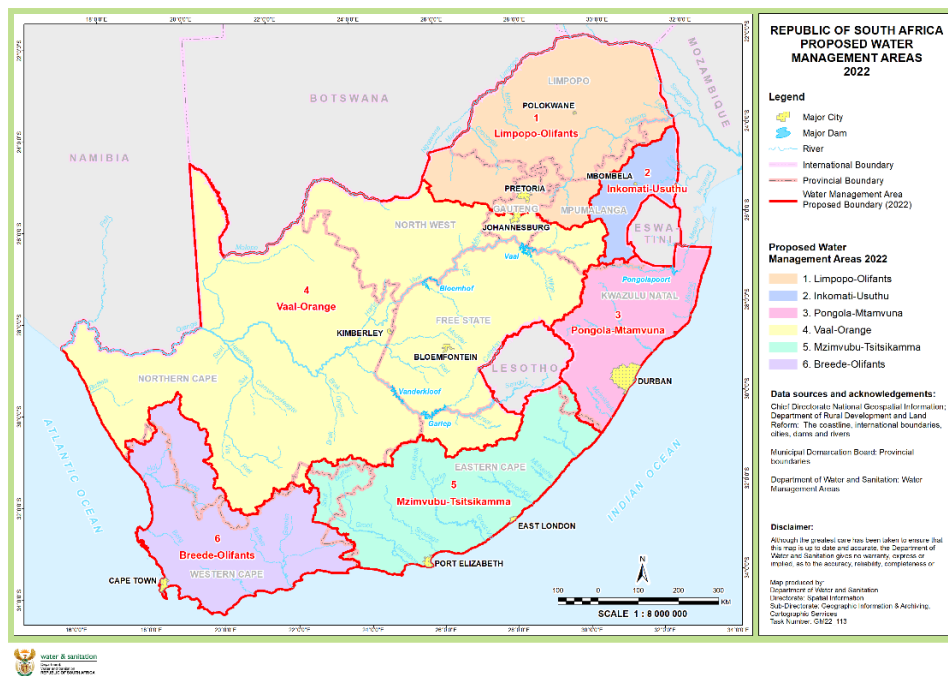
1.4 CATCHMENT MANAGEMENT AGENCIES (CMAs)

The NWA enables the establishment of Catchment Management Agencies (CMAs) in the 9 Water Management Areas (WMAs) established in South Africa. These CMAs will ultimately take responsibility for all activities required to enable and support water resources regulation, including:

- (i) Registration of water use,
- (ii) Authorisation of water use (licensing, etc.)
- (iii) Setting, billing and collecting water use charges,
- (iv) Ensuring dam safety and dam zoning
- (v) Monitoring authorisation requirements,
- (vi) Ensuring compliance (including enforcement),
- (vii) Negotiation of co-regulation and cooperative agreements and ensuring that water related activities are performed in accordance with the Catchment Management Strategy (CMS) that is developed in the relevant WMA.

The DWS has reviewed the reconfiguration of the Water Management Areas (WMAs) from nine (9) to six (6) WMA. It is proposed to establish six (6) Catchment Management Agencies (CMAs) nationally, namely:

1. BOCMA – Breede-Olifants CMA (still Breede Gouritz CMA established during 2022/23 CME annual reporting cycle)
2. IUCMA – Inkomati-Usuthu CMA (established)
3. MT Proto-CMA – currently Mzimvubu-Tsitsikamma Proto-CMA (EL, PE, Umtata)
4. VO Proto-CMA – currently Vaal Orange Proto-CMA (Gauteng, NW, NC [Kimberley & Upington], FS)
5. PM Proto-CMA – currently Pongola-Mtamvuna Proto-CMA
6. LO Proto-CMA – currently Limpopo- Olifants Proto-CMA (Limpopo and Mpumalanga)



The nine DWS Regional Offices falls within these WMAs and provincial boundaries: Also depicted in the Map above.

The two established CMAs namely BGCMA and IUCMA are conducting CME functions in their respective WMAs, and it was agreed in meetings during November 2022 that they will contribute to the national Annual CME Report 2022/23 with respect to their CME APP targets to give a holistic overview of the water sector performance and status of compliance in South Africa.

It was also decided that the DWS CME strategy, protocols, tools, SOPs and systems will be adopted and implement by the CMAs to streamline and align CME and the EMI network. CME training was provided to the CMA CME officials on generic CME concepts, processes & procedures, tools, use

of CME systems and compilation of compliance inspection reports were provided in February 2023 to enable officials to conduct compliance inspections according to due procedures and investigations when enforcing transgressions and/or non-compliances.

Fifteen (15) CMA officials also received EMI training and has been designated as EMIs as depicted in section 2.1 of this report.

1.4.1 BREEDE-GOURITZ CATCHMENT MANAGEMENT AGENCY (BGCMA)

1.4.1.1 Mandate

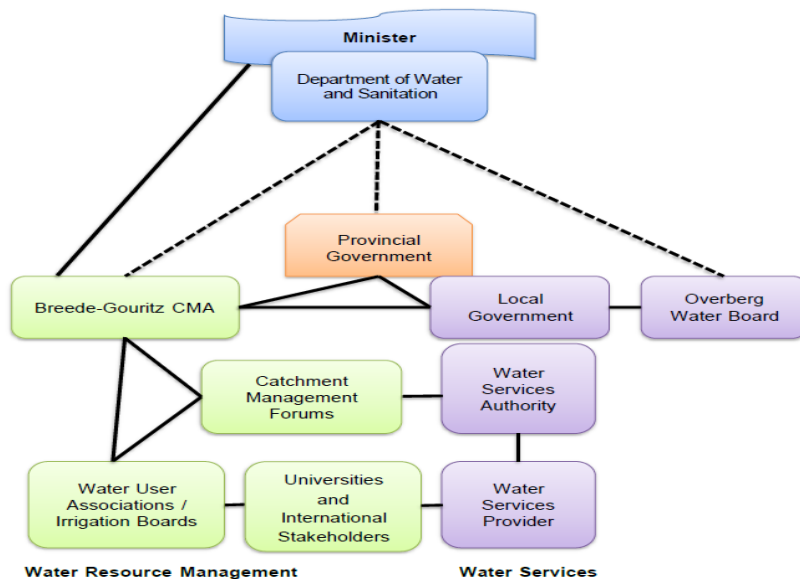
The BGCMA is a water management institution established in terms of section 78 of the NWA and is operational in the Breede-Gouritz Water Management Area (WMA). The BGCMA has functions in terms of section 80 to:

- investigate and advise interested persons on water resource management;
- compilation of the CMS;
- co-ordinate related activities of water users and WMIs;
- promote co-ordination of implementation of any applicable development plan and
- promote community participation in water resource management.

The BGCMA in terms of NWA section 5 develop a catchment management strategy and in terms of 57(2) determine the charges payable to the agency of sectorial water resource management charges and annual waste loads, in line with the National Pricing Strategy. The BGCMA facilitates cooperative governance of water resources through the linking of

National, Provincial and Local Government as well as a host of sector partners and stakeholders.

SITUATIONAL ANALYSIS – INSTITUTIONAL ARRANGEMENTS



1.4.1.2 Water Management Area

Key spatial clusters of economic activity within the CMA are identified as:

- An intensive coastal urban economy in the far western portion of the CMA area (Gansbaai to Hermanus) and in the eastern portion (Mosselbaai to Plettenberg Bay). These areas have some of the largest urban populations in the catchment;
- An intensive irrigation agricultural and small-town economy along the length of Breede River, including Swellendam and Robertson; An intensive irrigation agricultural and small-town economy in the

Grabouw / Theewaterskloof area; A widespread dry-land cultivation economy on the Agulhas Plains (from Napier in the west to George in the east) to the south of the Breede river valley, with occasional small coastal towns, such as Riversdale and Heidelberg;

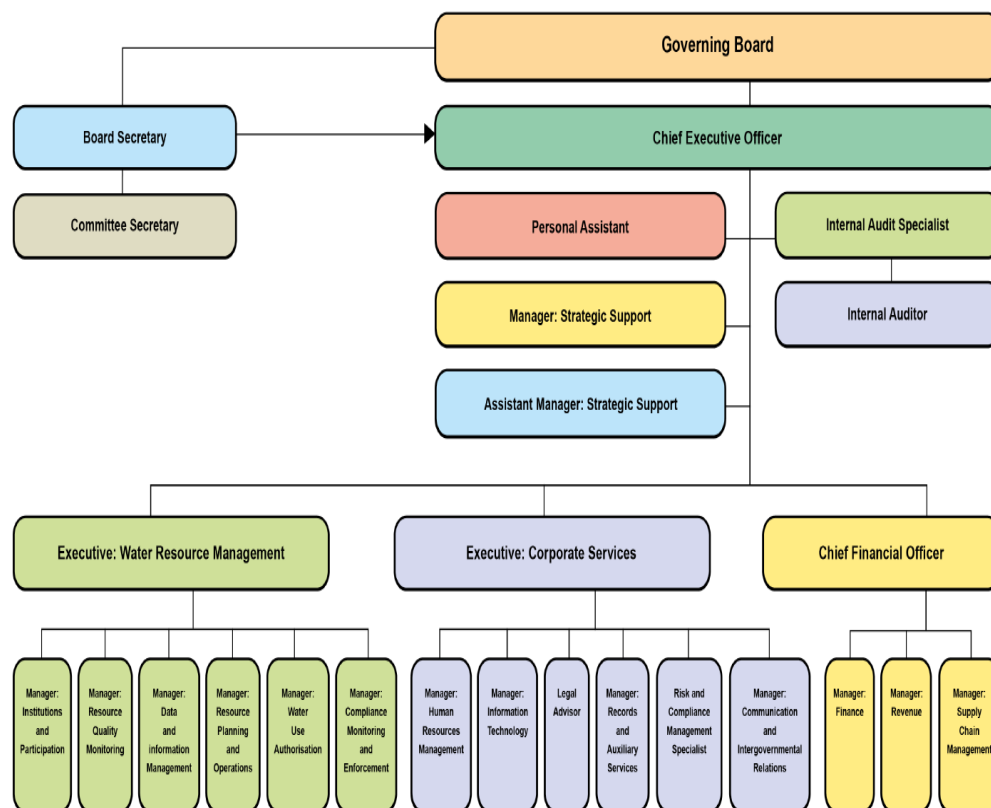
- An extensive farming and small-town economy in Groot and Klein Karoo, including Prince Albert, Beaufort West, Laingsburg and Oudtshoorn; and
- A tourism economy that overlies the whole CMA area, associated with urban areas, protected areas and importantly agriculture.

1.4.2 INKOMATI-USUTHU CATCHMENT MANAGEMENT AGENCY (IUCMA)

1.4.2.1 Mandate

The key legislative and policy mandates for the IUCMA are in terms of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), National Water Act, 1998 (Act 36 of 1998) and Public Finance Management Act, 1998 (Act 36 of 1998), National Water Resource Strategy 2, the National Development Plan, 2023, United Nations Sustainable Development Goals and Southern African Development Community Protocol on shared water courses.

The Compliance Monitoring and Enforcement unit are established under Programme 4 in the Water Resource Management department.



1.4.2.2 Water Management Area

The Inkomati-Usuthu WMA is one of the 6 WMAs in South Africa covering an area of approximately 36256 km² which is divided by the great escarpment (along the Graskop, Sabie, Nelspruit and Barberton axis) into the western plateau and the sub-tropical Lowveld in the east.

1.5 ENVIRONMENTAL MANAGEMENT INSPECTORS (EMI) NETWORK

The amendment of the National Environmental Management Act, 1998 (Act No. 106 of 1998) (NEMA) in 2003, which came effect on 1 May 2005, provided the basis for making statutory appointments of Environmental Management Inspectors (EMIs).

An EMI is a compliance and enforcement staff member of an organ of state who has been trained and designated in terms of section 31B, 31BA, 31BB or 31C of NEMA to secure compliance with certain environmental legislation by conferring a standard set of legislative powers to all government officials responsible for enforcement and monitoring compliance with national environmental legislation. The Inspectorate provides for a unified identity for all of these officials, irrespective of whether they operated in the biodiversity and protected areas, pollution and waste, fresh water or coastal management subsectors.

The designation, functions and powers of EMIs are regulated by sections 31A – 31Q of NEMA and the Regulations relating to the Qualification Criteria, Training and Identification of, and forms to be used by Environmental Management Inspectors ('EMI Regulations', 2016).

In 2008 NEMA was amended to provide the responsible Minister of Water Affairs (now Water and Sanitation) to designate an official of the DWS as an EMI.

The Honourable Minister Nomvula Mokonyane designated the first seven (7) EMIs for the DWS in 2016/2017. Thereafter a project was commissioned to develop and train DWS and CMA officials up to 2019 after which training reverted back to bi-annual EMI Basic Training sessions offered by DFEE. The current number of designated EMIs are one hundred

and twenty-four (124). Presently, there are 65 EMIs in provincial offices, 15 in CMAs, and 44 at the National Office, which is the distribution throughout the DWS. In terms of their designation's, one (1) is a Grade 3, one hundred and fourteen (114) are Grade 2 and nine (9) are Grade 1.

The compliance monitoring and enforcement functions have not been separated yet in the CMAs and therefore the CMA EMIs are conducting both compliance inspections and enforcement investigations, which is difficult since the processes, procedures, legal and system tools and reporting requirements are separated and different.

It needs to be noted that the 124 EMIs are not additional staff members to the establishment of CME officials appointed within the DWS, regional offices, Proto-CMA and CMAs structure and are CME officials that received additional legislative powers to perform their CME duties and function. It is envisaged to designate all CME officials to EMIs.

1.6 LEGISLATIVE FRAMEWORK

The DWS through the Minister is responsible for the Administration of the NWA and the WSA.

All CME official conducting compliance monitoring to determine the status of compliance against a Water Use Authorisation (WUA) are mandated to do so in terms of the NWA undertaken in terms of Section 125(1) of the NWA and if designated as an EMI in terms of NEMA, Section 31K. NWA Sections 141(a) & (b) and 151(1)(b) & (c) ensures that the licensed water user must provide continuous reporting to DWS as and when required to do so.

Section 62 of the WSA further requires the monitoring of performance of each water services institution in order to ensure (a) compliance with all

applicable national standards prescribed under this Act (b) compliance with all norms and standards for tariffs prescribed under this Act and (c) compliance with every applicable development plan, policy statement or business plan adopted in terms of the Act. The WSA is not a Specific Environmental Management Act under NEMA and as such EMI powers may not be exercised under this Act.

WUCME together with Economic and Social Regulation are responsible for section 62 of the Water Services Act. Current monitoring is done by the Directorate Drinking Water Regulation and Wastewater Regulation under the incentive-based regulation programmes (Blue Drop and Green Drop Programme). The outcomes of these reports however do feed into Compliance Monitoring section and the NWA requirements and then to Enforcement for contraventions of both the NWA and WSA.

Compliance inspections play a vital part of the EMI's duties and are important as they may lead to an investigation and later to administrative action or prosecution, or both. Inspections are governed mainly by sections 31 (Powers and functions), sections 31H (General Powers) and 31K (Conduct Routine Inspections) of NEMA.

An authorised official issuing a NWA directive, whether in terms of section 19 (Prevention and remedying effects of pollution), S20 (Emergency Incidents), S53 (Rectification of Contraventions) S54 (Suspension or withdrawal of entitlements to use water) or S118 Control measures for dams with a safety risk), or an EMI designated (Grade 1) issuing a section S31L NEMA compliance notice is undertaking an administrative action.

Criminal and Civil enforcement actions could run parallel with administrative actions to punish the transgressor and to deter the transgressor and other to be offenders from committing a similar crime or when infringement of legal rights appeared.

1.6.1 DEVELOPMENT OF REGULATIONS & PROTOCOLS

Programme 2, through the Compliance Monitoring and Enforcement, has continued with the development of new regulations to assist the effective and efficient implementation of the CME functions or affecting the CME functions when monitor and enforce.

The development of draft regulations for Existing Lawful Use is aimed at improving the management of ELU in order to achieve satisfactory water resource protection by improving monitoring and reporting requirements. Consideration has been given to all Section 21 water uses. Draft Regulations were developed and internal consultations were done.

Under Programme 3 - The review of the compulsory National Norms and Standards which will be published for comment in October 2023, the regulations for process controllers and water services works which was published 30 June 2023 (Regulation 3630) as well as amendment of the Water Services Act itself will in future ensure strengthening of the enforcement of these instruments.

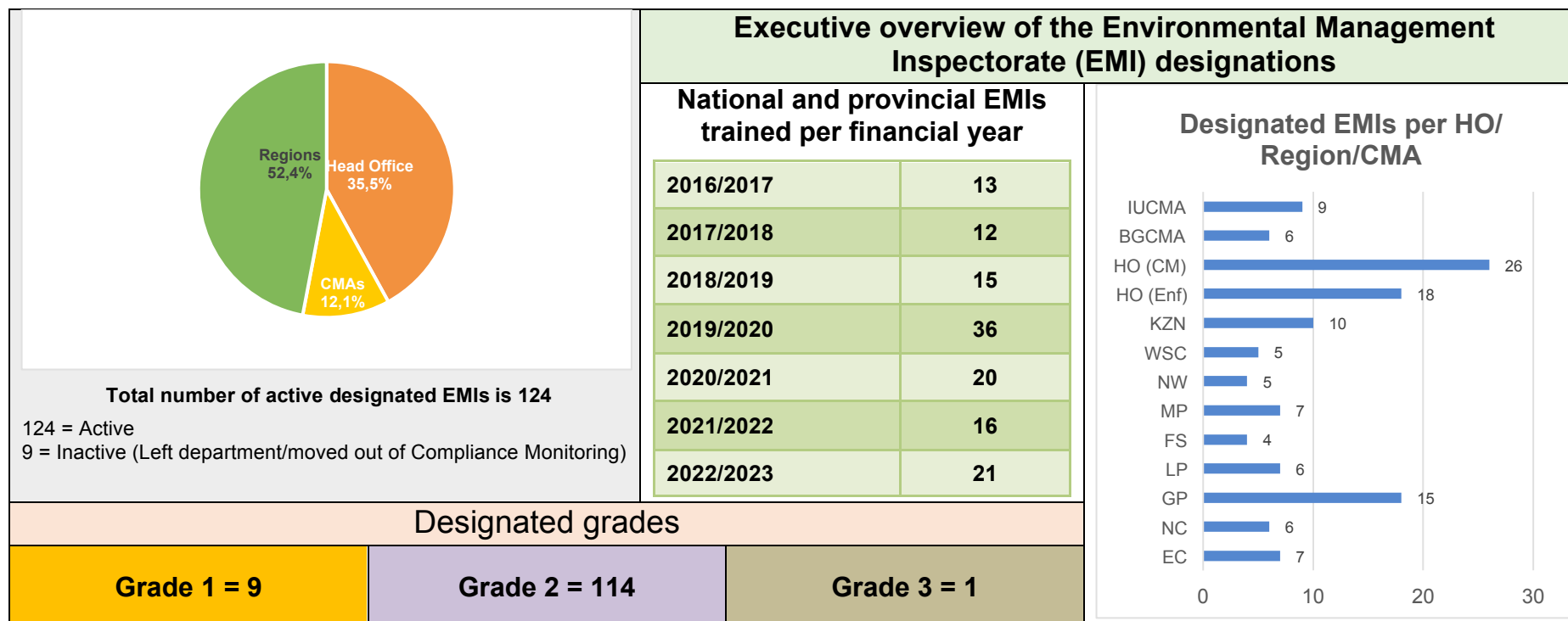
With the establishment of the Directorate Compliance Monitoring and Directorate Enforcement at Head Office within the Chief Directorate: WUCME a greater focus was placed on the need to standardise approaches on CME between the different regional offices and CMA. The following protocols have been developed:

- Finalisation of DWS EMI basic training material and providing training to DWS and CMA CME officials and continued EMI basic training through DFFE
- Finalise an advance CME sampling training manual for EMI/CME officials;

- Provide advance docket management training to Enforcement officials;
- Develop, amend and finalised the DWS CME (EMI) SOP Manual for CME/EMI officials;
- Draft SOP for self-regulation audits at strategic level (national and catchment) based on WUA conditions requiring for self-regulation monitoring, audits and reporting by authorised water users;
- Enhancements of the NCIMS and ECMS and trainings provided to DWS / CMA CME officials and use of NCIMS Manuals updated.
- Developed a draft NCIMS self-regulation design and specifications module document for Water Users to upload self-regulation reports on the system.

2. KEY FINDINGS

2.1 THE ENVIRONMENTAL MANAGEMENT INSPECTORATE – DWS AND ITS ENTITIES COMPONENT



Training dates	Number of DWS and CMA / proto-CMA CME officials	Total officials enrolled
Training to be done in May 2023	Fourteen officials trained; one (1) in BGCMA; one (1) in IUCMA; two (2) in Mzimvubu Proto CMA; one (1) in Head Office: Compliance Monitoring; one (1) in Northern Cape; one (1) in Free State, one (1) in KZN; one (1) in Mpumalanga; one (1) in North West, one (1) in Gauteng Region; one (1) in Northern Cape two (2) in Limpopo.	Total = 14

2.2 COMPLIANCE MONITORING AND ENFORCEMENT TEAM

2.2.1 CME TEAM

The strategic action under the National Water Resource Strategy requires strengthening of the CME function so as to increase its visibility and capability in dealing with unlawful water uses and foster communities that are compliant to legislation. It is for this reason that priority should be given to providing these components with the necessary and appropriately skilled resources whilst being aware of general resource limitations.

During the reporting period, the CME Units had started to strengthen their capacity by ensuring staff placements are made and training needs identified in order to improve on the effectiveness in which its mandate is delivered even though the department's restructuring process commenced in June 2020 and still in progress during 2022/23.

See Table 1 below on estimated distribution of DWS and CMA CME officials appointed for 2022/23 to perform the CME regulation function.

Table 1: DWS & CMA CME officials 2022/23

CME OFFICES	CM	E	CME	INST ESTABLISH	CME SCIENT, IT & LEGAL SUPPORT	TOTAL OFFICIALS
HEAD OFFICE						
HO CME Total	23	22	0	0	3	48
REGIONS						
Free State Region	7	0	0	0	0	7

CME OFFICES	CM	E	CME	INST ESTABLISH	CME SCIENT, IT & LEGAL SUPPORT	TOTAL OFFICIALS
North-West Region	2	3	0	0	0	5
KZN Region	5	4	0	0	0	9
Western Cape Region	1	2	0	0	0	3
Northern Cape Region	4	1	0	0	0	5
Gauteng Region	5	5	0	0	0	10
Eastern Cape Region	9	3	0	0	0	12
Limpopo Region	0	0	0	CM = 8 E = 2	0	10
Regions Total	33	18	0	10	0	61
CMAs						
IUCMA	0	0	12	0	1	13
BGCMA	0	0	6	0	0	6
CMAs Total	0	0	18	0	1	19
GRAND TOTAL	56	40	18	10	4	128

It needs to be noted that only 128 DWS and CMA CME officials are performing the CME functions and about 80 officials are within the regions and CMAs to regulate all the water sectors registered on the Water use

Authorisation & Registration Management System (WARMS) of about 55 000 water users as well as unlawful activities. Unfortunately, the CM officials in the provincial offices are not distributed evenly accordingly to the number of inspections to be conducted for all the water sectors per year. Some regional offices have only one (1) compliance monitoring official for example Western Cape Region and in North-West Region only two (2) CM officials are conducting compliance inspections for all the water sectors in the region during this review period. The migration of the Compliance and Enforcement function to the proto-CMAs (inhouse units incubating the CMA function) in 2023 as the establishment of CMAs progress improve capacity for compliance monitoring (CM) actions. The number of inspections conducted, and reports generated per CM official should be determined per quarter and annum to set standard performance requirements to be implemented across provinces and CMAs.

2.2.2 CME BUSINESS PROCESS

A very simplified, high level business flow for Compliance and Enforcement is included in **Table 2** below. Detailed business processes have been mapped to assist in the capacity, capability and resource requirements needed for the progressive improvement and optimal operation of the units.

2.2.3 INTER-GOVERNMENTAL COOPERATION, FORUMS AND PARTNERSHIPS

The DWS is bound by the Constitution and the Intergovernmental Act, 2005 (Act nr. 13 of 2005) to cooperate within all spheres of government and with all organs of state in mutual good trust and good faith by fostering friendly relations and assisting and supporting each other.

The CME Units recognise the value of partnerships with other components within the DWS such as Chief Directorate: Water Use License Management, the Planning and Information Branch, and the Infrastructure Branch and other external stakeholders in the EMI Network such as Department of Forestry, Fisheries and the Environment (DFFE), and Department of Mineral Resources and Energy (DMRE), as well as the Department of Agriculture, Land Reform and Rural Development (DALRRD), Department of Cooperative Governance and Traditional Affairs (CoGTA), the South African Police Service (SAPS), the National Prosecuting Authority (NPA) and the regulated community. This has, as a result, fortified relationships with said partners in order to be able to deal with non-compliance with the conditions of water use authorisations and unlawful water uses on various platforms.

The Minister of Water and Sanitation is the signatory to One Environmental System which is constituted of three Departments namely, DWS, DFFE, and DMRE. The DWS participates in the established committee called Integrated Planning and Implementation Committee (IPIC). The primary objective of this committee is to ensure that there is provision of certainty on the regulatory processes and also to synchronise systems, while at the same time ensuring that there is a standard approach and standard application of legislations used in dealing with non-compliant water users.

The DWS, through Compliance Monitoring, participates in the Compliance Forum of Working Group IV and the Enforcement team participates in the Enforcement Task Team where all enforcement issues are discussed cumulating in Outcome 10, Working Group IV where compliance monitoring and enforcement issues are discussed. Some of the key stakeholders of this are the DMRE, the DFFE and its provincial counterparts and agencies.

CME is also participating in the Departmental Catchment Management Forum Meetings (CMF) where compliance monitoring and enforcement issues are discussed. The stakeholders comprise all water users within the particular catchment and typically are representative of all water sectors including Municipalities, Eskom, Non-Government Organisations, Mines, Industry, and Government Departments.

The DWS is an active member of the Co-ordination Committee on Agricultural Water Co-ordination (CCAAs) nationally. This is one of the components for the implementation of the National Guidelines of Integrated Management of Agricultural Water Use as approved by the Agricultural Ministers and Members of Executive Council (MINMEC) and the Intergovernmental Relations Framework Act (Act 13 of 2005). Through this forum issues pertaining to agricultural water, including regulatory issues are discussed. Other members in these committees are Provincial Departments of Agriculture (PDAs), the DRDLR and the DFFE organised farmer unions.

The DWS is the founder member of South African National Committee on Irrigation and Drainage (SANCID) which is a sole organisation that represents South Africa at the International Commission on Irrigation and Drainage (ICID). The SANCID/ICID organizations act as coordinating centres for individuals, organisations, institutions on issues of irrigation, drainage and flood control. On a quarterly basis, the DWS, the DFFE and other affected stakeholders meet and discuss agricultural water issues under the leadership of the Water Use and Irrigation Working Group.

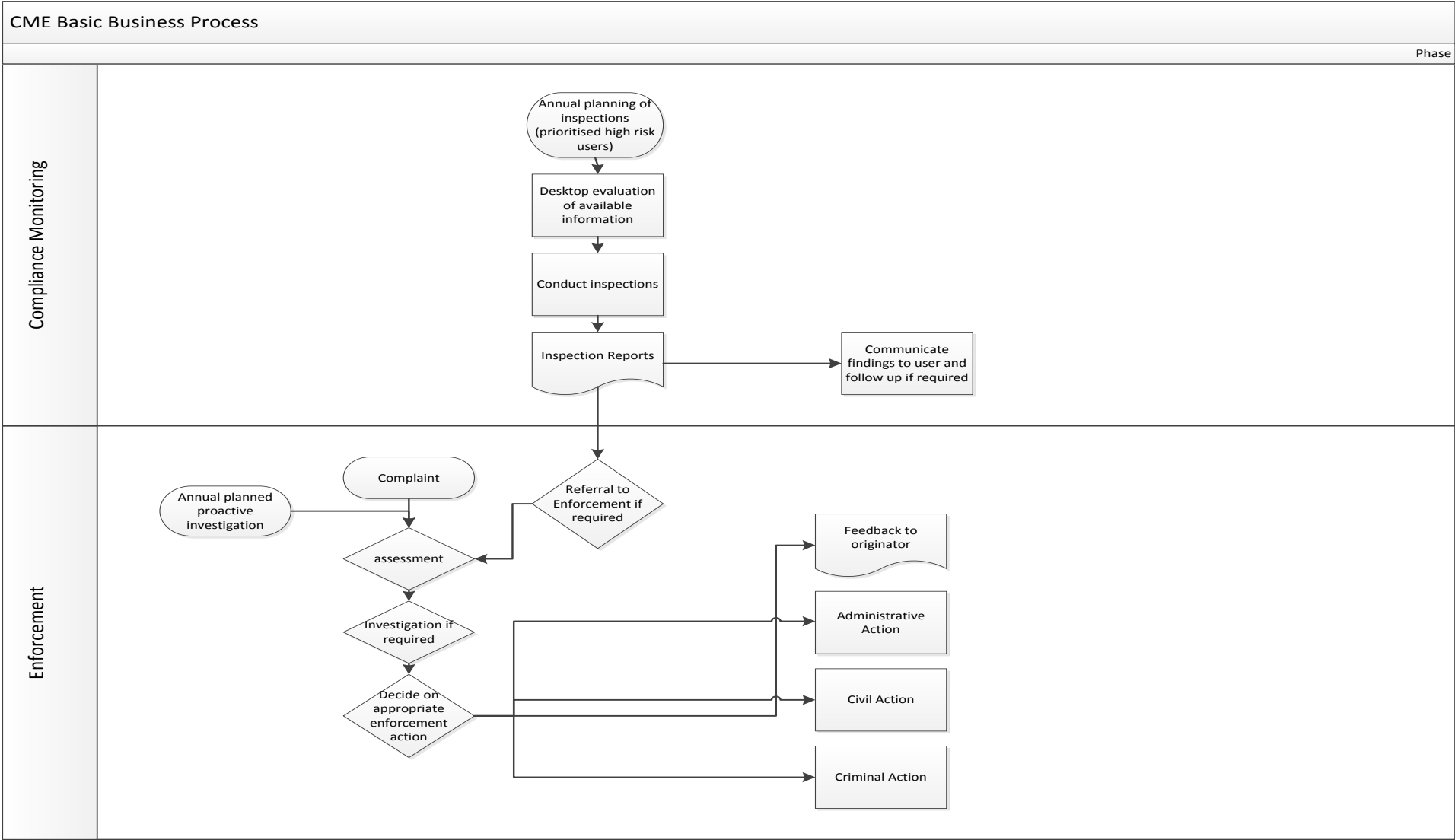
The Department is a key member of the Water Use and Irrigation Working Group (WUI-WG) which is a national structure coordinated composed of the nine (9) Provincial Departments of Agriculture (PDAs), DFFE, Water Research Commission (WRC), Agriculture Research Council (ARC),

International Water management Institute (IWMI) and DWS. Through this platform the alignment of the irrigation Strategy and the NWRS projects and programmes is coordinated such that there is compliance awareness and support on the two strategies and their implementation. The DWS works closely with the South African Irrigation Institute which is the recognised representative organisation of the irrigation industry in South Africa. Through this partnership the DWS contributes in the Irrigation Design courses offered by the institute and its training partner called Irrigation Wise Academy.

The Directorate: Compliance Monitoring plays a key role in ensuring that agricultural and rural development projects applying for state funding through the DALRRD have lawful access to water. This is done through participation in the National Assessment Panel (NAP) constituted by officials from the DALRRD, the DFFE and the DWS. The main benefit is the curbing of unlawful water use by ensuring compliance at the project planning phase.

The D also leads the Systems Operation Forums (SOF) in different major river systems in the country. This forum involves various stakeholders in the development of annual operating rules (AOR) for the year/season in each system. The involvement of different stakeholders is aimed at improving their participation and understanding, resulting in compliance with the operating rules (which may include water restrictions). These forums play a crucial role in times of floods and droughts and assists CME in receiving early warning and to be able to prioritise its activities.

Table 2: CME Business Process



2.3. FINANCIAL RESOURCES FOR CD: WUCME:

2.3.1 FINANCIAL 2022/2023 EXPENDITURE TRENDS

Table 3 below provides a detailed budget and expenditure per economic classification for the Directorates: Compliance Monitoring and Enforcement. This report is exclusive of the budget of Provincial Operations: CME and CMAs.

Compliance Monitoring in Head Office had a total budget of R57 189 000.00 of which R29 392 130.00 was spent. The Directorate over spent its Goods and Services by R45000

Enforcement in Head Office under spent its Goods and Services by R555 000.

Due to restructuring, though budget is allocated to Cost of Employees, the management and filling of posts were controlled centrally and shows underspending of R27162 by Compliance Monitoring and R6207 by Enforcement. At this time the former Chief Directorate Compliance Monitoring, Chief Directorate: Enforcement, Chief Directorate: Water Services Regulation and Chief Directorate: Water Quality Management was amalgamated into Chief Directorate: WUCME over a two-year process after the macro structure was approved in 2019 and the entire enterprise approved in September 2022

Table 3: CME expenditure at DWS CME National Office 2022/2023

	Economic Classification	Budget	Actual Expenditure	% Spent	Variance
		R'000	R'000		R'000
Compliance Monitoring	Cost of Employees	51 947	24 786	48%	27 162
	Goods and Services	4 516	4 288	95%	-45
	Transfer Payments	0	0	0	0
	Payment of Capital Assets	726	314	43%	284
	Sub Total	57 189	29 388	51%	27 400
Enforcement	Cost of Employees	11 428	5 221	46%	6 207
	Goods and Services	2 616	2 055	79%	555
	Transfer Payments	0	0	0%	0
	Payment of Capital Assets	100	172	179%	-76
	Sub Total	14 144	7 448	53%	6 686
	Total	71 333	36 836	52%	34 086

2.4. PERFORMANCE SUMMARY FOR DWS

2.4.1 COMPLIANCE MONITORING

The Compliance Monitoring team set a target to monitor 379 authorised water users across the various sectors for the 2022/2023 financial year. The Compliance Monitoring team achieved 422 (including dam safety) and exceeded the target by 43 due to additional inspections done by the Provincial Offices as well as the Western Cape joint operation Blitz.

Table 4 reflects the trend analysis for compliance inspections. The number of water users monitored has been on an increase for the past 3 financial years since taking sharp decline in 2019 due to Covid-19 pandemic that forced regions to do desktop inspections.

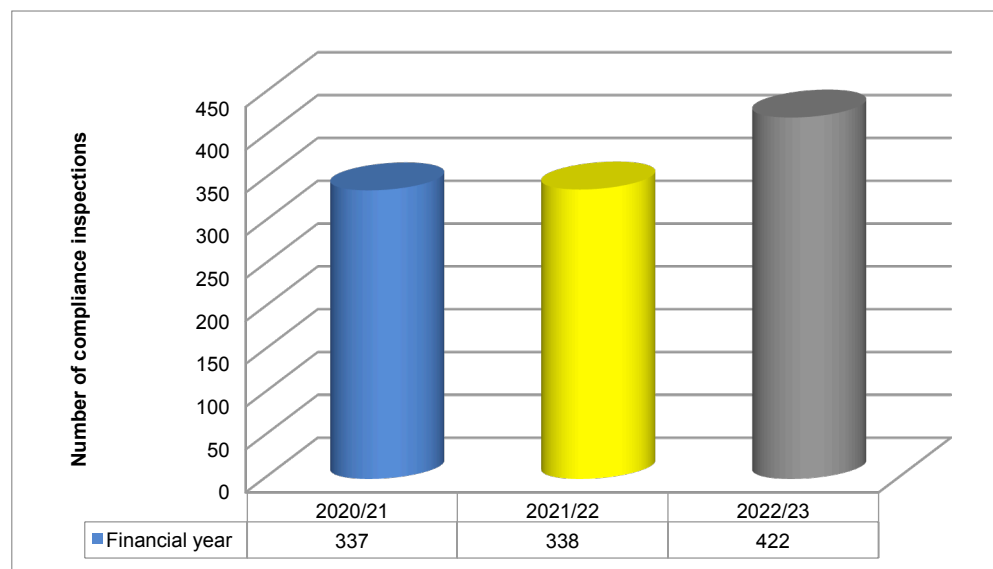


Table 4: Overview of Compliance Inspections from 2020/21 -2022/23

The average number of water users monitored in the past 3 years is 365 water users. Although, there has been an improvement, this is still a far cry considering the large number of water users that have to be monitored. The number of water users registered with the DWS is close to 55 000. This implies that DWS monitors only 0.6 % (365/55 000) water users per year.

It needs to be noted that 10 compliance inspections conducted were not included into the overall summary and national statistics for compliance monitoring the statistics reported on the APP report for 2022/23 due to unknown reasons and therefore the 422 inspection conducted will be presented here in section two (2) and three (3) to align the reporting data and information, but in the individual sector specific compliance monitoring performance reporting for the various water sectors in section four (4) of this CME annual report will include the 10 inspections conducted to ensure due process and true reflection of water users inspected during 2022/23.

2.4.2 ENFORCEMENT

During the financial year 2022/2023, a total of 460 cases were reported for non-compliance. Out of these reported cases, 385 were thoroughly investigated, demonstrating a commendable achievement of 84% compared to the committed target of 80%. This also represents a significant increase of 14% in the number of cases investigated when compared to the previous financial period. The notable rise in the volume of cases examined can be attributed to various factors, including an increase in reported incidents of pollution and unlawful water uses.

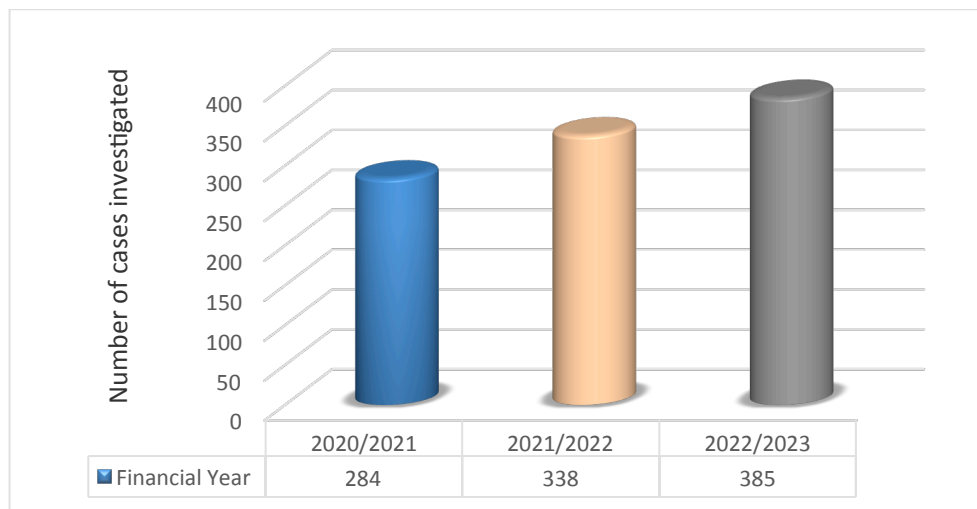


Table 5: Overview of Enforcement cases investigated during from 2020/21 -2022/23

The DWS received complaints of suspected non-compliance against water-related legislations. In addition, other cases were referred to the Enforcement units, originating from various units within the DWS. Consequently, the referred cases were duly investigated to establish compliance with pertinent water related legislations and regulations governing the water sector.

In certain instances, findings arising from these investigations unveiled non-compliance with the afore-mentioned water-related regulations. In response to these contraventions, the Department invoked its authority to initiate administrative enforcement actions aimed at rectifying the identified contraventions. Furthermore, where necessary the DWS has exercised its prerogative to initiate criminal proceedings or pursue civil actions in instances where such enforcement measures were deemed appropriate and necessary to address cases of significant non-compliance.

The DWS duly issued a total of two hundred and five (205) notices indicating its intention to subsequently issue directives. A total of seventy-two (72) directives were issued. Moreover, the DWS recorded seventeen (17) criminal cases against offenders. Six (6) cases, which had been initiated in preceding financial years, were subsequently referred to the National Prosecuting Authority for a decision. For comprehensive specifics pertaining to the aforementioned information, please refer to Table 10.

The BGCMA and IUCMA compliance monitoring inspections and enforcement actions are included for the first time into the CME Annual Report and both CMAs have not been using the NCIMS optimally to capture the compliance inspections or using the compliance inspection reporting template nor followed the standard operating procedures for inspections for most inspections completed. Inspections were mostly based on verifying effluent standards or verifying abstraction and storage volumes. Both CMAs have received training on use of the NCIMS and CME generic concepts, process, procedures and tools during February 2023. Reporting on compliance inspections and audits on status of compliance of water sectors in alignment with the EMI SOPs will be improved in 2023/24. Detail of these inspections have been included in section 7.1.

Both CMAs used the ECMS for enforcement cases and the results thereof have been indicated in section 7.2.

3. OVERALL NATIONAL CME STATISTICS FOR 2022/2023

3.1 COMPLIANCE MONITORING AND ENFORCEMENT PRIORITISATION AND PLANNING

3.1.1 COMPLIANCE MONITORING PRIORITY LIST FOR 2022/2023

A list of water users was identified for compliance monitoring as per performance indicator 5.1.5 – DWS Annual Performance Plan.

3.1.2 COMPLIANCE MONITORING OUTCOME 10 INDICATOR

In the Medium-Term Strategic Framework (MTSF) and Outcome 10 performance agreement an impact indicator is used to determine the level of performance of the water users and sectors. The purpose of the impact indicator is to add value to the statistics of users monitored by indicating the status of compliance against the conditions of the authorisation. A score card has been developed and is used to accurately and consistently measure/score performance and forms of part of the portfolio of evidence together with the inspection report.

The target set for % level of compliance with water user authorisations obligations per sector is 65%. The paper and pulp mills (84%) achieved a compliance percentage score above 65 %. The 432 users monitored achieved a combined average performance level of 58%. The mining sector (49%) and waste disposal facilities (Landfills) (45%) are sectors that score a compliance level less than 50%. The results indicate a lower than desired performance level and in order to improve this more emphasis need to be made on follow up inspections to ensure findings are

implemented and to follow through with enforcement actions and consequences where required.

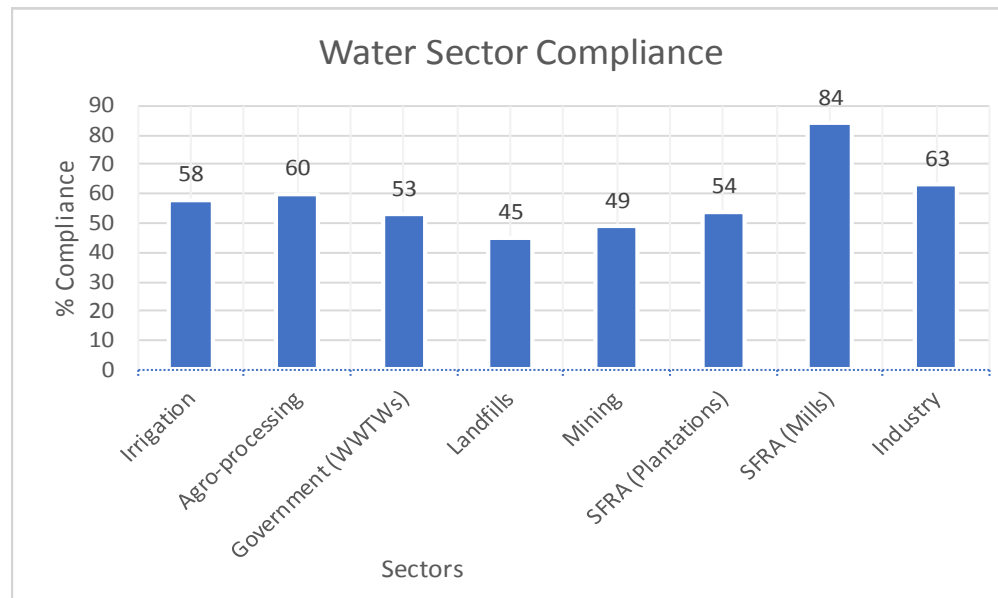


Table 6: Overview of Compliance Monitoring of the water sectors for 2022/2023

3.1.3 ENFORCEMENT PRIORITIES FOR 2022/2023

Over the past three years, the enforcement unit has received cases involving suspected non-compliance with Dam Safety rules and regulations. These cases pertain to water users who have failed to register their dams with a safety risk, as mandated by section 118 of the National Water Act (NWA). It was necessary to address these cases by implementing measures aimed at enhancing the safety of both new and

existing dams with safety risks, thereby mitigating potential harm to the public, property damage, and risks to resource quality. Lead by the Dam Safety Regulator a Standard Operating Procedure was developed to address the non-compliances detected in this sector which requires various authorisations in terms of the NWA (Chapter 4 water use and Chapter 12 Dam Safety Licenses) and NEMA (Environmental Authorizations).

The Department has also participated in the Operation Phakisa which is a collaborative initiative involving various key participants including the South African Police Service (SAPS), the Department of Forestry, Fisheries and the Environment (DFFE), the Department of Mineral Resources (DMR), and the Department of Water and Sanitation (DWS) *inter alia* ensuring compliance by water users within various sectors. By engaging these multiple stakeholders and employing a coordinated approach, Operation Phakisa aims to ensure rigorous compliance with regulations, fostering sustainable practices and safeguarding the integrity of water resources.

During the 2022/2023 financial year the Enforcement Support unit conducted legal oriented capacity building training sessions with its external stakeholders such as SAPS. Our external stakeholders have a direct involvement in the investigation and prosecution of criminal matters and thereby enforce compliance with the National Water Act. Therefore, these engagements are important to build the capacity and skills base of the personnel within these institutions to successfully investigate and deal with water related criminal cases. The external stakeholder training sessions held for 23 SAPS, 6 NPA and 1 Traditional community are tabled under Section 12.3 External Stakeholder Engagements for capacity building initiatives.

Table 7: Enforcement priority for 2022/23

Performance Indicator	Planned Target on APP 2022/2023	Actual cumulative achievement	Reasons for variance (under or over achievement)
Investigation of non-compliant cases	80%	84% (386 out of 460)	The established target has been exceeded by a margin of 4%. This is due to a notable increase in the number of complaints received, specifically concerning issues related to water pollution.
Conduct legally oriented capacity building for SAPS and NPA	10	29	The overachievement was a result of demand from various SAPS Station Commanders for additional training particularly in KZN and Mpumalanga region.
Number of follow-up inspections conducted on administrative enforcement actions and implement recommendations	48	48	Target met. A further hundred and seven (107) representations were assessed

3.2 STATISTICS

3.2.1 COMPLIANCE MONITORING PERFORMANCE STATISTICS (APP 2022/2023): GEOGRAPHICAL

Table 8: Compliance Monitoring Performance Statistics for DWS

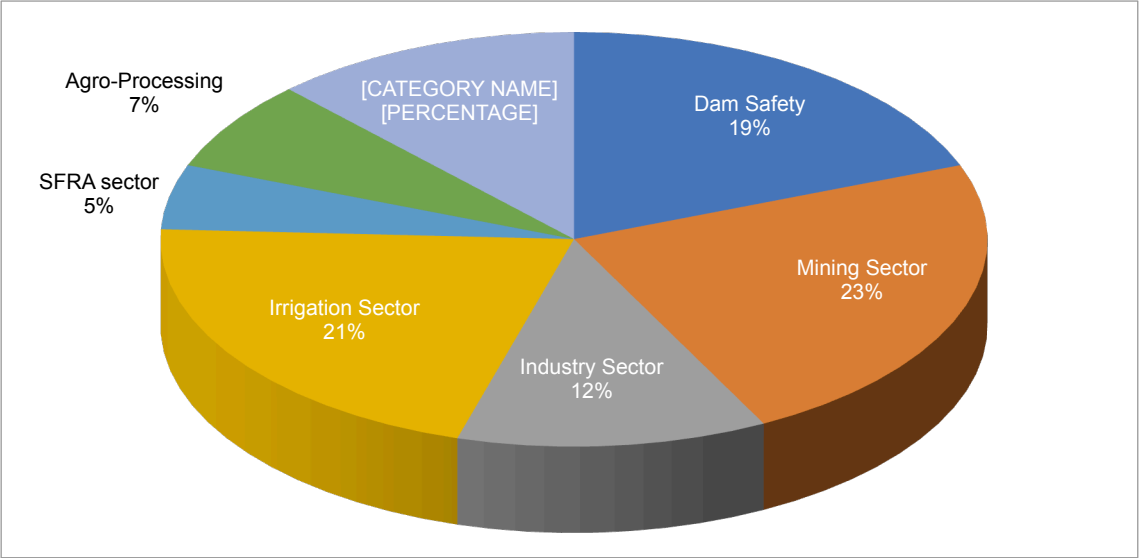
Performance Indicator		Planned Target on APP 2022/23	Reg: WC	Reg: KZN	Reg: GP	Reg: LP	Reg: EC	Reg: FS	Reg: MP	Reg: NC	Reg: NW	Actual cumulative achievement	Reasons for variance (under or over achievement)
			APP & ADDITIONAL										
PPI 5.1.5: Number of water users monitored for compliance		379	58	40	58	94	48	22	51	27	34	422¹	<u>Over-achieved</u> due to 43 additional inspections done by Provincial Offices in response to complaints and referrals that came during the year as well as WC Blitz.
Sectorial Breakdown for larger target under PPI 5.1.5 above	Number of water users monitored for compliance within the <u>MINING</u> sector	79	3	5	13	16	1	8	24	13	16	99	<u>Over-achieved</u> with 20 due to additional done by Provincial Offices
	Number of water users monitored for compliance within the <u>INDUSTRY</u> sector	49	3	2	10	16	2	0	7	6	4	50	<u>Over-achieved</u> with 1 due to additional done by Provincial Offices
	Number of water users monitored for compliance within the <u>AGRO-PROCESSING</u> sector	25	7	4	1	6	4	2	2	0	5	31	<u>Over-achieved</u> with 6 due to additional done by Provincial Offices and WC Blitz
	Number of water users monitored for compliance within the <u>IRRIGATION</u> sector	73	9	2	11	26	24	3	2	6	3	86	<u>Over-achieved</u> with 13 due to additional done by Provincial Offices
	Number of water users monitored for compliance within the <u>SFRA</u> sector	20	1	3	1	13	1	0	1	0	0	20	<u>Achieved</u>

¹Achievements are reported per Province the Chief Directorate's sector leaders played a major role in achieving these targets either through assistance in technical expertise to logistics and reporting.

Performance Indicator		Planned Target on APP 2022/23	Reg: WC	Reg: KZN	Reg: GP	Reg: LP	Reg: EC	Reg: FS	Reg: MP	Reg: NC	Reg: NW	Actual cumulative achievement	Reasons for variance (under or over achievement)
		APP & ADDITIONAL											
	Number of water users in the <u>MUNICIPAL: WWTW</u> sector monitored for water use compliance	46	4	3	12	7	5	2	6	3	3	45	Partially achieved – underachieved by 1
	Number of water users in the <u>MUNICIPAL: LANDFILL</u> sector monitored for water use compliance	5	4	0	0	0	0	0	2	0	0	6	Over-achieved with 1 due to additional done by Provincial Offices
	Number of <u>dams</u> inspected for compliance with DAM SAFETY regulation	82	22	19	11	7	11	4	7	0	3	84	Over-achieved with 2 due to additional done by Provincial Offices

The resource quality within South Africa continues to be under threat due to increasing discharge of substandard wastewater into our water resources. The main contributors to water quality problems are mining (acidity and increased metals content), urban development (salinity, nutrients and microbiological), industries (chemicals and toxins) and agriculture (sediment, nutrients, agro-chemicals and salinity through irrigation return flows). Untreated or poorly treated wastewater is severely affecting the quality of water in many areas.

From the compliance inspections conducted during the period under review, the mining sector receive more attention as reflected in the figure below:



Compliance inspections per water sector for the 2022/23 financial year

3.2.2 ENFORCEMENT PERFORMANCE STATISTICS

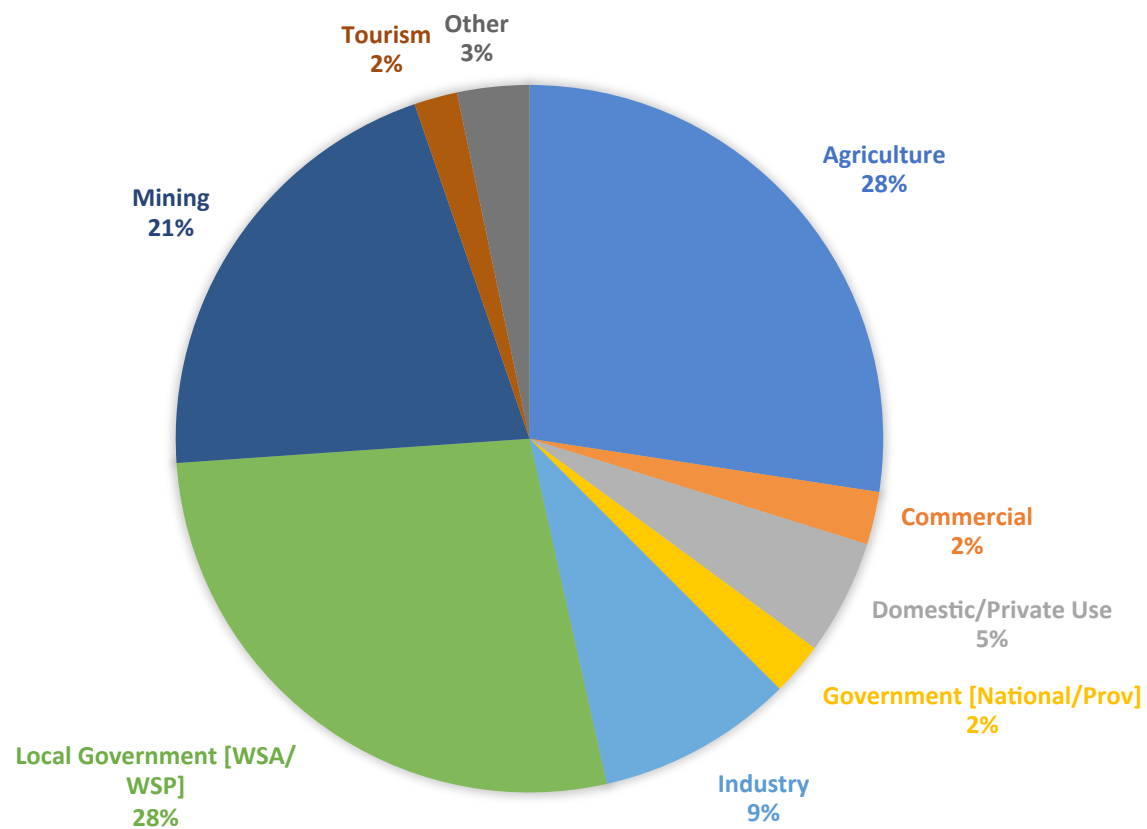
Table 9: Enforcement: Reported non-compliance cases investigated for DWS

Sub-Programme		Enforcement			
Performance Programme Indicator (PPI) no	Performance indicator	Planned target 2022/2023	Actual achievement 2022/2023	Deviation from planned target to actual achievement for 2022/2023	Comment on deviations
5.1.6	Percentage of reported non-compliant cases investigated	80%	84% (386 out of 460)	Over by 4%	The target was exceeded as a result of high number of pollution related cases reported which required urgent investigations to be conducted.

The figure below reflects the enforcement cases dealt with within the various sectors:

Several complaints have been reported regarding unlawful water uses and pollution-related cases, highlighting non-compliance in various sectors. The agriculture sector accounts for the highest proportion of reported cases, with 28% of the complaints attributed to this industry. Additionally, commercial activities have been implicated in 2% of the reported cases, while domestic and private water usage accounts for 5% of the complaints. Non-compliance issues have also been observed in government sectors, with national and provincial entities comprising 2% of the reported cases. The industry sector has been found to be non-compliant in 9% of the reported cases, while local government municipalities responsible for wastewater treatment works make up a significant portion of the complaints, totalling 28%. Furthermore, the mining sector has been flagged in 21% of the reported cases, indicating a significant concern for water-related complaints in this sector. Lastly, tourism and other sectors each account for 2% and 3% of the reported cases, respectively.

REPORTED NON-COMPLIANCE CASES IN DIFFERENT SECTOR



Enforcement cases per sector for the 2022/23 financial year

Table 10: The table depicts enforcement actions taken against non-compliant water users and water polluters in the various provincial offices

Region	Percentage of reported non-compliant cases investigated	*Notices Issued	*Directives Issued	*Cases Registered with SAPS	*Cases referred to NPA
Eastern Cape	34/50 = 68%	13	7	-	1
Free State	9/9 = 100%	1	5	1	-
Gauteng	68/64 = 91%	9	17	2	1
KwaZulu Natal	55/75 = 73%	3	4	6	1
Limpopo	36/38 = 95%	9	9	2	1
Mpumalanga	82/95 = 86%	69	24	5	2
North-West	67/71 = 94%	25	1	-	-
Northern Cape	28/29 = 97%	42	3	-	-
Western Cape	16/29 = 55%	34	4	1	-
Total	385/460 = 84%	205	72	17	6

Table 11: Enforcement action taken

CATEGORIES	FY 2022/2023
Cases Reported	460
Cases Investigated	385
Notices Issued	205
Directives Issued	72
Criminal Cases Opened	17
Cases Referred to NPA	6

Note: **Some letters, notices, directives criminal cases and NPA referrals are linked to previous financial year/s cases*

Table 12: Sectorial break down of cases reported and investigated nationally and compared to previous financial year

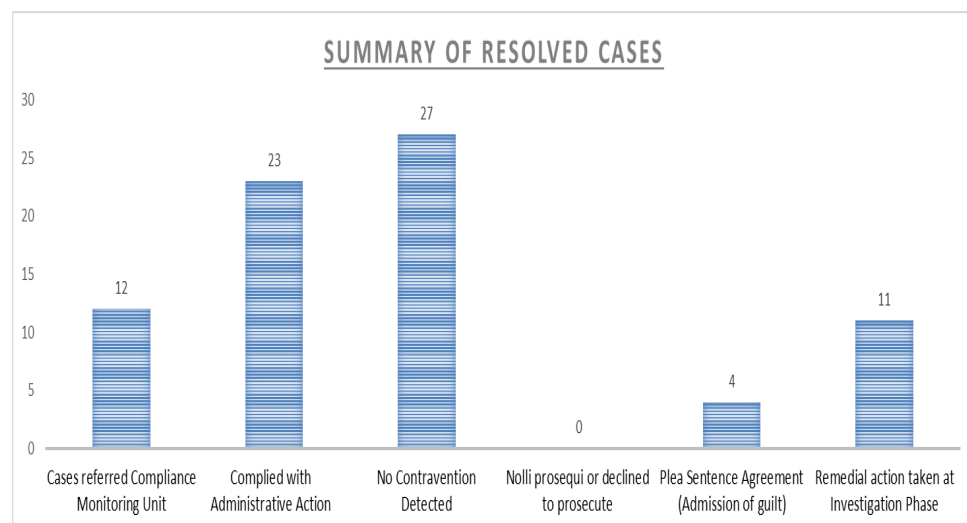
Sector	Reported Cases (21/22)	Investigations Conducted (21/22)	Non-compliance Letters*	Notices issued*	Directives*	Criminal Cases Opened*	Case referred to NPA*	Sector	Reported Cases (22/23)	Investigations Conducted (22/23)	Notices issued*	Directives*	Criminal Cases Opened*	Case referred to NPA*
Agriculture	91	88	-	52	15	2		Agriculture	125	105	55	9	-	1
Commercial	7	7	-	3	-	-		Commercial	10	9	6	1	-	-
Government [National/ Prov]	7	6	-	4	3	-		Government [National/ Prov]	11	10	4	2	1	-
Industry	40	36	1	16	3	-		Industry	41	38	16	9	-	-
Local Government [WSA/WSP]	103	92	6	66	30	1		Local Government [WSA/WSP]	126	97	65	42	7	5
Mining	60	56	1	16	9	3		Mining	95	88	36	8	9	-
Private Use/Domestic	39	37	-	8	-	-		Private Use/Domestic	24	20	13	-	-	-
Tourism	14	14	1	10	3	-		Tourism	9	9	10	2	-	-
Other Sectors	6	5	-	-	1	-		Other	15	10	-	1	-	-
All Sectors	367	338	9	175	64	6		All Sectors	460	385	205	74	17	6

**Some letters, notices, directives criminal cases and NPA referrals are linked to previous financial year/s cases*

The agricultural sector received an increase in complaints compared to the 21/22 financial year. The issuance of notices and directives as an outcome of these investigations have not increased substantially (55% of investigated cases). Notices and the directives (8% of investigated cases) are fewer than the previous year. The most complaints were received for non-compliances in Local Government for both years and also sees an increase from 103 to 126 complaints. The issuance of directives has increased for this component, but the number of cases reported for investigation needs to be prioritised due to the pollution risk this sector poses. Seventy-seven (77%) of all local government reported cases were investigated within the required timeframe. This sector received the most compliance notices (65) and directives (42). The mining sector also saw an increase of complaints from 60 to 90 complaints. Ninety-two (92%) percent of the reported cases were investigated within the required timeframe resulting in an increase of notices and directives. The number of criminal cases opened increased from 6 to 17 in the year under review and 6 cases has been referred to the NPA for further decision making on prosecution. The mining and local government leads the sector for criminal investigations with the mining sector having 9 cases and local government 7 cases opened.

Summary of Resolved Cases	No
Cases referred from Compliance Monitoring Unit	12
Complied with Administrative Action	23
No Contravention Detected	27
Nolli prosequi* or declined to prosecute	0
Plea Sentence Agreement (Admission of guilt)	4
Remedial action taken at Investigation Phase	11
Total	77

*A decision not to prosecute will be indicated by the legal term “nolle prosequi” literally meaning “not to wish to prosecute”. The certificate nolle prosequi is a certificate issued by the DPP of the region, to the effect that the DPP has considered the matter and declines to prosecute on behalf of the state for varying



reasons.

An analysis of the cases resolved following enforcement interventions on reported non-compliance cases reveals several outcomes. Twenty-seven (27) cases were investigated and revealed no evidence of contravention, indicating that the alleged non-compliance claims were inadequately substantiated. The breakdown of these cases includes five (5) cases in the Agriculture Sector, one (1) case in the Commercial sector, one (1) case relates to Domestic/Private Use, two (2) cases related to Government [National/Prov], four (4) cases associated with the Industry Sector, five (5) cases within the Local Government [WSA/WSP] sector, eight (8) cases linked to the Mining sector, and one (1) case relates to the Tourism Sector. In four cases, a plea sentence agreement was reached, with the responsible party admitting guilt. Additionally, in eleven (11) cases, remedial action was taken during the investigation phase, highlighting the importance of addressing non-compliance issues promptly.

Throughout the 2022/2023 period, the Department referred a total of six (6) cases to the National Prosecuting Authority (NPA) for decision to prosecute. Comparatively, in the previous financial year 2021/2022, seven cases were referred to the NPA. Importantly, in the current reporting cycle, there were no instances where the NPA declined to prosecute or issued a Nolle Prosequi Certificate. This outcome highlights the Department's commitment to quality of investigative procedures, adhering to prescribed protocols, and ensuring the preparation of well-documented cases for further action.

Overall, this analysis provides insights into the various resolutions achieved following enforcement interventions, emphasizing the significance of enforcing compliance and taking appropriate measures to rectify non-compliance instances.

4. SECTORAL PERFORMANCE STATISTICS FOR 2022/2023

The water sector performance status of compliance recorded in this section are pertaining to compliance inspection and audits conducted by DWS (head office and provincial) CM officials.

4.1. MINING SECTOR PERFORMANCE

4.1.1 COMPLIANCE MONITORING

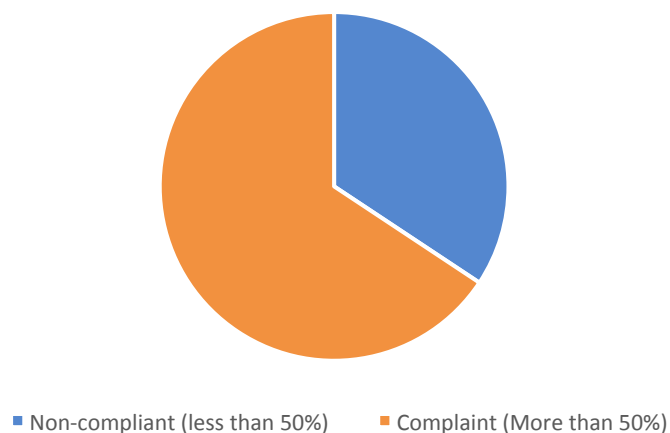
The target for the compliance monitoring of the mining sector was seventy-nine (79) for the financial year 2022/2023. This number represents mines that have been selected in different provinces. These mines extract different mineral commodities. The criteria for selection of mines amongst others includes mines that were inspected previously with unacceptable status of compliance and require follow-up inspections, mines that were never monitored before since authorisations were granted, etc. Hundred and two (102) were inspected. This represented an overachievement with additional twenty-three (23) mines done by the DWS provincial offices. The inspection of additional mines may be prompted by pollution incidences, need for constant follow-ups, etc. The compliance performance of thirty-five (35) mines inspected was found to be unacceptable as they have performed below the 50% as per the compliance score card, whereas sixty-one (61) mines compliance performance was found to be acceptable and above 50%

- Thirteen (13) have compliance level of 0-24%
- Twenty- two (22) have compliance level of 25%-49%,
- Twenty-eight (28) have compliance level of 50%-74%, and
- Thirty-three (33) have compliance level of 75%-100%

Six (6) mines were found to have no activity taking place but were assessed only on administrative conditions of the Water Use Authorisation and complied to the administrative conditions.

An average performance level of 49% is achieved for the mining sector for compliance with the requirements of the National Water Act, 1998. Sixty-one (61) mines were required to provide corrective action plans. This number represents a combination of mines that performed below and above 50% compliance level. Twenty-two (22) mines were recommended for Enforcement depending on risk pose to the water resource. The monitoring of the corrective action plans and follow-up inspections at mines shall be prioritised until such time the mines achieve acceptable compliance performance in accordance with the requirements and objectives of National Water Act, 1998. It is important to note that 6 mines that were monitored were found that no mining activities were taking place and section 21 water uses as authorised were not being fully exercised, however applicable administrative conditions were assessed for compliance. Given that it is only few administrative conditions assessed, mines were found to be fully complying with requirements of conditions to obtaining highest performance score.

Mines Performance %



Mines monitored 2022/2023

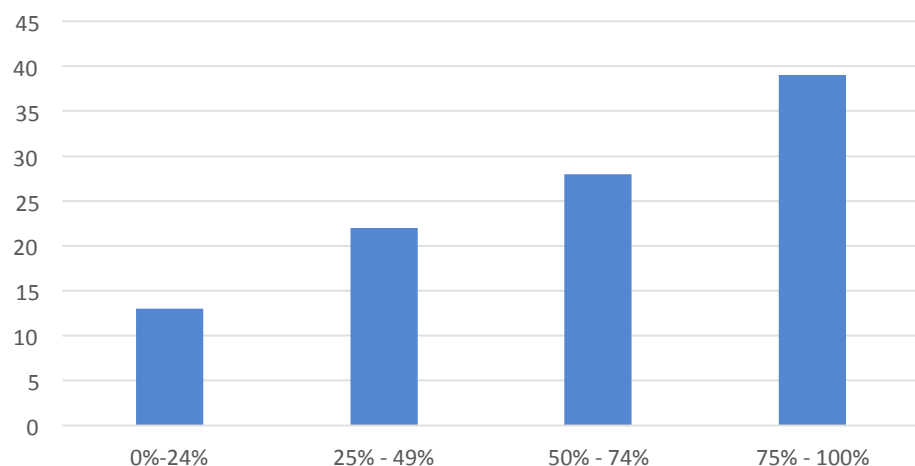


Table 13: Individual performance: Mining Sector

MINING WATER USERS 2022/2023						
Name of Facility		Prov	Type of sector	APP / Add	% of Complian ces of facilities	Comments / Findings
Q1						
1	PPC de Hoek, Piketberg	WC	cement limestone	APP	0%	PPC Limited to submit a detailed Action Plan for improvement and upgrade of the wastewater treatment system to improve the quality of wastewater discharged from the plant.
2	Tewie Wessels Family Trust Replacing Sibanye Stillwaters	FS	Sand Mine	APP	54%	The mine has improved on some of the 2021 findings and have implemented some corrective measures, but not all of its commitments in the action plan.
3	Matsopa Minerals	FS	Bentonine Clay mining	APP	60%	The Matsopa Minerals is operating and most of the conditions on their issued WUL does not correspond with their operations. The mine was advised to apply for an amendment of the license including all water uses activities at the mine.
4	Penumbra Coal Mine	GP	Coal Mine	APP	23%	The mine must be referred to enforcement for further investigation
5	Vunene Surface Water	GP	Coal Mine	APP	25%	The mine must be referred to Enforcement

MINING WATER USERS 2022/2023						
Name of Facility		Prov	Type of sector	APP / Add	% of Complian ces of facilities	Comments / Findings
	WUL					Unit for further investigation.
6	Ocon Brick Sand Mining	GP	Sand Mine	APP	48%	It is recommended that the facility take serious measures in managing the storm water around the facility, coal storage area, pulp storage area and finalise the process of acquiring a new WUL to operate legally.
7	New Vaal Colliery	GP	Coal Mine	ADD	71%	The mine is required to draft an Action Plan to comply to non-compliances. Follow-up inspection to be conducted.
8	DMI Minerals South Africa Pty Ltd	LP	Diamond Mine	APP	68%	Requested action plan.
9	Exxaro Resources Ltd Tshikondeni Mine	LP	Coal Mine	APP	65%	Requested action plan.
10	Grootegeluk Exxaro: Thabametsi	LP	Coal Mine	APP	100%	No Regulatory finding, currently no activities are taking place on site. Administrative conditions applicable were assessed.
11	Grootegeluk Mine	LP	Coal Mine	APP	100%	A follow-up inspection was done on few conditions and the facility was found to compliant with the conditions.

MINING WATER USERS 2022/2023						
Name of Facility		Prov	Type of sector	APP / Add	% of Complian ces of facilities	Comments / Findings
12	Limpopo Coal Company: Vele colliery Mine	LP	Coal Mine	APP	100%	The Mine is under care and maintenance due to no funding. No pumping of water out of the pit and plant not active. The spring is starting to recover. Administrative conditions were assessed for compliance and found compliant.
13	Impofu Colliery-Anna Magdalena van der Linde	MPU	Coal Mine	APP	0%	Requested an action plan.
14	Linarox (Pty) Ltd: Welstand Colliery	MPU	Coal Mine	APP	89%	The facility has not started with mining operations; applicable water use licence administrative conditions were assessed.
15	Anglo Operation: Mafube	MPU	Coal Mine	APP	55%	Non-compliances to be rectified and correction actions implemented. Follow-up inspection required.
16	Bauba Hlabirwa Mining Investments	MP	Chrome Mine	APP	36%	Non-compliances to be rectified and correction actions implemented. Follow-up inspection required.
17	Foskor	MPU	Phosphate Mine	APP	47%	Foskor Mining Division has not made much effort to improve compliance of the mine since the last inspection conducted by

MINING WATER USERS 2022/2023						
Name of Facility	Prov	Type of sector	APP / Add	% of Compliances of facilities	Comments / Findings	
						DWS in 2019. Mine is handed over to the Enforcement unit
18	New Largo Coal	MPU	Coal Mine	APP	56%	New Largo Mine start construction of the facilities/water use activities associated with Pit D (Northand South Pits) and non-compliance must be rectified. Follow-up inspection required.
19	Wouterspan Mine Bondeo	NC	Alluvial diamond	APP	79%	To issue a Notice of intention to issue a directive in terms of section 53 of the Act in contravention of section 151 provision on NWA
20	Mamatwan mine	NC	Bentonine Clay mining	APP	60%	Enforcement action needed to enforce compliance. The Licensee is contravening the conditions of the WUL Licence.
21	Krosa Sand Mine	NW	Sand Mine	APP	36%	Action Plan requested:
22	Imerys Refractory Minerals South Africa (pty) Ltd Rhino Andalusite Mine	NW	Andalusite	APP	60%	Action Plan requested.
23	Andalusite Resources	NW	Andalusite	APP	82%	Error in terms of validity of the licence.

MINING WATER USERS 2022/2023						
Name of Facility	Prov	Type of sector	APP / Add	% of Compliances of facilities	Comments / Findings	
						An action plan is required to address the detected non-compliances
Q2						
1	Elandsfontein Mine	WC	Phosphate Mine	APP	98%	An action plan is required to address the detected non-compliances
2	BECSA Middleburg mine services: Klipfontein	MPU	Coal Mine	APP	45%	Requested an action plan..
3	Xstrata Glencore Alloys Lion Ferrochrome Smelter	MPU	Coal Mine	APP	49%	Requested an action plan.
4	Seriti Coal: Kriel Colliery Replacing Maphocs Mine	MPU	Coal Mine	APP	39%	Requested an action plan.
5	Rustenburg platinum: Twickenham mine	MPU	Coal Mine	APP	39%	Action plan submitted. The mine is non-compliant to the water use licence conditions. Follow-up inspection required.
6	ASA Metals (Pty) Ltd: Dilokong Chrome Mine	MPU	Coal Mine	APP	41%	Action plan submitted. Non-compliance to conditions of the WUL. Follow-up inspection required.
7	Landou: Kromdraai Mine	MPU	Coal Mine	ADD	20%	Referred to Enforcement unit.

MINING WATER USERS 2022/2023						
Name of Facility		Prov	Type of sector	APP / Add	% of Complian ces of facilities	Comments / Findings
8	Syferfontein Sasol Mining	MPU	Coal Mine	ADD	67%	Requested an action plan.
9	South 32 Coal Holding: Wolvekrans North	MPU	Coal Mine	ADD	36%	Requested an action plan.
10	De Beers Consolidated Mines: Venetia Mine	LP	Diamond Mine	APP	44%	Updated action plan requested for non-compliance to water use licence conditions.
11	Grassvally Chrome Mine (pty) Ltd	LP	Chrome Mine	APP	18%	Action plan with timelines submitted. Follow up inspection required.
12	Ledjadja Coal (Pty)Ltd Boikarabelo Coal Mine	LP	Coal Mine	APP	67%	The Mine is not operational. Administrative conditions were assessed for compliance. The Mine is in Provisional Liquidation.
13	Mogalakwena Mine	LP	Platinum Mine	ADD	35%	Mogalakwena Mine is non-compliant with conditions of WUL and contravening provisions of Section 22 (1), 19 and 20 of the National Water Act, 1998, and Government Notice (GN 704) Regulations.
14	Grootegeeluk Mine	LP	Coal Mine	ADD	83%	Updated action plan requested.
15	Southern Ambition 1549 (Pty) Ltd	NC	Manganese Mine	APP	78%	Issue a notice of intention to issue a directive in terms of section 53 of the National Water Act, Act 36 of 1998) compelling

MINING WATER USERS 2022/2023						
Name of Facility		Prov	Type of sector	APP / Add	% of Complian ces of facilities	Comments / Findings
						the water user to address the findings of non-compliance.
16	Tshipi e Ntle Manganese Mining (Pty) Ltd: Tshipi Borwa Mine	NC	Manganese Mine	APP	94%	Refer the case to Enforcement Unit. Issuance of Non-Compliance Notice to Tshipi e Ntle Manganese Mining (Pty) Ltd: to address all the non-compliances identified during the audit
17	The Brad Potgieter Trust	NC	Alluvial Diamond	APP	60%	Issue a Notice in terms of Section 53 for failure to comply with licence conditions
18	Mokala Manganese Pty Ltd	NC	Manganese Mine	APP	63%	Issue a Notice in terms of Section 53 for failure to comply with licence conditions
19	Saxendrift Mine (Pty) Ltd Replaced Reitput Delwery (Northern Cape Diamonds Exploration License which was to replace Rietput Dewlwery has been	NC	Alluvial Diamond	APP	67%	Issuance of a notice for all non-compliances identified and for not submitting the required documents.

MINING WATER USERS 2022/2023						
Name of Facility		Prov	Type of sector	APP / Add	% of Compliances of facilities	Comments / Findings
	superseded)					
20	Delf Sand Mine	NW	Sand (Silica)	APP	25%	The mining activities has ceased. Action plan will be requested to address contraventions with the National Water Act, 1998 provisions.
21	Bundu Mining (Pty) Ltd: Gomes Sand Operations	NW	Sand Mine	APP	61%	Action Plan Requested. The current WUL will expire in 2023.
22	Xstrata (Glencore) Eland Platinum Mine	NW	Platinum Mine	APP	66%	Action Plan requested
23	Bafokeng Rasimone Platinum Mine	NW	Platinum Mine	APP	58%	Action Plan requested.
24	Helam Mine	NW	Diamond	ADD	57.89%	The mine has been requested to Provide regular feedback on the implementation of the Action Plan.
25	Crown Gold recoveries. Replacing DRD Gold Mine Knights Operation	GP	Gold Mine	ADD	83%	An action plan is required to address the non-compliances detected
26	New Kleinfontein	GP	Gold Mine	APP	57%	There are water uses identified that are being exercised without

MINING WATER USERS 2022/2023						
Name of Facility		Prov	Type of sector	APP / Add	% of Compliances of facilities	Comments / Findings
						authorisation
27	DRD Gold ERGO Mining	GP	Gold Mine	APP	86%	An action plan is required to address the non-compliances detected
28	Kariba Minerals LTD	FS	Alluvial Diamond	APP	3%	Action plan is required to address the detected non-compliances.
29	Sibanye Beatrix Mine	FS	Gold Mine	ADD	70%	An action plan is required.
30	De Beers Voorspoed Mine	FS	Diamond Mine	ADD	51%	Mine at Closure Phase. No mining activities on site. Technical and administrative conditions in the WUL were assessed for compliance. DMRE requires the mine to Backfill the pit and the mine made an appeal, awaiting outcome on appeal.
31	Hoshoza Resource Vryheid: Karoboo	KZN	Coal Mine	ADD	22%	Directive issued on the 10 June 2022. Hoshoza Resources is not complying with: WUL conditions, GN 704 regulations 5, 6, 7 (a) and 11, and National Water Act, 1998 section d 19.
Q3						
1	Bokoni Platinum mine	MPU	Platinum Mine	APP	43%	Requested an action plan.

MINING WATER USERS 2022/2023						
Name of Facility		Prov	Type of sector	APP / Add	% of Complian ces of facilities	Comments / Findings
2	Brandbach Mining (Pty) Ltd: Brandbach Sand cc	MPU	Sand Mine	APP	4%	Requested an action plan.
3	Mototolo Mine	MPU	Platinum Mine	ADD	39%	Requested an action plan.
4	Exxaro Coal (Pty) Ltd: Grootegeeluk Coal Mine & Reductants	LP	Open cast coal Mine	APP	70%	Requested an updated action plan.
5	Tivani Mine (Pty) Ltd	LP	Titanium, Vanadium, and Iron Mining	APP	11%	Requested an action plan.
6	Lengeo (Pty) Ltd Vogelstruisfontein Sand Mine	NW	Sand Mine	APP	68%	Action Plan requested:
7	Brikor Ltd Donderhoek Quartzite Quarry	NW	Quartzite Aggregate	APP	52%	Action Plan Requested.
8	Rustenburg Platinum Mine: Union Section	NW	Platinum Mine	APP	77%	Action Plan Requested
9	Shondoni (Sasol Mining)	GP	Coal Mine	APP	96%	Non-compliances of conditions of license to be rectified.
10	South 32 SA Coal Holding (Pty) Ltd	GP	Coal Mine	APP	86%	The mine has not commenced with activities due to the

MINING WATER USERS 2022/2023						
Name of Facility		Prov	Type of sector	APP / Add	% of Complian ces of facilities	Comments / Findings
	Davel Mine					appeal lodged for the water use licence.
11	Harmony Moab Khotsong Operations	FS	Gold Mine	ADD	37%	The mine has been requested to correct and rectify measures to the protect water resources.
12	Tetra 4 (Pty) Ltd	FS	Gas Mine	APP	96%	Tetra needs to conduct follow up with the DWS licensing section regarding the outstanding approval or rejection of some conditions.
13	One Gold Africa	FS	Gold Mine	APP	98%	No Mining activities are taking place, however few applicable administrative conditions were assessed for compliance. The full audit will be conducted as soon as the mine commenced.
14	Jagersfontein	FS	Gold Mine	APP	75%	This was a Desktop Audit, no physical site inspection undertaken. Audit focused only on documents and information submitted by the mine.
15	Thutha Amalahle Transport & Construction Pty Ltd _ Dama Colliery	KZN	Coal Mine	APP	48%	The mine indicated that the facility has been under care and maintenance since the start of Covid-19 pandemic.
16	Tasman Lukisa JV Pty	EC	Uranium Oxide	APP	90%	Notice of intention to issue a Directive in terms

MINING WATER USERS 2022/2023						
Name of Facility		Prov	Type of sector	APP / Add	% of Compliances of facilities	Comments / Findings
	Ltd: Ryst Rehabilitation Project Closure					of Section 53(1) of the National Water Act, 1998 (Act No 36 of 1998) for non-Compliance to the WUL conditions will be issued and request an action plan on how the non-compliance will be addressed
Q4						
1	Khanyisa Coal Mine Replacing Analisa Mining and Industrial service: Lefa Coal Mine	MPU	Coal Mine	APP	67%	Action Plan requested on the detected non-compliances.
2	Exxaro Matla Colliery	MPU	Coal Mine	APP	53%	Action Plan requested on the detected non-compliances.
3	Doornbosch Mine Replacing Transvaal Gold Mining Estate	MPU	Chrome Mine	APP	79%	Action plan requested.
4	Palesa Coal Mine Replacing Blue Nightingale Trading: Sisebenzile colliery	MPU	Coal Mine	APP	74%	Action plan requested.

MINING WATER USERS 2022/2023						
Name of Facility		Prov	Type of sector	APP / Add	% of Compliances of facilities	Comments / Findings
5	Leeuwan Coal Mine Replacing Msobo Coal (Pty) Ltd: Veerdepan Mine	MPU	Coal Mine	APP	55%	Action Plan requested on the detected non-compliances.
6	Rustenburg platinum mine: Der brochen	MPU	Platinum Mine	APP	52%	Action Plan requested on the detected non-compliances.
7	North Platinum Limited: Booyse dal mine	MPU	Platinum Mine and Concentrator Plant	APP	63%	Requested an action plan plant.
8	Anglo American Platinum Limited: Mogalakwena Mine	LP	Platinum Mine	APP	42%	Notice was issued and action plan monitored. Additional non-compliances will be addressed with an updated action plan.
9	Baobab Mine Makhado C. Replacing Ivanplats	LP	Coal Mine	APP	100%	The Mine has not started operating, administrative conditions for the water use licence assessed for compliance and found compliant.
10	Grassvalley Chrome Mine	MPU	Chrome Mine	ADD	11%	Updated corrective action requested.
11	Venetia	LP	Diamond Mine	ADD	17%	Referral to Enforcement Unit for investigation on the non-compliances.
12	Groote geluk	LP	Coal Mine	ADD	25%	Referral to Enforcement Unit for investigation of

MINING WATER USERS 2022/2023						
Name of Facility		Prov	Type of sector	APP / Add	% of Complian ces of facilities	Comments / Findings
						the non-compliances.
13	Ga re lekeng kgape	LP	Sand Mine	ADD	6%	Action plan requested.
14	Annesley Salt Pty Ltd Mine. Replacing PEJ Voster	NC	Minerals	APP	99%	Mining activities have not fully commenced, only administrative conditions of the WUL assessed for compliance. Covid interfered with the mining plans.
15	UMK (United Manganese of Kalahari)	NC	Manganese	APP	79%	To issue a notice of intention to issue a directive in terms of section 53(1) of NWA.
16	North Cape Mining (Pty) Ltd. Replacing Rex Exploration, mine	NC	Manganese	APP	82%	Issue a notice of intention to issue a directive in terms of NWA.
17	Klipdam Diamond Mine. Replacing Droogfontein Estate PTY LTD	NC	Diamond	APP	83%	To issue a notice of intention to issue a directive in terms of section 53(1) of NWA.
18	Kolomela Mining	NC	Iron Ore	APP	83%	To issue a notice of intention to issue a directive in terms of section 53(1) of NWA.
19	Matsopa (Pty) Ltd Benadeplaats	NW	Limestone Mine	APP	75%	Action Plan requested on the detected non-compliances.

MINING WATER USERS 2022/2023						
Name of Facility		Prov	Type of sector	APP / Add	% of Complian ces of facilities	Comments / Findings
	Limestone Mine					
20	Samancor Chrome Ltd: Western Chrome Mines Millsell and Waterkloof	NW	Chrome Mine	APP	65%	Action Plan requested on the detected non-compliances.
21	Northam Platinum Mines: Zondereinde	NW	Platinum Mine	APP	84%	Action Plan requested on the detected non-compliances.
22	Afarak SA Mining (Zeerust Chrome Mine)	NW	Chrome Mine	APP	28%	Action Plan requested on detected non-compliances. ZCM has been under care and maintenance and was bought by Afarak, new owner.
23	Cullinan Diamon Mine	NW	Diamond Mine	ADD	71%	Updated Action Plan Requested.
24	New Dernmark Mine	GP	Coal Mine	APP	86%	Action Plan requested on the detected non-compliances.
25	Sasol Mine Operations Secunda (Twistdraai Export Plant)	GP	Coal Mine	APP	97%	The mine indicated they are in the process of amending the current WUL to include Wollies se gat as the primary abstraction point for section 21 (a).
26	Impumelelo Mine Secunda	GP	Coal Mine	APP	98%	Action Plan requested on the detected non-compliances.

MINING WATER USERS 2022/2023						
Name of Facility		Prov	Type of sector	APP / Add	% of Compliances of facilities	Comments / Findings
27	Coal of Africa Mooiplaats	GP	Coal Mine	APP	57%	Action Plan requested on the detected non-compliances.
28	Tronox Sands KwaZulu-Natal Sands Pty Ltd - Fairbreeze Mine	KZN	Mineral Rick sand	APP	89%	
29	Exxaro Mandzana	KZN	Coal Mine	ADD	39%	
30	Exxaro Coal Coastal Mine Hlobane Tshoba	KZN	Coal Mine	ADD	44%	The water user must make financial provision available and urgently implement water treatment plant as a reasonable and feasible measure to comply with the provision of NWA, GN 704 and WUL conditions. A notice of intention to be issued for further enforcement actions.
31	Lafarge Tygerberg Quarry	WC	Cement Quarry	ADD	68.75%	Most of the non-compliant issues from the previous Audit were addressed by the mine.

4.1.2 ENFORCEMENT

Water plays a crucial role in the mining sector in South Africa. As a water-scarce country, South Africa faces significant challenges in managing and

protecting water resources effectively. In the mining industry, water is essential for various activities, including mineral processing, dust suppression, and cooling of machinery. However, mining operations often consume large volumes of water, placing strain on water resources and ecosystems. The responsible and sustainable management of water resources in the mining sector is critical to ensure minimal impact on the water resources and surrounding communities. Implementing efficient water management strategies, such as water resources strategy, can help reduce the sector's water footprint and mitigate potential water-related risks.

The Compliance Monitoring Unit has referred a combined total of four (4) cases to the Enforcement Unit, warranting the implementation of enforcement measures. Within this set of cases, the (2) mining operators, demonstrating non-compliant behaviour, were duly issued notices of intention to initiate directives. Following this sequence, the Enforcement Unit undertook the issuance of one (1) directive as a direct response to observed non-compliance subsequent to the initial notice issuance. Enforcement Unit remains actively engaged in overseeing compliance in relation to the stipulated directives.

During the review period, Enforcement Units received ninety-five (95) complaints of suspected non-compliances in the mining sector and out these reported cases eighty-eight (88) cases were investigated. Investigation findings revealed an array of non-compliances which pose a threat to the water resources. This has prompted Enforcement to take administrative action against identified non-compliant water users to compel them to rectify the contraventions detected. Forty-three (43) administrative actions were initiated against suspected transgressors.

Enforcement Activities in the Mining Sector	
Investigated Cases	88
Administrative Action	43
Criminal Cases Opened	9
Representations Received and Assessed	44
Total	

Enforcement activities in the mining sector against unlawful water use and pollution cases reported have shown significant action and response. A total of 88 cases were investigated, indicating a commitment to addressing these non-compliances. Forty-three (43) administrative actions were taken by the DWS to enforce compliance and hold responsible parties accountable. Additionally, nine (9) criminal cases were opened, indicating the seriousness of the offenses and the intent to pursue legal consequences for those involved in unlawful water use and pollution. These enforcement actions highlight the importance of protecting water resources and ensuring that mining operations adhere to water legislations. The combination of investigations, administrative actions, and criminal proceedings reflects a comprehensive approach to addressing unlawful practices in the mining sector and safeguarding the water resources.

The Department has also participated in the Operation Phakisa which is a collaborative initiative involving various key participants including the South African Police Service (SAPS), the Department of Forestry, Fisheries and the Environment (DFFE), the Department of Mineral Resources (DMR), and the Department of Water and Sanitation (DWS) *inter alia* ensuring compliance by water users within various sectors. Through this joint approach Operation Phakisa enforcement efforts have been notably directed towards addressing unlawful water usage through sand mining. This involves diligently addressing issues where sand miners are diverting

and impeding the watercourses, amongst other contraventions. By engaging these multiple stakeholders and employing a coordinated approach, Operation Phakisa aims to ensure rigorous compliance with regulations, fostering sustainable practices and safeguarding the integrity of water resources.

4.2 INDUSTRY SECTOR PERFORMANCE

4.2.1 COMPLIANCE MONITORING

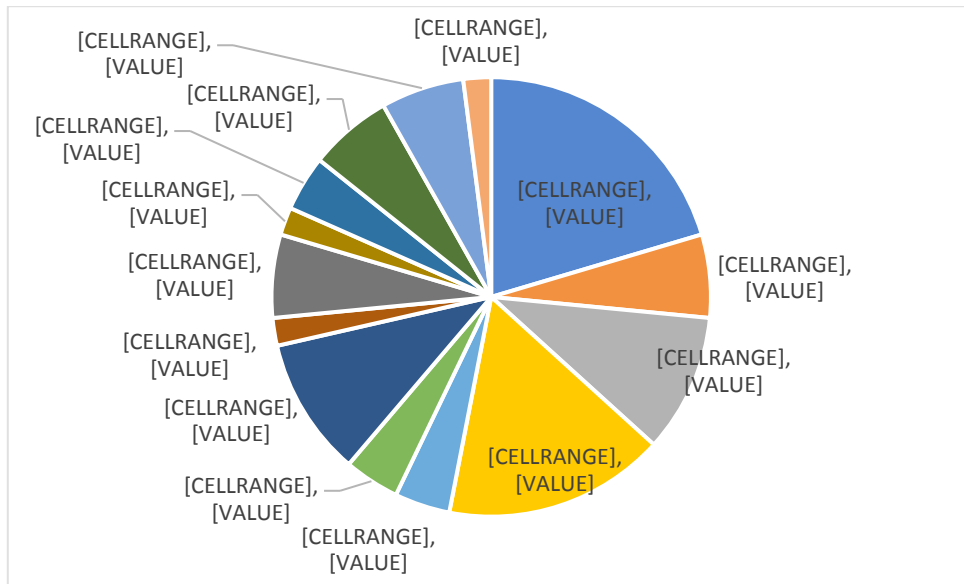
Due to restructuring within the department compliance monitoring and reporting of some sectors have been merged with the Industry sector since 1 April 2022. Public Institution Sector have merged into the Industry sector and the compliance monitoring and reporting will hence forth form part of the Industry sector and not dealt with separately as in the past.

Compliance Monitoring Industry planned to oversee 49 Industrial water users in 2022/2023 and achieved 51 (**Table 14**).

The following Industrial Sectors were inspected / audited for 2022/2023:

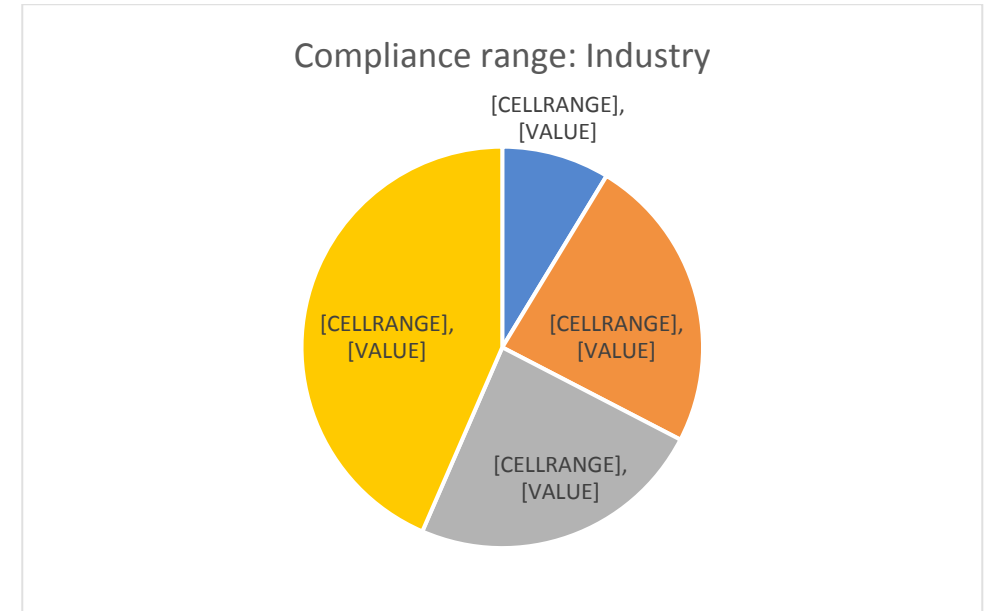
- 10 Fast Moving Consumer Goods (FMCG),
- 3 beverage,
- 5 steel and metal manufacturing related,
- 8 renewable energy,
- 2 chemical processing,
- 2 fertiliser,
- 5 coal fired power stations,
- 1 cement,
- 3 petrochemical,

- 1 textile,
- 2 general trading,
- 3 developments,
- 3 railway transportation,
- 1 industrial development zone,
- 5 linear related projects crossing water resources.



During 2022/2023, 51 Industries were monitored and achieved a compliance range as follows:

- 4 users have compliance level of 0-24%
- 11 users have compliance level of 25%-49%,
- 11 users have compliance level of 50%-74%, and
- 20 users have compliance level of 75%-100%
- 5 users have no applicable scorecard due to being non-operational



- Out of 51 users, 45 users were found to be non-compliant to various conditions and recommendations were made in the final reports for actions against non-compliances ranging from corrective action plans to enforcement actions. Non-compliance letters were in various stages of notification to the users. Two users have pre-directives issued, 1 user was issued with a verbal directive and directives are intended for 4 users at this stage.
- The average compliance for the sector is 63 %.

Table 14: Individual performance: Industry Sector

INDUSTRY WATER USERS 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliance s of facilities	Comments / Findings
Q1					
1	Sedibeng Brewery (Pty) Ltd	GP	APP	75%	The Licensee indicated that water used per litre of alcohol produced has decreased however, data to support this was not provided.
2	Pioneer Foods Pty Ltd	LP	APP	84%	The Licensee mostly has administrative non-conformances as per the requirements of the WUL.
3	Octane Dew 106 cc	LP	APP	25%	There will be a follow-up inspection once they commence with this activity
4	Silicon smelters	LP	APP	80%	The water user needs to improve on administration activities
5	Tobivox (Pty)LTD	LP	APP	96%	Rectification of non-compliances required.
6	Char Technology Pty Ltd	MPU	APP	83%	A follow up with Char Technology PTY Ltd is required
7	NCP Chlorchem	NW	APP	49%	This facility was inspected in 2015 and 2017. There has been no improvement. Spillages into the Kaalkspruit continue to happen. Dams are filled to capacity.
8	SANRAL: Upgrade for National Route N11 Section 9 between Hendrina and Hendrina power station	MPU	APP	38%	Proper action plan required to rectify non-compliances.
9	Libstar Chamonix	WC	APP	54%	The facility needs to improve on the submission of data to the

INDUSTRY WATER USERS 2022/2023					
Name of Facility	Prov	APP/ Add	% of Compliance s of facilities	Comments / Findings	
					Department.
Q2					
10	Coega IDZ	EC	APP	74%	Coega Development Corporation (Pty) Ltd is non-compliant with some of the WUL conditions. There are uncertainties about the total number of dams in the entire IDZ and need to be reviewed or amendment in WUL.
11	Danone Southern Africa (Pty) Ltd	GP	APP	62.5%	The 2018 calibration certificate submitted may no longer be valid. This may have affected the accuracy of the daily readings recorded.
12	Thuthuka Power Station	GP	APP	61%	Action to be taken with mitigation measures for non-compliances identified.
13	Sasol Synfuels	GP	APP	93%	Most conditions are compliant.
14	Chantilly Water Pty Ltd	KZN	APP	68%	The facility is required to engage the Department for an amendment of the WUL to change the Licensee to the new owner Dargle Water.
15	Lapalala Natuurbewaring Operation Noka Camp	LP	APP	91%	The Department must make a follow-up to ensure that the wastewater irrigated is quantified.
16	Jisep Trading (Pty) Ltd	LP	APP	20%	The audit did not take place since the activity is not active and the water user could not be found.
17	Matimba Power Station	LP	APP	87%	Action plan on measures that will be taken to rectify non-compliances.
18	PMC (Polokwane Meturlargical Complex) Anglo Platinum	LP	APP	79%	PMC must submit outstanding reports, failure to do so will results in issuing a directive.

INDUSTRY WATER USERS 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliance s of facilities	Comments / Findings
19	Westfalia fruit products	LP	APP	25%	The facility has several unauthorised activities taking place on site. Corrective actions are being investigated.
20	Komati Power Station	MPU	ADD	25%	The Power Station is due to be decommissioned on Sep 2022. However, no solid closure plans and no proper water management plans and studies are in place.
21	KHI Solar Upington	NC	APP	91%	The facility is mostly compliant with the conditions of the authorisation. An intention to issue a directive for the non - compliances to conditions is issued.
22	Fire Fly Investment	NC	APP	92%	There are conditions related to groundwater monitoring that the licensee does not give attention to.
23	Clover Alloys (Pty) Ltd	NW	APP	46%	The facility has several unauthorised activities taking place on site
24	ACSA (Erf 173970)	WC	APP	no scorecard applicable	Three years has passed and the activity has not been undertaken. The licensee has requested extension and/or requested that the licence must not be withdrawn.
25	ACSA (Ptn 0, erf 173970)	WC	APP	no scorecard applicable	Three years has passed and the activity has not been undertaken. The licensee has no intention to continue with the activity.
Q3					
26	Box Way Trade and Invest (Pty) Ltd: Orange Farm Filling Station	GP	APP	no scorecard applicable	There is currently no construction or any development that has commenced on site regarding the construction of the filling station.
27	McCain Foods	GP	APP	63%	A pre notice letter was sent to the

INDUSTRY WATER USERS 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliance s of facilities	Comments / Findings
	SA: Springs				facility requesting action plans.
28	Arcelo Mittal	GP	APP	92%	The facility must undertake an investigation into iron ore storage facility paying attention to its impact on the surface and groundwater water resource.
29	Anglo Coal CBM (Anglo Americ Thermal Coal Lephalale)	LP	APP	67%	There are no findings since the project has not yet started with implementation of WUL operations. A scorecard was able to be generated due to some conditions being active.
30	Mac Group of Companies/ Mactransco railway siding	LP	APP	76%	A follow up inspection must be conducted on oil spillage observed.
31	Core Energy	LP	APP	96%	Water user to change the postal address on the Departmental system/database.
32	Thabametsi Power Plant	LP	APP	No scorecard applicable	Project has not started and will not take place in the future. Thus, a voluntary surrender of the WUL is recommended.
33	Rhodes Food Group	LP	ADD	83.33%	The Licensee was issued with amended license. Some non-compliances to be rectified as identified.
34	Brazen Algar Trading: Haverklip siding	MPU	APP	0%	The Licensee has ceased operations. The DWS is to issue a directive to the licensee to correct the water quality impacts on site and rehabilitate and also to surrender the WUL if the project will not continue in the future.
35	Samancor Ferrochrome	MPU	APP	0%	GN 704 Regulation Contraventions identified.

INDUSTRY WATER USERS 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliance s of facilities	Comments / Findings
36	Aplorox Forfar Railway Siding	MPU	ADD	33%	The facility is required to develop an action plan addressing all non-compliances.
37	Aurora power solutions Aries 19solar	NC	APP	38%	The name must be changed to the current facility user. The current user must apply for section 21 g, for the septic tank.
38	Omnia Fertilizer	NW	APP	38%	The DWS to issue a pre-directive to Omnia Fertilizer due to the magnitude of underground groundwater contamination identified.
39	Foskor Pty Ltd	KZN	APP	58%	A notice of intention to issue a pre-directive to be issued to Foskor Pty Ltd for failing to comply with licence conditions and unlawful gypsum dam
Q4					
40	Abland (Pty) Ltd: Bulk Sewer Pipeline 2	GP	APP	67%	The action plan was required with timeframes to rectify non-compliances. There were 12 technical non-compliances.
41	Lafarge Industry SA	GP	APP	No scorecard applicable	Drive-by inspection when the facility indicated that the activity existed before the licence was issued and then never constructed it. To be investigated.
42	Rhodes Food Aero-ton	GP	APP	44%	Request an action plan with time frames on-compliances identified.
43	Eskom Matimba Power Station: Ashing Facility	LP	APP	92%	Observed contraventions and non-compliances to be rectified.
44	Medupi Power Station	LP	APP	99%	The verbal directive was issued. DWS awaits an action plan which was requested

INDUSTRY WATER USERS 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliance s of facilities	Comments / Findings
45	Royal Macadamia	LP	APP	67%	There are outstanding audits and reports that need to be submitted
46	Twin City Trading Pty Ltd-Groblersdal Regional Shopping Centre and Mixed-Use Development	MPU	APP	48%	There are outstanding documents that need to be submitted.
47	National Research Foundation (NRF) SKA South Africa: Meerkat Meysdam 68	NC	APP	100%	No further action required
48	South Africa Mainstream Renewable Power: Kangnas	NC	APP	75%	The licensee is not fully compliant. Follow up inspection required.
49	Adams Solar	NC	APP	82%	Minor activities to address non-compliances.
50	South African Rail Commuter Corporation (Prasa)	NW	APP	15%	An Action Plan to address all non-compliances has been requested.
51	Da Gama Textiles	EC	APP	67%	Action plans to address the non-compliances identified with progression to a pre-directive.

4.2.2 ENFORCEMENT

Several industries contribute to the pollution of water resources, posing significant water resource. Taking enforcement action against non-compliant water users in the industries is of utmost importance. It not only holds responsible parties accountable for their actions but also acts as a deterrent for future contraventions. Enforcement action sends a clear message that polluting water resources will not be tolerated, and compliance with water related regulations is mandatory.

Within the Industry sector, the Compliance Monitoring Unit has identified and referred three (3) cases that warranted referral to the Enforcement Unit. In response, the Enforcement Unit initiated three (3) administrative actions to address the identified non-compliance issues. The Department is ensuring that follow-up inspections are undertaken on the cases and ensure that the necessary measures are taken to achieve compliance.

During the review period, Enforcement Units received forty-one (41) complaints of suspected non-compliances in the industrial sector and out these reported cases thirty-eight (38) cases were investigated. Investigation findings revealed an array of non-compliances which pose a threat to the water resources. This has prompted Enforcement to take administrative action against identified non-compliant water users to compel them to rectify the contraventions detected. Twenty-five (25) administrative actions were initiated against suspected transgressors.

Enforcement Activities in Agricultural Sector	
Investigated Cases	38
Administrative Action	25
Criminal Cases Opened	-
Representations Received and Assessed	15
Follow-Ups (Investigations & Inspections)	39
Total	

4.3. AGRO PROCESSING SECTOR PERFORMANCE

4.3.1 COMPLIANCE MONITORING

Agro-Processing

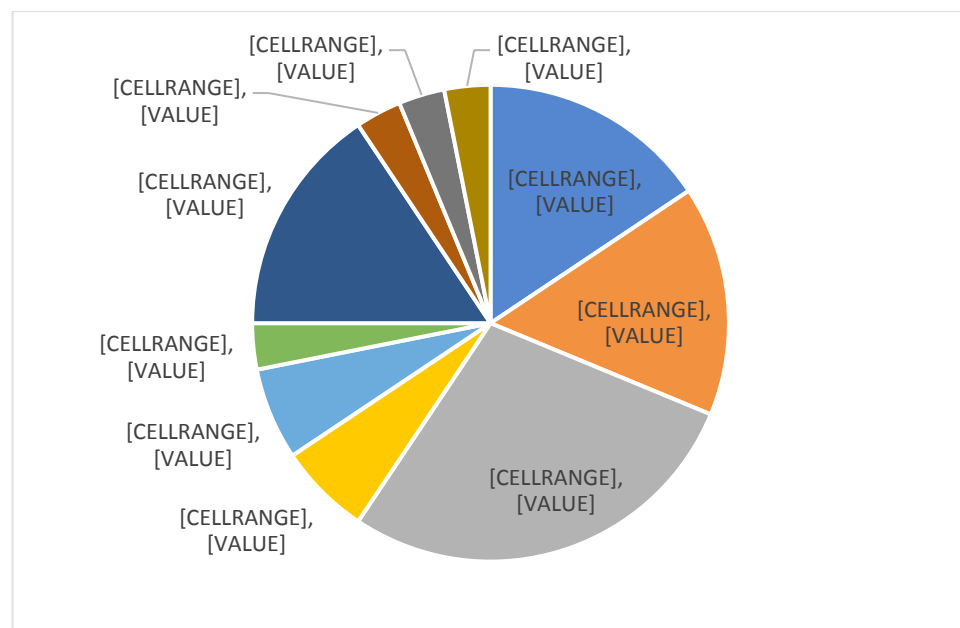
Compliance Monitoring Agro-Processing planned to oversee 25 Agro-Processing industrial water users in 2022/2023 and achieved 32 (**Table 15**).

The following Agro-Processing industries Sectors were inspected / audited for 2022/2023:

- 5 wineries
- 5 piggeries
- 9 poultry
- 2 vegetable processing
- 2 livestock watering
- 1 feedlot
- 5 dairies
- 1 game farm
- 1 biogas plant
- 1 abattoir

During 2022/2023, 32 Agro-Processing Industries were monitored and achieved a compliance range as follows:

- 5 users have compliance level of 0-24%
- 4 users have compliance level of 25%-49%,
- 10 users have compliance level of 50%-74%, and
- 11 users have compliance level of 75%-100%
- 2 users have no applicable scorecard due to being non-operational.



Out of 32 users, 30 users were found to be non-compliant to various conditions and recommendations were made in the final reports for actions against non-compliances ranging from corrective action plans to enforcement actions.

- The average compliance for the sector is 60 %.

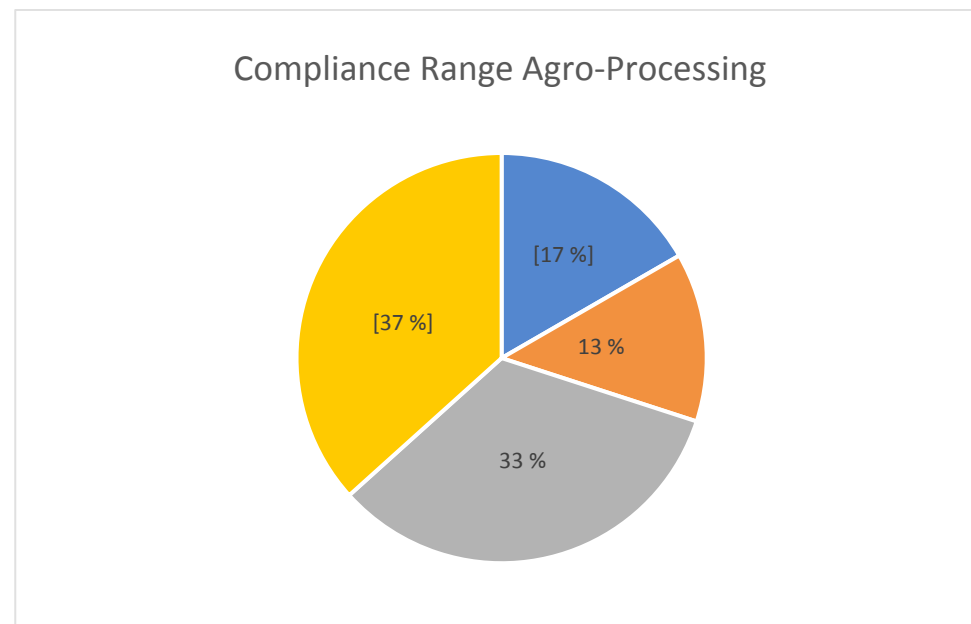


Table 15: Individual performance: Agro-Processing

Agro-Processing 25 users were planned to be monitored in 2022/2023. This target was overachieved by 32 at the end of the financial year.

AGRO-PROCESSING WATER USERS 2022/2023				
Name of Facility	Prov	APP/ Add	% of Compliance s of facilities	Comments / Findings

AGRO-PROCESSING WATER USERS 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliance s of facilities	Comments / Findings
Q1					
1	Steynsburg Pork and Abattoir	KZN	APP	95%	Issue a notice of intention to issue a directive
2	Delta Valley Pty Ltd	WC	APP	0%	This Department awaits the submission of relevant documents relating to the closure of the license, further actions will be taken from thereon.
3	Denny Mushrooms	WC	APP	52.38	The documentation is outstanding and will be requested via an Audit findings letter.
4	Cape Dairy-Biogas	WC	APP	100%	The facility has not yet commenced with operations.
Q2					
5	Bluelilliesbush Dairy Farming	EC	APP	83%	An action plan to be submitted to remediate all the non-compliances and unauthorised water uses.
6	Supreme Poultry	FS	APP	86%	The Licensee is not fully compliant with the WUL. Non-compliances to be rectified..
7	MP Grindrod	KZN	APP	0%	An action plan to be submitted to remediate all the non-compliances identified.
8	Ndiza Poultry Breeders cc	KZN	ADD	31%	Issue a notice of intention to issue a directive for failing to comply with licence conditions and contraventions.
9	Itireleng Poultry	LP	APP	0%	The licence was issued on 20 August 2015 and since then no activity has taken place at the facility.
10	Number Two Piggeries (Pty) Ltd - Longside Piggery	NW	APP	69%	Number Two Piggeries (Pty) Ltd: Longside Piggery must apply for an amendment of the WUL to correct some of the conditions and must submit an action plan with time

AGRO-PROCESSING WATER USERS 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliance s of facilities	Comments / Findings
					frame to DWS to rectify all the non-compliances identified..
11	Kameeldrift Voere	NW	APP	54%	Kameeldrift Voere (Pty) Ltd must apply for an amendment of the WUL to correct some of the conditions and must submit an action plan with time frame to DWS addressing all the non-compliances identified.
12	EDE Farming Pty Ltd Piggery & associated activities	MPU	APP	62%	Water user must apply for Water Use License for unauthorised reservoir. The Licensee must submit an action plan with time frames to the DWS to rectify the identified non-compliances.
Q3					
13	Wittenkleinbosch Dairy	EC	APP	64%	It is recommended Wittenkleinbosch Dairy Trust submits an action plan with timelines to remediate all the non-compliances and unlawful water use of Section 21(e). identified.
14	Greystone Trust	EC	APP	52%	An action plan with to remediate all the non-compliances identified.
15	Diepkuil Boerdery	FS	APP	27%	An action plan with to remediate all the non-compliances identified
16	Hlati Chicks	KZN	APP	21%	The project was in the construction phase. Non-compliances to be rectified.
17	Lesudi Farming and Poultly	LP	APP	33%	An action plan with to remediate all the non-compliances identified
18	BGM Chicken farms	NW	APP	25%	Licensee indicated that he wants to surrender WUL (licence no: 07/A23E/A/6985) urgently as he is using borehole water for domestic purposes, livestock watering for 13

AGRO-PROCESSING WATER USERS 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliance s of facilities	Comments / Findings
					goats and watering vegetables planted on a small-scale garden.
19	Kiepersol Poultry farms (Pty) Ltd	NW	APP	0%	This user is an ELU and two conditions of the section 35 letter were selected. The Licensee to develop and action plan to address all non-compliances identified.
20	Zapa Farming	GP	APP	22%	ZAPA Farming must conduct full Internal/External Audits and submit to DWS.
Q4					
21	Grass Ridge Dairies	EC	APP	92%	Submit an action plan with timelines to remediate all the non-compliances and unauthorised water uses identified.
22	Diamond Trust	LP	APP	74%	Flow meter readings device must be installed and records reported to DWS. The water user should communicate with Authorisation section to amend the conditions related to mine activity.
23	McCain Foods	MPU	APP	93%	The number of effluent spillage reoccurrences has improved significantly.
24	Vusithemba Project Solutions	LP	ADD	67%	Report to be handed-over to DWS-Enforcement for further actions.
25	Zolarity Investment	LP	APP	75%	Outstanding documents to be submitted.
26	Mmonwa Poultry Eterprise	IP	APP	69%	The owner of the property has passed on. There is currently no activity at this stage. Change of ownership or amendment of the license is required..
27	Cavalier Abattoir	NW	APP	64%	Develop an Action Plan with timeframes and dedicated

AGRO-PROCESSING WATER USERS 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliance s of facilities	Comments / Findings
	(Pty)Ltd:Cavalier Abattoir				personnel to address all the non-compliances.
28	Bosman Family Vineyard	WC	ADD	87%	Non-compliances identified to be rectified.
29	Allesverloren Estate Wines	WC	ADD	91%	Submit an action with timelines to remediate all the non-compliances identified.
30	Lammershoek Farms & Winery	WC	ADD	83%	Submit an action with timelines to remediate all the non-compliances identified.
31	Napier Vineyard	WC	ADD	87%	Submit an action with timelines to remediate all the non-compliances identified.
32	Imbuko Wine	WC	ADD	94%	Submit an action with timelines to remediate all the non-compliances identified.

4.3.2 ENFORCEMENT

Four users were issued non-compliance letters and 2 users were issued a notice of intention to issue a directive.

Enforcement Cases logged for Agro-Processing are included in the Agriculture Sector under the Irrigation Sector in paragraph 4.4.2. These cases will be reported under Agro-Processing from 2023/24.

4.4 IRRIGATION SECTOR PERFORMANCE

4.4.1 COMPLIANCE MONITORING

A. Irrigation water use

Irrigated sector is categorised into: -

- **Large-scale commercial irrigation farmers/schemes:** and these are divided into three groups:
 - **State water schemes** (Government Water Schemes), comprising about 19% of the area under irrigation.
 - Irrigation Boards, comprising of about 22% of the area under irrigation.
 - Private irrigation farmers/schemes, comprising about 59% of the area under irrigation.
- And **Small-scale commercial irrigation farmers/schemes:** which are comprised of Small-farmer irrigation schemes which were mainly found in the former homelands which had about 47 000 ha under irrigation. These schemes included both small-scale commercial irrigation farmers and so-called “food plot holders”. Most schemes had both commercial farmers and food plot holders, in different ratios, but several had only commercial farmers or only food plot holders (Agriculture Sector Position Paper, 2009).

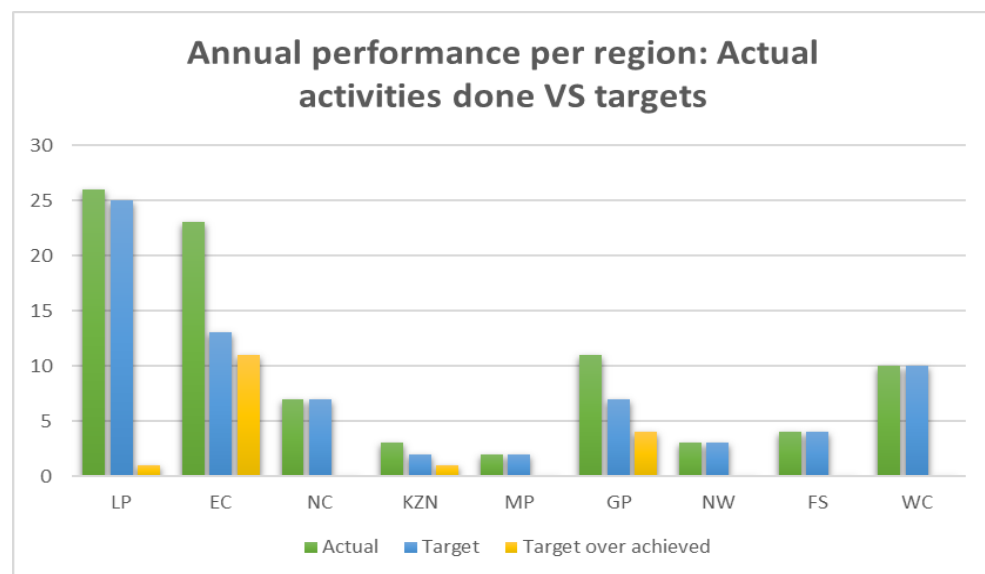
Agriculture in the South African economy, around 2009 have strongly contributed to over 30% of the gross value of the country’s crop production and due to increased production of field crops and horticultural and animal products, the agricultural sector expanded by 15,1%. This sector was the only positive contributor, contributing 0,3% to GDP during the second quarter of 2020 (according to Stats SA).

Therefore, monitoring compliance of the irrigation water use is crucial to ascertain compliance.

- According to the 2022/23 Annual Performance Plan (APP), 73 individual water users were planned to be overseen in 2022/2023 and 89 individual water users were achieved due to the additional 16 activities that were inspected/monitored during the 2022/2023 financial year.
- The compliance percentages were categorized into four groups, from Q1 to Q4: 0–24%, 25–49%, 50–74%, and 75–100%:
 - 10 individual water users were found to have scored below 24%,
 - 13 water users scored between 25 to 49%,
 - 28 water users scored between 50 to 74%, and
 - 19 water users scored between 75 to 100%.
 - 19 users who have no activity taking place but were assessed only on administrative conditions
- Therefore, the overall compliance status for irrigation sector in the 2022/23 financial year is 58%. The 50% threshold was used to determine the percentage of the compliance status. As captured in Table 16, there are other activities where irrigation is not yet taking place. They are reflected as having 100% compliance, but this does not mean that they are complying. A follow-up may be conducted when irrigation is taking place.

Quarterly performance per province

Quarterly Performance per provincial region and total achieved per region						
Provincial Operation	Planned Targets	Q1	Q2	Q3	Q4	Total Achieved
LP	25	6	6	8	6	26
EC	13		4	12	7	23
NC	7	2	1	2	2	7
KZN	2	-	2	-	1	3
MP	2	-	1	-	1	2
GP	7	2	4	3	2	11
NW	3	1	1	1	-	3
FS	4	1	1	1	1	4
WC	10	1	7	1	1	10
Total	73					89



The determination of compliance status depends on the analysis of the conditions attached to the authorization. All the water users that are issued with a water use license under the NWA, are required to record and submit their abstraction records as one of the conditions in the water use license. Based on the findings, some water users do not measure the abstracted water, and therefore their actual use per annum cannot be determined easily. Without measuring water abstracted, it is also difficult to determine the compliance of the water users in terms of their allocation or as per the authorization. However, individual water users that are exercising their water rights as the existing lawful water use do not have conditions attached to their entitlements. Although crop water requirements can be estimated using the SAPWAT 4 model, such a volume is an estimate and does not reflect the actual usage. The existing lawful water users are obliged to comply with GN 34 of 2020 which states that all irrigation farmers outside of Water User Associations and Irrigation Boards must install meters, must measure the water that is abstracted from the water resources for the purposes of irrigation. Figure 1: It is therefore also recommended that V&V and compulsory licensing completed speedily.

Table 16: Individual performance: Irrigation Sector

IRRIGATION WATER USERS 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliances of facilities	Comments / Findings
Q1					
1	Franz Hoek 412/0, Brandfort	FS	APP	36%	The water user must provide DWS with proof of maintenance of the measuring devices and that they are operating.
2	Stylester Investments (Pty) Ltd	GP	APP	92%	The mall was still under construction during the site inspection. The water user was advised to start with the application of section 21(g) activities.

IRRIGATION WATER USERS 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliances of facilities	Comments / Findings
3	Cheq 55 Trading. Replaced Noble Equestrian Estate cc	GP	APP	18%	The DWS GP office must arrange a meeting with Arcellor Mittal and EHOA, to establish the issue of the court order.
4	Karamela irrigation project. Replacing Phapamang Agricultural Co-operations	LP	APP	22%	There were no measuring devices during the site inspection, no internal and external audit reports.
5	Mrs SN van Zyl	LP	APP	55%	The water user is not complying with the WUL conditions. No irrigation was taking place on-site.
6	Phela o Phedishe Kama Primary Co-operative	LP	APP	69%	Repedile Agricultural Primary members who remained with the co-operative do not understand the conditions of the WUL and complicated inspection.
7	Purple Box Trading	LP	APP	9%	A measuring device was observed during the site inspection; however, it was non-operational. The water user is not complying with the WUL conditions.
8	Tsoga oitirele Farming	LP	APP	63%	There were no measuring devices on-site and the water user is not complying with the WUL conditions.
9	No 7 Nuts Farm Primary Co-operative Ltd	LP	APP	77%	There were no measuring devices on-site and the water user is not complying with the WUL conditions.
10	Mr DJC Fourie - Sanddrift	NC	APP	76%	The water user belongs to the Orange-Vaal Water User Association.
11	Mr DJC Fourie - Bataleur	NC	APP	67%	The water user belongs to the Orange-Vaal Water User Association. A follow-up inspection must be conducted.

IRRIGATION WATER USERS 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliances of facilities	Comments / Findings
12	Winterveldt Citrus Project	NW	APP	33%	The case should be referred to the Institutional Development and Support under Institutional Oversight to assist the Historical Disadvantaged Individual's with funding.
13	Piketberg Sunrise Farms	WC	APP	50%	The water user must be referred to enforcement.
Q2					
14	Klein Rooipoort Pty Ltd	EC	APP	33%	The licensee to lodge a request for amendment to change the JV and MOA reference to in the WUL and also to request extension for commencement of the water use activities as they are still awaiting the outcome of the EIA process. The licensee must lodge a WULA for the proposed pipeline crossing and storage dam.
15	Umzi Wabantu PRKSW. Replacing Kousa Mission Station	EC	APP	100%	Water use activity has not yet commenced, the water user is still waiting for the approved Environmental Authorization
16	ZD Ndoni	EC	APP	78%	Water use activity has not yet commenced.
17	Ablort Morgan (Whyte Bank Farms)	EC	APP	67%	Notice of intention to issue a Directive in terms of Section 53(1) of the NWA for non-compliance to the WUL conditions will be issued and request an action plan on rectifying non-compliances identified.
18	De Berg 453/1, Dewetsdorp	FS	APP	78%	Follow up on four storage dams that were observed via google earth pro. The use of the dams and the water source must be determined. The lawfulness and construction year of the dams must also be determined.
19	NA Kotze (East)	GP	ADD	40%	Compliance to the confirmed

IRRIGATION WATER USERS 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliance of facilities	Comments / Findings
	Anglia)				quantity could not be determined as the water use in the farm is not metered.
20	NA Kotze (Kameelfontein)	GP	ADD	43%	Compliance to the confirmed quantity could not be determined as the water use in the farm is not metered.
21	NA Kotze (Blydscham)	GP	ADD	53%	Compliance to the confirmed quantity could not be determined as the water use in the farm is not metered. .
22	Rietput Boerdery	GP	ADD	47%	Compliance to the confirmed quantity could not be determined as the water use in the farm is not metered.
23	RBM	LP	APP	63%	No activity is taking place. Water is currently not used by the water user.
24	Mthemtho Trading and projects	LP	APP	29%	The water user has sold the farm and change of ownership and land use. No agricultural crops planted and honeybee farming is practiced and water is used for domestic purposes.
25	Rainhall Enterprise & Projects	LP	APP	44%	There are flow meters at the abstraction borehole, however there are no records for abstractions. Storage reservoir volume to be confirmed for authorization consideration.
26	Selepe Molingwa Baster	LP	APP	22%	There were no flow meters, hence there were no volumetric records.
27	Mavhetha MP	LP	APP	45%	Agricultural crops were planted on the farm. No flow meter readings
28	Makwaneng Farms (Pty) Ltd	LP	APP	83%	Non-submission of an internal and an external audit reports.
29	Doornkraal	MP	APP	44%	The water user must request for

IRRIGATION WATER USERS 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliance of facilities	Comments / Findings
	Landgoed Pty Ltd				consolidation of the two WULs. The site-specific conditions that are captured on the two WULs are not the same and the abstraction is taking place from one borehole.
30	Muyanamisi (Pty) Ltd	NC	APP	86%	Storage dam observed in the property and not included in the licence. Department will investigate the authorization status of the storage dam.
31	Salk Trading and Projects CC	NW	APP	33%	Compliance to the WUL was not determined as there were no records of quantity abstracted from the borehole.
32	Le Roux Workers Trust	WC	APP	65%	Non-compliance identified to be rectified and outstanding document to be submitted by the water user.
33	Platkloof Workers Trust	WC	APP	96%	Measuring devices are installed to monitor water usage and they were in working condition. Compliance to the authorized volume was determined.
34	Steenberg Trust	WC	APP	100%	Measuring devices are installed to monitor water usage and they were in working condition. Compliance to the authorized volume was determined
35	One Vision	WC	APP	71%	Measuring devices are installed to monitor water usage. Measuring records were not provided during inspection. Compliance to the authorized volume could not be determined. Outstanding documents were requested.

IRRIGATION WATER USERS 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliance of facilities	Comments / Findings
36	Masakhane Trust	WC	APP	100	Water use activity has not yet commenced due to difficulties in obtaining the lease agreement from the Municipality. Compliance relates to admin processes.
37	Ebeneazer Community property	WC	APP	100	Ebeneazer CPA is scheduled under Lower Olifants River Water User Association (LORWUA). No measuring records were received from LORWUA. Therefore, compliance to authorized quantity was not determined. Only admin compliance was assessed.
38	Phil Farming	WC	APP	100	Water user was assessed on administrative conditions. Water use activity has not yet commenced.
39	Simon Steyn family Trust	KZN	APP	47%	Water user must comply with Section 22(1) of the NWA and cease any unlawful water abstraction.
40	Struan Farms	KZN	APP	100%	Water user was assessed on administrative conditions, A Notice of Intention to issue A Directive was recommended for all identified unlawful water uses onsite S21 (c, l, and e)
Q3					
41	Bridgewater Dairy	EC	APP	89%	The water user is not submitting the abstraction records. Unlawful activities was observed on-site and to be investigated.
42	BK Webber	EC	APP	71%	A non-compliance letter must be issued to request an action plan of installing the measuring devices.
43	I Bulele	EC	APP	100%	Water user was assessed on administrative condition. Irrigation is not taking place.
44	Coetzee	EC	APP	58%	There were no measuring devices

IRRIGATION WATER USERS 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliance of facilities	Comments / Findings
	Investment Trust				on-site.
45	Munster	EC	APP	100%	Water user was assessed on administrative condition. Irrigation is not taking place.
46	Lex Gutche Investment Trust	EC	APP	50%	The requested outstanding documents not submitted to DWS.
47	Luthando Farms	EC	APP	92%	Notices written in all official languages prohibiting unauthorised persons from entering the certain areas were not displayed on the gate and fence.
48	Sun Orange Farm Pty Ltd	EC	ADD	84%	The water user must submit an action plan which will address the identified non-compliances.
49	Verdino 161 Pty Ltd	EC	ADD	89%	The water user is not submitting the abstraction records and the report which indicates the crops and irrigation systems.
50	Simpiwe Yawa Enterprise Pty Ltd	EC	ADD	100%	Water user was assessed on administrative conditions. Irrigation is not taking place.
51	Sylvania farming Pty Ltd	EC	ADD	70%	The water user must submit an action plan which will address the identified non-compliances.
52	Coega kamma Citrus Pty Ltd	EC	ADD	100%	Water user was assessed on administrative conditions. Irrigation is not taking place.
53	Mr AJ van der Merwe	FS	APP	24%	DWS to request for an action plan to rectify the non-compliances. The licensee was advised to lodge an application for an amendment of the WUL to rectify surface water use.
54	Mr PJE Jacobs	GP	APP	33%	Farmer is no longer irrigating, the farm was leased to other farmers planting maize as drylands. Farmer

IRRIGATION WATER USERS 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliance of facilities	Comments / Findings
					not surrendering his water rights/entitlements.
55	Wilge Irrigation Middelwelkamp	GP	APP	67%	Water use activity has not commenced due to lack of funds. Water user to request for the amendment for the registered name.
56	Free State Oil (Pty) Ltd	GP	APP	33%	Industry activity scheduled under Agriculture. Non-compliances identified to be rectified.
57	Malapa Farming	LP	APP	17%	The licensee has not drilled a borehole, therefore the licensee is not using groundwater. The licensee plants crops every year and relies on rainwater for irrigation.
58	Map Fresh Produce Enterprise	LP	APP	62%	The licence is less than one (1) year old Agricultural crops are planted on the farm. No flow metering device are installed.
59	Precedential Agricultural Holdings	LP	APP	8%	Outstanding document to be submitted. A follow up inspection required.
60	Carel Johannes Roos	LP	APP	60%	A follow up meeting will be conducted once the activity is operational.
61	'Vukhensas Farm Pty Ltd	LP	APP	79%	A follow up meeting will be conducted to check progress on recommendations
62	Mokgobu Matome Cynthia	LP	APP	37%	Compliance to the authorized volume could not be determined. Licensee failed to comply to Section 151(1)(c) of NWA, 1998.
63	Mulinda Agricultural Primary Co-Operative Limited	LP	APP	74%	A follow up meeting will be conducted to verify progress on recommendations.

IRRIGATION WATER USERS 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliance of facilities	Comments / Findings
64	Mhaka Muni Trading and projects	LP	ADD	100%	Water user was assessed on administrative conditions. Activity not in operation. There is a borehole that is not working at the site. No meters are installed.
65	Nardus Trust	NC	APP	25%	Compliance to the authorized volume was not determined. Notice to issues a directive will be issued to address non-compliance identified and request for an action plan to be submitted to rectify the non-compliances.
66	Alomah Pty Ltd	NC	APP	25%	Compliance to the authorized volume was not determined, as there are no metering devices. - Notice to issues a directive will be issued to address non-compliance identified and request for an action plan to be submitted to rectify the non-compliances
67	Lords View Property Owners Association	NW	APP	91%	Water use has not commenced since issuance of license. Compliance to the authorized volume was not determined. A follow up audit is recommended as soon as activity commence.
68	Knapdaar Boerdery (GJvdMerwe)	WC	APP	100%	Follow up inspection. Only Section 27 (1) of NWA motivation reviewed. Licensee failed to submit a proof for section 27 (1) motivation.
Q4					
69	Nigel Lok Family Trust	EC	APP	82%	Allege unauthorised water uses identified and need to be investigated. Non-compliances identified must be rectified.
70	Monterey Trust	EC	APP	94%	WUL has expired, enforcement action was recommended for using

IRRIGATION WATER USERS 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliances of facilities	Comments / Findings
					water without an authorisation.
71	Siyaza Habata Pty Ltd	EC	ADD	95%	Outstanding documents to be submitted.
72	Kariega Citrus Pty Ltd	EC	ADD	79%	Activities in the WUL are not yet exercised.
73	Umgcambo	EC	ADD	33%	Notice of intention to issue a directive in terms of section 53(1) of the NWA for non-compliance to the WUL conditions will be issued and request an action plan with timelines to rectify non-compliances
74	Ikamva lethu	EC	ADD	100%	Water user was assessed on administrative conditions. No non-compliance identified.
75	Scheepersvlakte farm	EC	ADD	100%	Water user was assessed on administrative conditions. No non-compliance identified during the desktop review and site-inspection.
76	Grootbosvoerkrale Pty Ltd	FS	APP	24%	The new property owner of the farm is under Grootbosvoerkrale (Pty) Ltd. The Licensee did not install the water measuring devices as such there were no records of the abstraction. To be rectified.
77	Idwala Industrial Holdings (Pty) Ltd	GP	APP	81%	Corrective actions to be performed on non-compliances identified.
78	AS Lingenfelder	GP	APP	43%	Property ownership was not changed after purchase. Licensee did not install the water measuring devices as such there were no records of the abstraction. Amendment of WUL to include ELU volume and change ownership details.
79	Mapela Irrigation	LP	APP	11%	The water user is not complying to WUL conditions.

IRRIGATION WATER USERS 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliances of facilities	Comments / Findings
80	Vicva Investments and Trading Eighteen	LP	APP	100%	Water user was assessed on administrative conditions. No inspection took place due to unavailability of the owner. The property is sold to new owner without informing the Department.
81	Margott Farming	LP	APP	40%	The GA period has lapsed, and a water use license was never applied for. The meters are installed but the water use is not recorded.
82	Ledig Trust	LP	APP	77%	The water user should continue to monitor and keep records of water usage. The licensee must adhere to all the conditions set out in the WUL.
83	Barapartners (Pty) Ltd	LP	APP	100%	Water user was assessed on administrative conditions. Non-compliances identified to be rectified.
84	Moraka Mamadi Moringa Primary Cooperative	LP	APP	88%	Farming has not started because they were still waiting for Venetia Mine, who is project funder, to release the resources required for the project to start.
85	Lomberg Landbou	NC	APP	88%	Compliance was not determined as Licensee did not comply with all conditions.
86	Drafstap boerdery (Mr H Potgieter)	KZN	ADD	100%	Water user was assessed on administrative conditions. Non-compliances identified to be rectified.
87	Westfalia Fruit Estates	MP	APP	100%	Water user was assessed on administrative conditions. Water User to provide the capacity of all the storage dams that does not have authorisation and designs for all reservoirs from all the Farm units. Water User to provide the list of all

IRRIGATION WATER USERS 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliances of facilities	Comments / Findings
					the boreholes that are used for irrigation purposes and their locations.
88	Lynol Peterson	WC	APP	72%	Water user was assessed on administrative conditions. Water use activity not taking place. No measuring devices onsite. Non-compliances of conditions of license identified to be rectified.
89	JeP J Metsi	NC	APP	86%	No measuring device installed and no records.

B. Irrigation water use

Additional Individual performance: Irrigation Sector

IRRIGATION WATER USER 2022/2023				
Name of Facility		Prov	APP/Add	Comments/ Findings
1	Mr AW Van Rensburg	MP	Add	Two dams constructed in 2014 and 2018 with authorization. Proof of authorization for new dams and borehole abstraction to be investigated.
2	Beerhoff Trust	MP	Add	Water user registered on WARMS and ELU status no determined. Construction of dam in 2019. Change of activity from Game to Irrigation which lead to expansion of irrigation. DWS was not notified of the change and no authorization in place.
3.	Tshwale	MP	Add	Tshwale CPAs acquired the land through

IRRIGATION WATER USER 2022/2023				
Name of Facility		Prov	APP/Add	Comments/ Findings
	Communal Property Associations			land claims however authorization & Registration is still with previous owner. V&V concluded in 2014 & some water uses registered were closed on WARMS. Sewiene & Abraham dams. No measuring devices on the boreholes.
4	Mangoland Trust	MP	Add	Property lawfulness is not yet determined, V & V process has not taken place. No measuring devices on the boreholes.
5	Montina Pty	MP	Add	No irrigation is taking place on the property
6	Mooiwater	MP	Add	Property lawfulness is not yet determined, V & V process has not taken place.
7	Goedgelegen Tropical Fruits (PTY) Ltd (Westfalia Fruits)	MP	Add	Due to heavy rain conditions a follow up inspection was recommended.
8	IL Poggio farms currently belonging to ZZ2 company	MP	Add	ELU status confirmed. The ownership was not changed after ZZ2 took over. Follow up visit was recommended.

C. Number of Water Management Institutions (WMIs) monitored for effective compliance monitoring

- Countrywide, there are about 246 Water Management Institutions (WMIs) which are comprised of 129 Irrigation Boards, 32 Government Water Schemes, 99 Water User Associations (WUA) which in this category, some have been transformed from the Irrigation Boards, some WUA were established. However, the Department is currently embarking on the process of amalgamating some Water User Associations and Irrigation Boards as part of transformation.
- 12** Water Management Institutions (WMI's) were planned for

compliance inspections. Only **2** activities were monitored for compliance, **10** were not monitored because of Compliance Monitoring and Enforcement interventions in Middle Letaba Catchment following water shortage complaints. Compliance Monitoring and Enforcement sections were instructed to conduct site inspections/investigations as response to several complaints from the community downstream of Middle Letaba Dam. The community alleged over abstractions by commercial farmers upstream hence the focus was shifted due to such interventions.

The Act provides for a fundamental transformation of water resources management and governance, through decentralisation of the responsibility and authority for water resources management to appropriate, representative, regional and local institutions. Therefore, The Minister, as the public trustee of water resources, has the powers to delegate the powers and duties to Departmental officials or Water Management Institutions i.e Water User Associations. They operate in terms of a formal constitution as set out in guidelines prepared by the Department and may exercise management powers, functions and duties to the extent these have been assigned or delegated to it. Irrigation Boards have been established under the 1956 Act, Act No 54 of 1956 and the powers and functions were given in terms of the said Act.

The status quo for monitoring compliance remains: -

The Institutions have been structured differently, therefore the audits are conducted in two phases: -

- *Phase one-* is a planning stage. The DWS official send a request for a plenary meeting to the said WMI with a list of documents required prior to the meeting, requesting the Institution to provide the audit team with the documents not limited to among others the documents giving the powers, duties of the institution, the approved allocation schedule,

the institution's compliance to the allocation schedule, the institution's compliance to its duties to control water use, other than taking of water in terms of the allocation schedule, the institution's own water use entitlements, Records of the taking of water from water resources, any notices including gazette notices issued to the board, voter's list etc. During the preliminary audit inspection meeting, the audit team peruse all the documents received and prepare the audit checklist;

Phase two- this is an execution stage. The audit team evaluate all the documents received during the plenary meeting and all the documents received via emails or hand delivered. This is done to determine the compliance status of the said WMI and a field visit is conducted either during the first phase or the second phase on the sampled water users in different sub-districts or water distribution areas. Then the audit report is compiled, and the compliance status is determined after considering a number of issues such as the determination of the crop water requirements.

WATER MANAGEMENT INSTITUTIONS 2022/2023					
Name of Facility		Prov	CM: OP	% of Compliances of facilities	Comments / Findings
Q1					
1	Letsitele Irrigation Board (LIB)	MP	CM: OP	LIB is not complying with respect to water management	LIB is non-existent and not operating well due to land claim issues, the majority of farms are leased or CPA's partnered with commercial farmers No measuring devices are installed. Follow-up must be done to resolve Institutional issues.
2	Lindequespruit Irrigation Board	KZN	CM: OP	LIB is not complying	LIB is no longer a formal institution, it amalgamated with Central Okhahlamba WUA which the process of

WATER MANAGEMENT INSTITUTIONS 2022/2023					
Name of Facility		Prov	CM: OP	% of Compliances of facilities	Comments / Findings
					transformation was not finalised. Follow-up must be done to resolve Institutional issues.

4.4.2 ENFORCEMENT

Enforcement actions should be taken against unlawful water users within the agricultural sector in South Africa to ensure responsible and sustainable water management. Stringent measures such as strict compliance monitoring and enforcement should be implemented to compel those engaging in unauthorised water use. Administrative, civil and criminal should be imposed to discourage such practices, while criminal actions mechanisms should be strengthened to expedite the prosecution of offenders.

Middle Letaba Catchment Compliance Inspection

Since 2017, the Department has been receiving complaints from emerging farmers as well as domestic users in different catchments within Olifants WMA. Some of these came from the Portfolio Committee on Water and Sanitation. The nature of the complaints/referrals received relate to three areas:

Middle Letaba Dam (not filling up and alleged blockage of streams by Z22)

Ebenezer Dam (not filling up because of unlawful activities upstream).
Molepo Dam (significant water level drop)

Some of the biggest water users in this area are Bertie Van Zyl (known as Z22) and Westfalia Fruit Estates. These are just some of the big users in this catchment and some have metering devices installed to monitor the water abstraction and submit the records to the Department, while others do not.

Compliance Monitoring and Enforcement units at Head Office and provinces of Mpumalanga and Limpopo conducted investigations and compliance site visit on various occasions in Quaternary drainage region B82A to B82D.

The area receiving the most complaints is the Mooketsi valley, outside Tzaneen in the Limpopo Province. This is largely due to the Middle Letaba Dam which has not been filling up for several years, even during rainy seasons.

Middle Letaba sub-catchment is made up of mainly the Middle Letaba, Koedoes and Brandboontjies Rivers. The three rivers form a hydrological network that drains off to the Middle Letaba Dam which is situated upstream of the confluence of the Middle Letaba River with the Klein Letaba River. The area is within Olifants Water Management Area falling on Quaternary drainages B82A, B82B, and B82C (Annexure A) under the management of Mpumalanga Office. Middle Letaba catchment is generally under pressure with limited water availability and there is a high demand than supply.

The major uses from the Middle Letaba are irrigation and domestic use. The dam has not filled up for several years even during the rainy season, leading to emerging farmers and communities complaining to DWS.

Z22 is a brand name of a farming company that operates as Bertie Van Zyl (Pty) Ltd. Bertie van Zyl (Pty) Ltd owns most properties farmed under the Z22 banner. Z22 is a farming conglomerate operating in Mooketsi, Politsi,

Polokwane and Musina in the Limpopo Province; Ceres and Riebeek-Wes in the Western Cape and Langkloof in the Eastern Cape.

ZZ2 supplies more than 40% of commercially traded tomatoes in South Africa and is a fast-growing role player in the production, packaging and marketing of tomatoes, mangoes, avocados, onions and deciduous fruit are also gaining importance in the fruit and vegetable. The total volume of taking and storing by ZZ2 in Middle-Letaba River System is 29 % of the FSC (172 million m3) of the Middle-Letaba Dam.

Compliance monitoring in this area has been on-going from 2017 and several follow-up inspections have been conducted and the recommendation is that the process of Verification and Validation, followed by Compulsory licencing, so that water users may be issued with water use licences with implementable conditions. Most properties have been confirmed to continue to use water as part of Existing Lawful Use which covered under the Old Water Act, Act No.56 of 1956.

Around October 2022, the DWS again received complaints from water users downstream of Middle Letaba dam, and the Deputy Director-General: Regulation, Compliance and Enforcement instructed that investigations be conducted.

Non-compliant activities were served with non-compliance notices and on-going engagements are underway.

Within the agriculture sector, the Compliance Monitoring Unit has referred cases to the Enforcement Unit to ensure appropriate actions are promptly undertaken. A total of five (5) cases were referred, indicating the need for enforcement action. Thorough assessments were conducted for these cases, subsequently leading to four (4) investigations, during which instances of non-compliance were uncovered. Consequently, the Enforcement Unit initiated administrative actions against two (2)

offenders, thereby underscoring the Department's resolute commitment to ensuring compliance.

The Enforcement Unit is currently engaged in monitoring the compliance of these offenders. It is important to note that further enforcement actions may be pursued should instances of non-compliance with the administered administrative actions be identified.

During the review period, the Enforcement unit received complaints regarding suspected non-compliances in the Agricultural Sector and also proactively addressed cases that raised suspicions of non-compliance. A total of 125 cases were reported, originating from various institutions as well as from members of the public. As a result, the Enforcement unit conducted investigations into 105 out of the 125 cases received.

The investigation findings highlighted a range of non-compliances that pose a significant threat to water resources. In response, the Enforcement unit took administrative action against identified non-compliant water users to enforce the rectification of detected contraventions. Consequently, 114 administrative actions were taken against suspected transgressors, while two cases were referred to the National Prosecuting Authority (NPA) for a decision. These measures reflect the commitment of the Enforcement unit to address and resolve instances of non-compliance in the Agricultural Sector, safeguarding the integrity of water resources.

Enforcement Cases for Irrigation Sector is included under the Agricultural sector.

Enforcement Activities in Agricultural Sector	
Investigated Cases	105
Administrative Action	114
Criminal Cases opened	-
Case Referred to NPA	2
Total	

4.5 FORESTRY SECTOR PERFORMANCE

4.5.1 COMPLIANCE MONITORING

Planned to monitor 20 water users in 2022/2023 and the 20 were monitored as planned in the APP. This happened despite prolonged interactions with community representatives, particularly in Limpopo to explain the audit requirements to ensure compliance to the NWA. To address the issues around compliance with the community, a compliance promotion was held with the local Communal Property Association (CPA) and tribal authority.

Three (3) mills were inspected over the course of the year, with an average compliance of 84%. The major finding revolved around the need for integrated licencing to deal with the various ELU and licenced authorisations applicable to these sites. One plantation with an ELU authorisation owned by a mine was inspected with a compliance of 53%. The mine was not managing their plantations but agreed to implement Best Operating Practices to improve the plantation management, as its pre-

72 ELU status meant little could be done without applicable conditions to hold the user to account.

The Department divides afforestation water users into three categories i.e. small, medium and large growers based on the size of the area planted. Five (5) licenced small growers were inspected, with 62% average compliance achieved, all with issues regarding compliance auditing and payment of water use charges. Two (2) large, government owned plantations had compliance ratings of 76% and 25%, the latter mainly due to lack of funding and plantation management issues.

The requirements that most users were found not complying with include high levels of Alien Invasive Species (AIS) and the lack of compliance auditing (both internal and external). In many cases the failure to amend water use registrations resulted in a lack of payment of water use charges. There is a growing trend of water users changing from forestry plantation to macadamia nuts, without the approval of the DWS. The dragging court case between the DWS and FSA meant that the DWS could not process the genus exchanges and could not finalize the validation and verification of SFRA activities.

Table 17: Individual performance: Afforestation (SFRA) Sector

Afforestation 2022/2023					
Name of Facility		Pro v	APP/ Add	% of Complian ces of facilities	Comments / Findings
Q1					
1	Mpact Pty Ltd	KZN	APP	85%	Water user to apply for an amendment of their WUL to remove conditions not applicable and incorporate their multiple authorisations into one WUL. Non-compliance identified to be rectified.
2	D Fourie/More bene	LP	APP	41%	The Department will conduct a compliance workshop as the plantation is now under a Community Property Association (CPA) and they were not aware of their obligations
3	Mr. Mudzanga Solomon	LP	APP	73%	Spread of the afforestation species was noted outside the authorised area. Water User is yet to fully plant his authorised allocation. Non-compliances identified to be rectified.
4	Mulozi Trust	LP	APP	85%	The genus currently planted has changed from the originally authorised. Outstanding audits and documents to be submitted.
5	Mrs. Neluvhola Phethani	LP	APP	71%	The authorisation is not in the name of the current owner. Grave sites are located at various points within the plantation - Heritage Resources Agency to be notified. Non-compliances identified to be rectified and outstanding audits and documents to be submitted.
Q2					
6	JH Breytenbach (Zoekmekaar Ls 778/9)	LP	APP	53%	The Morebene community were unaware of their authorisation and are using the plantations for domestic purposes. The community was informed of their requirements, and they will implement best practice techniques for afforestation as the activity is pre-72 and

Afforestation 2022/2023					
Name of Facility		Pro v	APP/ Add	% of Complian ces of facilities	Comments / Findings
					thus has no conditions
7	JH Breytenbach (Zoekmekaar Ls 778/18)	LP	APP	53%	The Morebene community were unaware of their authorisation and are using the plantations for domestic purposes. The community was informed of their requirements, and they will implement best practice techniques for afforestation as the activity is pre-72 and thus has no conditions
8	PB Erasmus: Zoekmekaar LS 778/18	LP	APP	53%	The Morebene community were unaware of their authorisation and are using the plantations for domestic purposes. The community was informed of their requirements, and they will implement best practice techniques for afforestation as the activity is pre-72 and thus has no conditions
9	Alaska Boerdery	LP	APP	38%	The water user was unaware of the conditions of his water use authorisation and has agreed to implement the required actions to bring the plantation into compliance. An action plan is required from the user with timelines; additional forestry was noted on the property
10	Mr Mphalaleni Phineas Maranda	LP	APP	67%	The water user does not form part of WUA. The province will send out a letter with the information the water user needs, a summary of the non-compliances and request for action plan to rectify all non-compliances by certain timeframe.
11	Mr Phaswani David Nevhulorwa	LP	APP	61%	The water user indicated that they may have more than 10ha of afforestation and the Department to confirm authorised area to be planted. The water user was not aware of the WUL. Water

Afforestation 2022/2023					
Name of Facility		Pro v	APP/ Add	% of Compliances of facilities	Comments / Findings
					user to submit outstanding audits and documents and comply to non-compliances.
12	Greenside Colliery	MP U	APP	54%	Change of company ownership, which is not captured on WARMS. The facility has agreed to implement best operating practices for afforestation as there are no conditions since the activity is pre-72. Water user to submit outstanding reports.
Q3					
13	Mr Masikhwa	LP	APP	39%	Water user is HDI, awareness and follow up inspections needed. Outstanding reports to be submitted.
14	MONDI (Waterval 812 Ptn1)	LP	APP	67%	Ownership of the property needs to be updated with the DWS, and then the activity would need to be closed off as the new owner is not interested in operating a planation
15	Tongaat Felixton Mill	KZN	APP	83%	Water user must apply for integrated licence; the water user was unable to provide proof of s21 permit (1956 Water Act), thus activities taking place may be unlawful, notice of intention to issue a directive to be issued
Q4					
16	MTO Forestry (Farm 423)	EC	APP	76%	The water user is required to submit an action plan to rectify non-compliances identified.
17	Sappi Enstra Paper_Springs	GP	APP	84%	The water user is aware of not meeting their effluent discharge requirements and have put an action in place to address it; the water user is to follow up on a WUL amendment applied as many conditions cannot be complied with due to issues with the existing plant.

Afforestation 2022/2023					
Name of Facility		Pro v	APP/ Add	% of Compliances of facilities	Comments / Findings
18	Emasosheni Community Trust (Plantation Richmond)	KZN	APP	80%	The water user to comply and rectify non-compliances identify in WUL.
19	MONDI (Fleurfontein 811 Ptn0)	LP	APP	33%	The plantation is not currently being managed, there is excessive spread of the afforested species and the plantation has become a jungle. The watercourses have not been delineated and the onsite WWTW is discharging via a french drain far away from water resources
20	MTO Knysna (Buffelsnek)	WC	APP	25%	Water user to change of ownership as required by the authorisation. Npn-compliances identified to be rectified and unauthorised activity cease or apply for WUA.

4.5.2 ENFORCEMENT

Once a determination of non-compliance is made, the water user is provided an opportunity to implement corrective action within a stipulated time period. Failure to implement the required corrective action will initiate Enforcement action necessary to rectify the contravention. As the result of a court case that started in November 2019, limited enforcement action is currently undertaken in the forestry sector. Once a determination of non-compliance is made, the water user is provided an opportunity to implement corrective action within a stipulated time period. Failure to implement the required corrective action will initiate Enforcement action necessary to rectify the contravention.

No enforcement cases received during this review period for Afforestation Sector.

4.6 GOVERNMENT SECTOR PERFORMANCE

4.6.1 COMPLIANCE MONITORING

Planned to oversee 51 users for Municipal for 2022/2023 of which 46 Municipal users and five (5) Waste Disposal Facilities. 46 Wastewater Treatment Works (WWTWs) were monitored for compliance in 2022/2023 (**refer to Table 18**) and nine (9) Waste Disposal Facilities plus additional six (6) joint (DWS and Provincial Environmental Departments) compliance monitoring inspections were monitored, and an additional seven (7) self-regulation audits conducted for Waste Disposal Facilities in 2022/2023 (Total of 15) (**refer to Table 19**).

Due to the restructuring Public Institutions such as the Water Boards (Rand Water, etc.) was moved to the Government Sector for compliance monitoring and reporting during this review period.

4.6.1.1 WASTEWATER TREATMENT WORKS

Table 18: Individual performance: Wastewater Treatment Works

Wastewater Treatment Works 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliance s of facilities	Comments / Findings
Q1					
1	ERWAT JP Maraise WWTWs	GP	APP	96%	The licensee to rectify non-compliances identified.
2	Ennerdale WWTWs	GP	APP	78%	The licensee to rectify non-compliances identified.

Wastewater Treatment Works 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliance s of facilities	Comments / Findings
3	Thohoyandou WWTW	LP	APP	47%	Raw sewage pollution was detected at Mvudi pump station and Thavhani Mall manhole and to be addressed. Many documents are outstanding and must be submitted and non-compliances rectified. Enforcement actions to be taken on pollution and non-compliances identified.
4	Rietspruit WWTW	MPU	APP	67%	The Water User (eMalahleni LM) is operating with an expired WUA. Manhole feeding the Vilakazi pump station overflows into Klippoortjiespruit River. Enforcement actions to be taken on pollution and non-compliances identified.
5	Burgersfort WWTW	MPU	APP	44%	Sekhukhune District Municipality must rectify pollution observed at the pumpstation and all non-compliances identified.
6	Fraserburg WWTW	NC	APP	55%	The Municipality to submit outstanding monitoring & audit reports and rectify all non-compliances identified.
7	De Aar Water provision system	NC	APP	50%	The Municipality to submit outstanding monitoring & audit reports and rectify all non-compliances identified.
8	Johannesburg Water (SOC): Northern Works WWTW	NW	APP	70%	Johannesburg Water to submit outstanding reports and rectify all non-compliances identified
Q2					
9	Sterkstroom	EC	APP	18%	The Municipality to submit outstanding reports and rectify all

Wastewater Treatment Works 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliance s of facilities	Comments / Findings
					non-compliances identified.
10	Kwa-Nobuhle WWTW	EC	APP	77%	The Municipality to submit outstanding reports and rectify all non-compliances identified.
11	North Eastern	FS	APP	75%	The Municipality to submit outstanding reports and rectify all non-compliances identified.
12	Mashaeng (Fouriesburg)	FS	APP	9%	The facility was non-operational, and neither was it receiving wastewater during the audit
13	Nancefield	LP	APP	36%	The water user to submit outstanding audits and reports and rectify all non-compliances identified. Unauthorised irrigation water use must stop or apply for an WUL. Enforcement actions to be taken if corrective actions not taken place.
14	Musina WWTW	LP	APP	24%	The Municipality to submit outstanding monitoring & audit reports and rectify all non-compliances identified. Enforcement actions to be taken if corrective actions not taken place.
15	Polokwane WWTW	LP	APP	31%	Municipality must rectify pollution observed and rectify all non-compliances identified.
16	Vhembe District Municipality (Rietvlei WWTW)	LP	APP	57%	The Municipality to submit outstanding monitoring & audit results and reports and rectify all non-compliances identified.
17	Thubelihle WWTW	MPU	APP	0%	The plant is not operational only securities are on site to limit theft. Raw sewage coming to the works, flows to the environment and to water resources without

Wastewater Treatment Works 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliance s of facilities	Comments / Findings
					treatment. Enforcement actions to be taken.
18	Mogale City LM Percy Steward WWTW	NW	APP	56%	The facility was poorly managed and not functional. The matter is handed over to enforcement Unit for enforcement action.
19	Potsdam WWTW	WC	APP	97%	The facility was observed to be operating close to 100 %.
20	Colesburg WWTW	WC	APP	37%	The municipality to submit outstanding records, audits and reports and rectify all non-compliances identified.
Q3					
21	Zwelitsha	EC	APP	37%	Pump Stations inspected were not operational, and the Zwelitsha WWTWs was not operating to its optimal level. The water user to submit outstanding monitoring, audits and reports and rectify all non-compliances and pollution identified.
22	Gonubie (Quinera WWTW)	EC	APP	No score card	The facility discharges un-chlorinated effluent to the nearby stream. The water user to submit outstanding monitoring results and audits and reports and rectify all non-compliances and pollution identified. Water user to request amendments of WUL conditions.
23	Olivewood Estate	EC	APP	92%	The estate follows environmental protection measures in accordance with requirements of the WUL. Water user to correct non-compliance identified.
24	ERWAT Rynfield	GP	APP	58%	Some Pump Stations and Water

Wastewater Treatment Works 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliance s of facilities	Comments / Findings
	WWTWs				Care Works were not operating to its optimal level. Poor Operation and Maintenance was observed.
25	Evander WWTW	GP	APP	49%	Two pump stations were not functional and were overflowing into the streams. The facility was non-compliant with most of the WUL conditions the pollution observed and all non-compliances.
26	ERWAT Daveyton WWTWs	GP	APP	59%	There are 3 unlined sludge lagoons which may affect the groundwater quality. To be investigated.
27	Johannesburg SOC Ltd: Bushkoppies WWTW	GP	APP	92%	The PSTs were not working and blocked by sand. The water user to rectify the non-compliances identified.
28	Belfast WWTW	MPU	APP	12%	The WWTWs not properly operational and functional, with limited process controllers. N no proper documentation system in place. Water User to rectify non-compliances.
29	Kwazamokuhle WWTW	MPU	APP	53%	Disposing method of sludge not authorised. To apply for authorisation. The water user to rectify all non-compliances identified.
30	Thabazimbi Local Municipality: Northam	NW	APP	No score card	The water use activity as per the water use license is not yet being exercised. Unauthorised disposal into the oxidation ponds and borrow pit.
31	Mitchells Plain	WC	APP	69%	The water user to submit outstanding monitoring, audits and reports and rectify all non-

Wastewater Treatment Works 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliance s of facilities	Comments / Findings
					compliances and pollution identified.
32	Darvill WWTW	KZN	APP	80%	The water user to rectify all non-compliances identified.
33	Howick	KZN	APP	84%	The Bridge Pump Station and Howick West Pump Station overflow to water resource observed. The water user to rectify all non-compliances and pollution identified.
Q4					
34	Bultfontein	FS	APP	26%	The water user to rectify all non-compliances and pollution identified. The facility has been handed over for enforcement action.
35	ERWAT Anchor WWTWs	GP	APP	51%	The water user to submit outstanding monitoring, audits and reports and rectify all non-compliances identified. The water user is not authorised for section 21 (g) of the NWA.
36	Rietspruit WWTWs	GP	APP	67%	The manhole feeding the Vilakazi pump station overflows into Klippoortjiespruit River. The Water User (eMalahleni LM) is operating with an expired WUA. The water user to rectify pollution and all non-compliances identified. Water User to re-apply for WUA.
37	Embalenhle WWTWs	GP	APP	29%	The water user to submit outstanding monitoring, audits and reports and rectify all non-compliances and pollution identified. The facility was handed over to Enforcement.

Wastewater Treatment Works 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliance s of facilities	Comments / Findings
38	ERWAT Benoni WWTWs	GP	APP	75%	The water user to submit outstanding monitoring and reports and rectify all non-compliances identified. To amend the license and include the sludge overflow dams and line it.
39	Leeuwkuil WWTW	GP	APP	28%	There is no chlorine dosage since 2021. The water user to rectify all non-compliances and pollution identified. Enforcement actions to be taken.
40	Phoenix WWTW	KZN	APP	82%	The WWTW were not functional and pose a risk for pollution to the water resource.
41	Verulam	KZN	APP	75%	The water user to submit outstanding monitoring, audits and reports and rectify all non-compliances and pollution identified.
42	Tzaneen WWTW	LP	APP	35%	Burying of sludge on site is an illegal activity. The emergency dam is not lined and water pollution due to continuous effluent overflow from Flora Park pumpstation and overflow in the biofiltration feed system are identified. The water user to rectify pollution and all non-compliances identified. Enforcement to be taken place.
43	Harper WWTW (Musina LM)	LP	APP	36%	Design capacity of the plant is unknown. No inflow metering device. The water user to rectify all non-compliances identified.
44	Capricon District Municipality	MPU	APP	50%	The water user to submit outstanding monitoring, audits and reports and rectify pollution

Wastewater Treatment Works 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliance s of facilities	Comments / Findings
	Lebowakgomo WWTW				and all non-compliances identified.
45	Citrusdal	WC	APP	16%	Irrigating with waste or water containing waste into the neighbouring farm without authorisation. The water user to submit outstanding monitoring, audits and reports and rectify pollution and all non-compliances identified. Enforcement actions to take place of pollution and unauthorised activities.
46	Malmesbury	WC	APP	67%	The WWTW is very well maintained and in excellent condition due to the efforts of the operational staff. The water user to rectify all non-compliances identified.

The use of the Compliance monitoring inspection template and score sheet needs to be further entrenched for use for all regions to enable trend analysis or root cause analysis. Challenge is currently that inspections are done with no indication of performance level that can assist also in prioritisation for intervention.

The average compliance for the sector is 53 %.

4.6.1.2 WASTE DISPOSAL FACILITIES

The Department of Fisheries, Forestry and Environment (DFFE) for Hazardous Waste/Class A and the Provincial Environmental Departments for General Waste/Class B are the lead authorities for Waste in terms of the National Environmental Management Waste Act, 2008 (Act No. 59 of

2008). The DWS exercises its powers contemplated in the National Water Act, 1998 (Act No. 36 of 1998) after consultation with DFFE or the Provincial Environmental Departments.

In terms of the South Africa State of Waste Report of 2018, on 31 December 2017, there were 1423 licenced waste facilities in South Africa, 704 of the 1423 waste facilities are landfills with a waste management permit/licence including water related condition to be monitored by DWS.

The distribution of licensed Waste Disposal Facilities with water related condition to be monitored by DWS are as follows:

Province	No. of Licensed Landfills
Eastern Cape	57
Free State	76
Gauteng	109
KwaZulu Natal	107
Limpopo	53
Mpumalanga	84
North-West	41
Northern Cape	94
Western Cape	83
Total:	704

Compliance monitoring inspections have been conducted on 09 Municipal Waste Disposal Facilities for 2022/2023 by DWS and 06 joint (DWS and Provincial Environmental Departments) compliance monitoring inspections (Total of 15). These inspections were against the conditions in their Waste Permits in terms of section 20 of the Environmental Conservation Act, 2003 (Act 50 of 2003) or the Waste Management Licence in terms of the National Environmental Waste Act, 2008 (Act 59 of 2008).

Seven Self-Regulatory Waste Disposal Facility External Audit Reports evaluated in 2022/23 was done on all the conditions of the waste management licence/permit. The % compliance is also as per the report.

Table 19: Individual performance: Waste Disposal Facilities

Waste Disposal Facilities 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliances of facilities	Comments / Findings
Q1					
	None				
Q2					
1	Oudtshoorn Municipality: De Rust	WC	APP	22%	No management in place. The water user to submit outstanding monitoring records, audits and reports and rectify all non-compliances identified.
Q3					
2	Witbank Landfill: Leeuwpoot	MPU	APP	12.50%	The water user to submit outstanding monitoring records, audits and reports and rectify all non-compliances identified.
3	Prince Albert Municipality: Klaarstroom	WC	APP	47.83%	The water user to submit outstanding monitoring records, audits and reports and rectify all non-compliances identified.
4	Prince Albert Municipality: Prince Albert	WC	APP	61.40%	The water user to submit outstanding monitoring, audits and reports and rectify all non-compliances identified.
5	Dysseldorp Landfill	WC	ADD	35.71%	No management of the site. The water user to submit outstanding monitoring, audits and reports and rectify all non-compliances

Waste Disposal Facilities 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliances of facilities	Comments / Findings
					identified.
6	Prince Albert: Leeu-Gamka landfill	WC	ADD	33.93%	Poor compliance with Licence conditions. The water user to submit outstanding monitoring records, audits and reports and rectify all non-compliances identified.
7	Coastal Park Landfill	WC	ADD	85.96%	The water user to submit outstanding monitoring and reports and rectify all non-compliances and groundwater pollution identified.
8	Oudtshoorn LM: Grootkop Landfill	WC	ADD	31.58%	The water user to submit outstanding monitoring records and reports and rectify all non-compliances and unauthorised activities identified.
Q4					
9	Burgersfort Landfill	MPU	APP	79%	The municipality has taken reasonable measures to correct non-compliance findings of the previous audit of the Department. The facility is now monitoring groundwater quality.

Joint Inspections - Waste Disposal Facilities 2022/2023

Joint Inspections - Waste Disposal Facilities 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliances of facilities	Comments / Findings
Q1					
	None				
Q2					
1	Creighton Waste Disposal Facility	KZN	Joint	48%	Further development is not according to the N&S in Regulation 636. The water user to submit outstanding monitoring records and reports and rectify all non-compliances identified.
2	Bulwer Closed Waste Disposal Facility	KZN	Joint	60%	The water user to submit outstanding monitoring records and reports and rectify all non-compliances identified.
Q3					
3	Bisasar Road Waste Disposal Facility	KZN	Joint	73.81%	Illegal disposal of waste at the boundary of the site. The water user to submit outstanding monitoring records, audits and reports and rectify all non-compliances identified.
Q4					
4	Bontebok Waste Disposal Facility	W/C	Joint	44.14%	Compliance rating has decreased from 56.26% to 44.14% from the previous audit by DEADP in 2021. The water user to submit outstanding monitoring records, audits and reports and rectify all non-compliances identified.

Joint Inspections - Waste Disposal Facilities 2022/2023					
Name of Facility		Prov	APP/ Add	% of Compliances of facilities	Comments / Findings
5	Suurbraak Waste Disposal Facility	W/C	Joint	28.75%	Compliance rating has decreased from 36.39% to 28.75% from the previous audit by DEADP in 2021. The water user to submit outstanding monitoring and reports and rectify all non-compliances identified.
6	Waterval Waste Disposal Facility in Rustenburg	N/W	Joint	51%	Compliance rating has decreased from 71% to 51% from the previous audit by DEDECT in 2021/22. Notice of Intention was issued to the Rustenburg Local Municipality by DEDECT.

Self-Regulatory Waste Disposal Facility External Audit Reports evaluated in 2022/23

Self-Regulatory Waste Disposal Facility					
Name of Facility		Prov	APP/ Add	% of Compliance	Comments / Findings
Q1					
1	Margolis Closed Waste Disposal Facility Enviroserv	Gaut	Add	100%	External Audit reports submitted and reviewed for status of compliance to WUA conditions.
2	Chloorkop Waste Disposal Facility - Enviroserv	Gaut	Add	100%	External Audit reports submitted and reviewed for status of compliance to WUA conditions.
3	Vissershok Waste Disposal Facility - Enviroserv	W/C	Add	100%	External Audit reports submitted and reviewed for status of compliance to WUA conditions.
Q2					
4	Creighton Waste Disposal Facility	KZN	Add	42%	External Audit reports submitted and reviewed for status of compliance to WUA conditions.

Self-Regulatory Waste Disposal Facility					
Name of Facility		Prov	APP/ Add	% of Compliance	Comments / Findings
					Further development is not according to the N&S in Regulation 636. Auditor found several non-compliances.
Q3					
5	Felophepa/ Hartebeeskop Waste Disposal Facility	N/W	Add	79.83%	External Audit reports submitted and reviewed for status of compliance to WUA conditions. Compliance rating has increased from 17.19% to 79.83%.
Q4					
6	Rosslyn Waste Disposal Facility - Enviroserv	Gaut	Add	100%	External Audit reports submitted and reviewed for status of compliance to WUA conditions.
7	Karwyderskraal Landfill - Overberg District Municipality	W/C	Add	99.07%	External Audit reports submitted and reviewed for status of compliance to WUA conditions. Compliance rating has increased from 99% to 99.07%

4.6.2 ENFORCEMENT

National and Provincial Government

During the review period, the Enforcement unit received complaints regarding suspected non-compliances in National and Provincial Government and also proactively addressed cases that raised suspicions of non-compliance. A total of eleven (11) cases were reported, originating from various institutions as well as from members of the public. As a result, the Enforcement unit conducted investigations into ten (10) out of the 11 cases received.

In the review period, there have been six (6) notable instances of administrative enforcement actions taken. These actions have ranged from

compelling water user to take rectification measures to curb water pollution. The aim has been to address various issues such as non-compliance with water resources legislative requirements.

Enforcement Activities against National & Provincial Government	
Investigated Cases	10
Follow-Ups (Investigations & Inspections)	4
Administrative Action	6
Criminal Cases Opened	1
Total	

Local Government (Municipalities)

During the review period, the Enforcement Units received hundred and twenty-five (125) complaints of suspected non-compliances in the local government sector, and out of these reported cases, ninety-six (96) cases were investigated. The investigation findings revealed an array of non-compliances that pose a threat to the water resources. This has prompted Enforcement Unit to take administrative action against identified non-compliant water users, compelling them to rectify the contraventions. A total of hundred and seven (107) administrative actions were initiated against suspected transgressors. Additionally, seven criminal cases were opened against municipalities that did not comply with the prescripts of the water legislations, and five cases were referred to the NPA for a decision.

Enforcement Activities against Local Government	
Investigated Cases	96
Administrative Action	107
Criminal Cases Opened	7
Representation Received and Assessment	10
Cases referred to NPA	5
Total	

4.7 DAM SAFETY REGULATION

4.7.1 COMPLIANCE MONITORING

Dam Safety Compliance Monitoring Inspections (DSCMI)

Compliance Monitoring Inspections were carried out across 9 Water Management Areas by officials of the Directorate: Dam Safety Regulations, Regional Offices and Catchment Management Agencies (including Proto-CMA's). The target set in the departmental annual performance plan was 82 DSCMI inspections to be monitored in 2022/2023 for compliance in accordance with the NWA and 83 were achieved in 2022/2023.

Mixed results have been obtained with the compliance monitoring by the Dam Safety Office on the implementation of the recommendations from Dam Safety Evaluation Reports for category II and III dams. Positive feedback was obtained from many dam owners via regular progress reports but the administrative capacity to sustain this compliance monitoring task is totally inadequate.

The Dam Safety Office does not have the capacity for effective compliance monitoring on the implementation of recommendations and a new

initiative was launched in 2015 to delegate this task to regional or catchment level.

DWS Provincial Operations, Catchment Management Agencies (CMAs) and Proto-CMAs were requested to start with Dam Safety Compliance Monitoring Inspections (DSCMIs) of existing Category II and III dams to check on the progress with the implementation of the recommendations from dam safety evaluations which were previously submitted by an APP on behalf of the dam owner.

Due to Restructuring of the DWS, the Dam Safety Compliance Monitoring Inspections (DSCMI) detailed information will be annually reported in future in the Dam Safety Annual Report to avoid duplication of reporting performance by the Dam Safety Office related functions and responsibilities.

Though the compliance inspections conducted by DWS / Proto-CMA / CMA CM officials for section 21 b water uses (storing of water) with or without a safety risk will still be monitored and reported in the CME Annual Reports. Also, any joint operations and enforcement actions taken by the CME or EMI officials within DWS / CMAs will be reported on an annual basis in this report.

4.7.2 ENFORCEMENT OF DAM SAFETY REGULATIONS

In the past three years, enforcement received ninety-eight (98) cases of suspected to be non-complaint to Dam Safety rules and regulations. These are cases relates to water users that did not register their dams with a safety risk as required in terms of section 118 of the NWA. These cases required measures to be taken aimed at improving the safety of new and existing dams with a safety risk so as to reduce the potential for harm to the public, damage to property or to resource quality.

During the 2022/2023 business year, a total of approximately 1 230 letters were sent to mainly dam owners to ensure compliance with dam safety legislation. This included a total of 458 dam safety evaluation requests issued to dam owners. A total of 316 applications / notifications for approval as Approved Professional Persons for dam safety tasks were processed, of which 24 applications were submitted to ECSA for their recommendation.

The Dam Safety Annual Report for the 2022/2023 business year is due to be released, where more statistics and other information pertaining to registration and classification of dams as well as dam safety licences issued will be provided.

During the review period 2022/23 the Directorate: Water Safety Regulation has developed a Standard Operational Procedure (SOP) in conjunction with Enforcement directorate to address unlawful dams with a safety risk. Thirty-nine (39) unlawful dams were identified. Using the Unlawful dam SOP, thirteen dam (13) were approved to follow a remedial procedure in order to become lawful. Of these thirteen dams, three (3) dams completed the procedure successful and became lawful operational dams. Five (5) dams were referred for enforcement actions with two unlawful dams being given a directive to decommission the dams. All outstanding unlawful dams will follow the Unlawful Dam SOP with a safety risk which will result in them either being given the opportunity to become lawful through executing agreed on procedures or the dam owner being given the instruction to apply for a licence to decommission the dam.

The Enforcement Unit responded to cases referred by the Dam Safety Office by initiating administrative enforcement actions. These cases primarily involve Dam Owners who have failed to comply with dam safety regulations, *inter alia* failure to submit Dam Safety Inspection Reports by an Approved Professional Person (APP), failure to conduct necessary dam safety evaluations, and failure to conduct first dam safety evaluation of a

newly completed dam. The table mentioned in paragraph 5.2.4 provides valuable insights into the regions where these non-compliant cases are located.

5. OVERALL NATIONAL TREND ANALYSIS FOR DWS

5.1 COMPLIANCE MONITORING STATUS QUO TREND ANALYSIS

The average number of water users monitored in the past 3 years is 365 water users. Although, there has been an improvement, this is still a far cry considering the large number of water users that have to be monitored. The number of water users registered with the DWS is close to 55 000. This implies that DWS monitors only 0.6 % (365/55 000) water users per year.

This emphasize that other compliance monitoring tools / measures need to be considered and used in the CME hierarchy level to ascertain the status of compliance sooner of a water user and if non-compliances and impacts to the water resource is detected then it can be rectified quicker.

Self-regulation audits at a desktop level can assess the status of compliance of water users. and more water users can be audited through this approach. This is being considered as such a screening tool and early warning sign measure to assess more water users' compliance performance to their water use authorisations. Other compliance monitoring approaches will also be explored to monitor compliance of all water users sooner and quicker.

Human resource capacity to perform these compliance monitoring inspections and audits will also need to be increased to be able to monitor the status of compliance of the large number of water users in South Africa. Set CM performance standards on number of inspections or audits per official per annum needs to be determined as well.

5.1.1 MINING SECTOR

Compliance monitoring is a fundamental activity within the regulation function of ensuring that water resources are protected and is one of the main ways by which adherence to limits and laws can be assessed for regulatory purposes. During the financial year 2014/2015, 114 mines were monitored for compliance with the conditions of the water use licence and applicable provisions of the National Water Act (Act 36 of 1998). In the same financial year a score card was developed in order to align the reporting with the objectives set in the Medium Terms Strategic Framework for improving mines' compliance with National Water Act from 30% to 60% in 2019. Performance of the mines' in 2014/2015 financial year was determined as 50% in accordance with the designed score card which measures level of compliance. The 50% performance in 2014/2015 demonstrated a considerable improvement.

In the financial year 2015/2016, 85 mines were monitored for compliance in accordance with the National Water Act and the performance was determined as 56%. There was an increase in terms of performance from 50% of 2014/2015 to 56% in 2015/2016. Financial year 2015/2016 continued to display considerable improvement of the mines with regards to compliance with the National Water Act, and as well as conditions of the water use authorisations. In the financial year 2016/2017, 111 mines monitored in 2016/2017 achieved an average performance level of 52% for compliance in accordance with the National Water Act. There has been a slightly decrease in terms of performance from 56% in 2015/2016 and 52% 2016/2017. There are a number of factors which led to the decrease in performance *inter alia* the number of mines monitored for financial years are not consistent and additional mines never monitored before were done.

In the financial year 2017/2018, 118 mines monitored achieved an average performance level of 50% for compliance in accordance with the National Water Act.

In the financial year 2018/2019, 89 mines were monitored and achieved an average performance level of 58% for compliance in accordance with the National Water Act.

In the financial year 2019/2020, 71 mines were monitored and achieved an average performance level of 66% for compliance in accordance with the National Water Act.

In the financial year 2020/2021, 71 mines were monitored and achieved an average performance level of 66% for compliance in accordance with the National Water Act.

In the financial year 2021/2022, 79 mines were monitored and achieved an average performance level of 66% for compliance in accordance with the National Water Act, as follows:

- 17 have compliance level of 0-24%
- 7 have compliance level of 25%-49%,
- 15 have compliance level of 50%-74%, and
- 32 have compliance level of 75%-100%

In the financial year 2022/23, 102 mines were monitored and achieved an average performance level of 49% for compliance in accordance with the National Water Act, as follows:

- 13 have compliance level of 0-24%
- 22 have compliance level of 25%-49%
- 28 have compliance level of 50%-74%, and
- 39 have compliance level of 75%-100%

There are a number of factors which led to the decrease in performance *inter alia* the number of mines monitored for the financial years are not consistent and additional mines never monitored before were inspected.

During the compliance monitoring process for mines, the Sub-directorate: Mining officials were recording data on lessons learned (based on the conditions of the licences) during the auditing/inspections processes. The data was for DWS mining officials to record what kind of licence conditions which the official consider are:

- a. Not measurable
- b. Not clear on what is required of the water user
- c. Wrongly placed (e.g. Resource quality objectives limits on a water user's Pollution Control Dam.)
- d. Ambiguous

From the gathered lessons learned Compliance Monitoring mining engaged with the Water Use Authorisation unit on how best the DWS can make the conditions easier to monitor, be clear on what is required, and be enforceable. This will assist in future for determination of exact compliance status of the water user since the conditions will be improved and easy to monitor.

5.1.2 AGRICULTURE SECTOR

A trend analysis of compliance per user was not undertaken in the 2022/2023 financial year. The overall sector performance in terms of compliance was 58 %.

Sector Performance					
Compliance Level in %	Q1	Q2	Q3	Q4	Total
0-24%	3	2	3	2	10
25-49%	2	2	6	3	13
50-74%	7	10	8	3	28
75-100%	2	13	10	13	38
TOTAL INSPECTIONS ACHIEVED					89

Q1-Q4 Compliance level in Percentage

The compliance percentages were categorized into four groups, from Q1 to Q4: 0–24%, 25–49%, 50–74%, and 75–100%. 10 individual water users were found to have scored below 24%, 13 water users scored between 25 to 49%, 28 water users scored between 50 to 74%, and 19 water users scored between 75 to 100%. The 50% threshold was used to determine the percentage of the compliance status. As captured in Table 16, there are other activities where irrigation is not yet taking place. They are reflected as having 100% compliance, but this does not mean that they are complying. A follow-up may be conducted when irrigation is taking place.

5.1.3 INDUSTRY SECTOR

5.1.3.1 INDUSTRY

A trend analysis of compliance of this sector was not undertaken in the 2022/2023 financial year. Compliance monitoring inspections have been conducted on 51 industrial water users for 2022/2023. These inspections were against their water use licenses and its conditions. During 2022/2023, 51 Industries were monitored and achieved a compliance range as follows:

- 4 users have compliance level of 0-24%
- 11 users have compliance level of 25%-49%,
- 11 users have compliance level of 50%-74%, and
- 20 users have compliance level of 75%-100%
- 5 users have no applicable scorecard due to being non-operational.

The average compliance for the sector is 63 %.

This sector has combined water quality and quantity aspects are both required to fully assess compliance. The understanding of conditions ranges from well understood to some ambiguity for some users. It is noted that some users are not operational and this impacts full assessment of a site.

5.1.3.2 AGRO-PROCESSING SECTOR

A trend analysis of compliance of this sector was not undertaken in the 2022/2023 financial year. Thirty-two (32) Agro-Processing industries were monitored and achieved a compliance range as follows:

- 5 users have compliance level of 0-24%
- 4 users have compliance level of 25%-49%,

- 10 users have compliance level of 50%-74%, and
- 11 users have compliance level of 75%-100%
- 2 users have no applicable scorecard due to being non-operational

The average compliance for the sector is 60 %.

The Agro-Processing sub-sector came across challenges with subjective licence conditions on many confined animal feeding operations (piggeries, diaries, feedlots). Operators of confined animal feeding operations have also raised concerns about the parameter and thresholds set for wastewater. It is alleged that it is not practically or technically feasible to meet these requirements as they were primarily developed possibly with domestic wastewater focus and the Department continues to work on the matter. There is ELU use in this sector that requires analysis.

The sector notes that water users require effort in understanding conditions. To improve the understanding of water use requirements, efforts in compliance promotion are needed from a technical angle and not just administrative. It is noted that some users are not operational and this impacts full assessment of a site.

5.1.4 FORESTRY SECTOR

In afforestation, compliance monitoring is conducted against the conditions of water use licenses as well as against authorisations (permits) issued prior to the National Water Act, 1998. Audits are also undertaken on best practice principles for legal afforestation established prior to 1972.

Timber and sugar processing mills also fell under the ambit of the sector. Over the past three financial years, the average compliance for timber mills was 36% in 2020/2021 for one mill inspected and 84% in 2022/2023 for three mills inspected. The 20/21 inspection was conducted via desktop assessment due to Covid-19 restrictions at the time. While the compliance

level is high, there are many caveats with the analysis as the mills have multiple authorisations in place, including court orders, 1956 authorisations, ELU and WUL. This makes the actual compliance of these sites very difficult to accurately ascertain. The recommendation is for these mills to apply for integrated water use licences, which will bring all their authorisations in line with current accepted environmental practices.

The average compliance achieved by afforestation plantations was 52% in 2020/2021, 56% in 2021/2022 and 54% in 2022/2023. This suggests the actual level of compliance amongst the plantations is relatively stable, although not up to the level required.

The plantations are dominated by ELU authorisations, which do not have many applicable authorisation conditions and rely on the water user agreeing to implement best operating practices, which are not legally binding. ELU regulations will allow better compliance and enforcement to these water users.

Aspects that remain a concern or challenge across the plantations are:

- Exceeding of the authorised afforestation allocation and unauthorised exchanges of genus.
- Failure to adhere to administrative requirements like submitting internal audit reports and other requested information.
- Incorrect delineation and buffering of watercourses (rivers, streams, wetlands, dams).
- The uncontrolled spread of afforestation species outside the authorised areas: into watercourses, buffer zones, other open areas and neighbouring properties.
- Subdivision of properties without notification to the Department and failure to amend water use registration.

The court case between DWS and FSA is causing difficulties to the regulator and the forestry sector. The exchange from one genus to the another cannot be done in a lawful manner currently and the validation and verification process cannot be implemented for forestry up until the court case is finalised.

5.1.5 GOVERNMENT SECTOR

5.1.5.1 WASTEWATER TREATMENT WORKS

A trend analysis of compliance of this sector was not undertaken in the 2022/2023 financial year. Most municipalities with their limited budgets and other resources are not managing WWTWs as they should be and therefore have a serious water quality impact on the receiving surface water resources. It is for this reason that joint audits were done with DFFE as well. DWS will engage with CoGTA to holistically improve the performance of WWTWs.

The average compliance for the sector is 53 %. This needs to be read together with the 2022 Green Drop Report.

5.1.5.2 WASTE DISPOSAL FACILITIES

CHAPTER 5 (from 01 July 2009) requires Co-operative Waste Management Authorisations between DFFE/Provincial DFFE Departments and DWS for the LICENSING OF WASTE MANAGEMENT ACTIVITIES.

Section 49(2) of the NEM: WA: "A decision to grant an application for a waste management license in respect of a waste disposal facility is subject to concurrence of the Minister of Water Affairs."

Section 50(3) of the NEM: WA: "the issuing of a waste management license for a waste disposal facility is subject to the inclusion in the license of any conditions contained in a Record of Decision issued by the Minister of

Water Affairs regarding any measures that the Minister of DWA considers necessary to protect a water resource as defined in the NWA".

CHAPTER 7 – COMPLIANCE AND ENFORCEMENT – Compliance Powers of Minister of Water Affairs and Forestry

The National Environmental Management: Waste Act 59, 2008, Section 65(1) provides that despite the powers conferred on the Minister responsible for Environment or MEC by or under this Act, the Minister responsible for Water may exercise any powers conferred on him or her by section 19, 53 and 155 of the NWA, in respect of a person who contravenes or fails to comply with any conditions of a waste management licence, a remediation order or measures required to address the monitoring and management of the risk at a remediation site specified in terms of section 38(3) that may lead to an impact on a water resource.

Compliance monitoring inspections have been conducted on 09 Municipal Waste Disposal Facilities for 2022/2023 by DWS and 06 joint (DWS and Provincial Environmental Departments) compliance monitoring inspections (Total of 15). These inspections were against the conditions in their Waste Permits in terms of section 20 of the Environmental Conservation Act, 2003 (Act 50 of 2003) or the Waste Management Licence in terms of the National Environmental Waste Act, 2008 (Act 59 of 2008).

DWS (09)

- 2 have a compliance level of 0 - 24%
- 4 have a compliance level of 25% - 49%
- 1 have a compliance level of 50% - 74%
- 2 have a compliance level of 75% - 100%

Joint (DWS and Provincial Environmental Departments) (06)

- 3 have a compliance level of 25% - 49%
- 3 have a compliance level of 50% - 74%

Seven (7) Self-Regulatory Waste Disposal Facility External Audit Reports evaluated in 2022/23 was done on all the conditions of the waste management licence/permit. The % compliance is also as per the report:

- 1 has a compliance level of 25% - 49%
- 6 have a compliance level of 75% - 100%

The average compliance for Municipal Landfills inspected in 2022/2023 is as follows:

- DWS Inspections = 45.6%
- Joint Inspections = 50.95%
- Self-regulation audit findings = 73.62% (Just the Municipal Landfills)

Most municipalities with their limited budgets and other resources are not managing Waste Disposal Facilities as they should be and therefore may have an impact on the receiving surface and ground water resources.

Most of the privately owned landfills comply with most of the conditions in their waste authorisation.

5.1.6 DAM SAFETY REGULATION

In terms of Section 120 of the NWA, all dams with a safety risk (i.e. if the wall height exceeds 5,0 m and if the storage capacity exceeds 50 000 m³) must be registered by dam owners. The total number of registered dams in South Africa increased from 5 662 to 5 688 during the year. The increase of 26 was due to 31 new registrations submitted during the financial year and

some corrections on the database which were identified during the process to review dam coordinates.

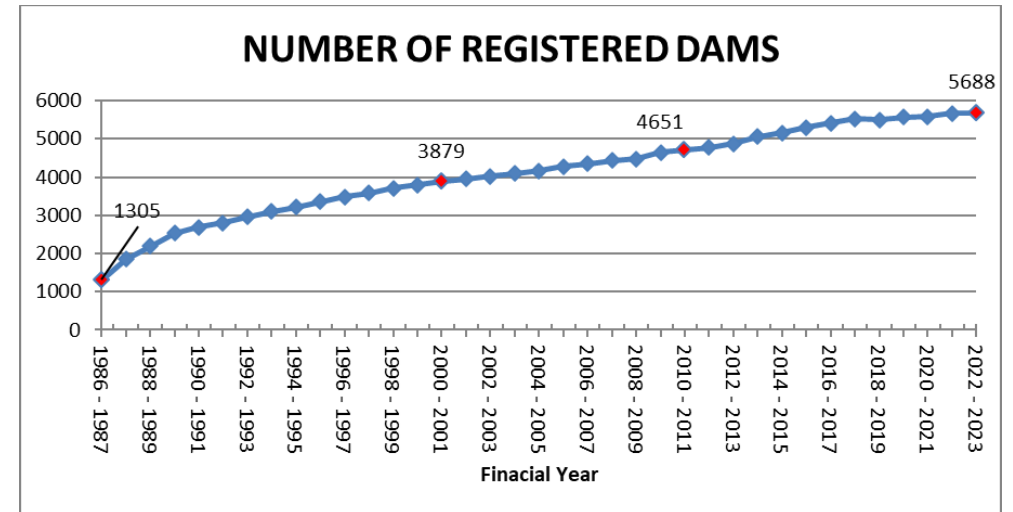


Table 20: Number of registered dams and associated ownership

Size class	Number of dams per ownership						Total	% per class
	DWS	Municipalities	Other state departments	Water Boards	Mines, Industry, Business	Agriculture		
Small	79	193	58	60	247	3725	4362	76,7
Medium	137	129	28	52	66	733	1145	20,2
Large	107	29	2	10	20	13	181	3,1
Total	323	351	88	122	333	4471	5688	100

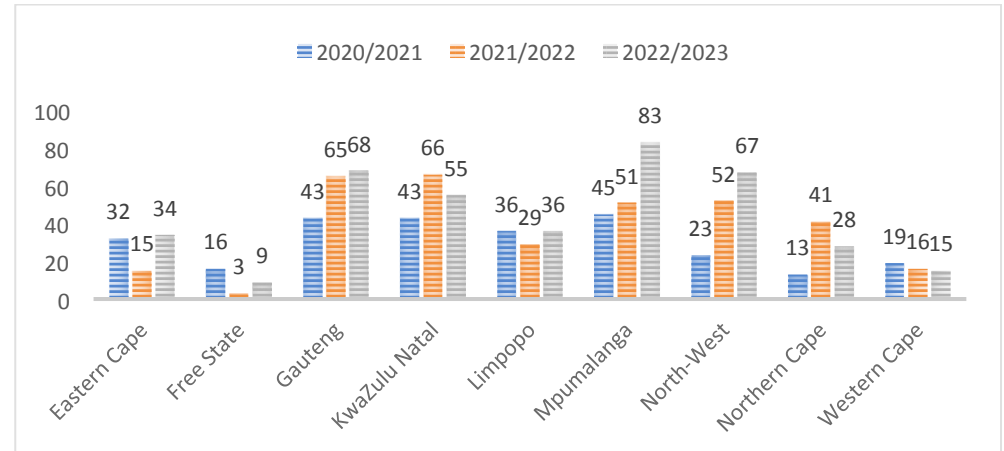
The flow of dam safety inspection reports through the Dam Safety Office during the reporting year is shown below with statistics of previous five financial years:

	17/18	18/19	19/20	20/21	21/22	22/23
DSE request letters	113	388	104	283	50	458
DSE reports received	248	206	172	156	206	136
DSE reports accept	255	134	79	148	36	20

5.2 ENFORCEMENT STATUS QUO TREND ANALYSIS

The below graph illustrates number of reported non-compliance cases in all the regions over the period of three years.

Region	2020/2021	2021/2022	2022/2023
Eastern Cape	32	15	34
Free State	16	3	9
Gauteng	43	65	68
KwaZulu Natal	43	66	55
Limpopo	36	29	36
Mpumalanga	45	51	83
North-West	23	52	67
Northern Cape	13	41	28
Western Cape	19	16	15
Totals	270	338	385



Comparative number of non-compliance cases reported and investigated per region

The financial year 2022/2023 witnessed a significant increase in reported unauthorized water uses and pollution-related cases across various sectors in South Africa compared to previous years. The agriculture sector had the highest number of cases, with hundred and twenty-five (125) reported incidents, indicating a concerning trend of unlawful water use within this sector. The commercial sector recorded ten (10) cases, while government (national/provincial) reported 11 cases. The industry sector had 41 cases, highlighting the need for stricter regulations and monitoring. Local government entities responsible for wastewater treatment plants faced a substantial challenge with hundred and twenty-six (126) reported cases. The mining sector experienced 95 cases of non-compliance. Private use/domestic cases reached twenty-four (24), while tourism and other sectors accounted for nine (9) and fifteen (15) cases, respectively. These figures underscore the urgent need for enhanced enforcement measures, and sustainable water resource management practices across all sectors to address and prevent such unauthorised water uses and pollution incidents.

During the financial year 2022/2023, there was a concerning increase in pollution cases and unlawful water use, resulting in a surge of non-compliance reports and investigations across various provinces in South

Africa. The Eastern Cape Province recorded thirty-four (34) cases, while the Free State Province had nine (9) cases. The Gauteng Province experienced a significant number with sixty (68) cases, followed closely by KwaZulu-Natal Province with fifty-five (55) cases. Limpopo Province reported thirty (36) cases, while Mpumalanga Province had the highest number at eighty-three (83). The North-West Province documented sixty-seven (67) cases, and the Northern Cape Province had twenty-eight (28) cases. Lastly, the Western Cape Province reported fifteen (15) cases. In response to these alarming trends, authorities increased their efforts to investigate and address these non-compliance cases, striving to hold offenders accountable and protect the environment through rigorous enforcement and regulatory measures.

5.2.1 MINING SECTOR

The enforcement units in the DWS have been actively investigating the escalating issue of unlawful sand mining in the country. Recognizing the severity of this problem and its impact on South African water resources, the enforcement units have collaborated with other enforcement agencies such as the South African Police Services and the Department of Minerals and Energy. These joint operations aim to pool resources and expertise, ensuring a coordinated approach in curbing unlawful water uses associated with sand mining. As an organ of the state, these agencies work together to enforce water related legislations, conduct investigations, and apprehend offenders engaged in illegal sand mining activities. Their collective efforts are crucial in safeguarding South African water resources.

The table below depicts a trend of reported non-compliance cases reported and investigated in the last three years

Mining Sector			
Region	2020/2021	2021/2022	2022/2023
Eastern Cape	0	0	1
Free State	3	0	2
Gauteng	5	5	6
KwaZulu Natal	8	22	21
Limpopo	4	5	10
Mpumalanga	8	6	20
North-West	4	6	22
Northern Cape	4	11	6
Western Cape	0	1	0
Totals	36	56	88



Reported Cases Investigated in the Mining Sector

Enforcement Action Taken within the Mining Sector				
Financial Years	NWA Notices Issued	NWA Directives Issued	Criminal Cases Opened	Cases Referred to NPA
2020/2021	10	4	7	-
2021/2022	16	9	3	-
2022/2023	36	8	9	-

Over a three-year period, enforcement actions were initiated in the mining sector. In the year 2020/2021, the Department issued a total of ten (10) NWA notices. In the subsequent year, 2021/2022, sixteen (16) NWA notices were issued within the mining sector. In the year 2022/2023, the department took a more assertive action by issuing a notable thirty-six (36) NWA notices, illustrating its commitment to ensuring compliance with the NWA requirements. The Department also exercised its authority by issuing directives. In the year 2020/2021, four (4) directives were issued, followed by nine (9) in 2021/2022, and eight (8) in 2022/2023.

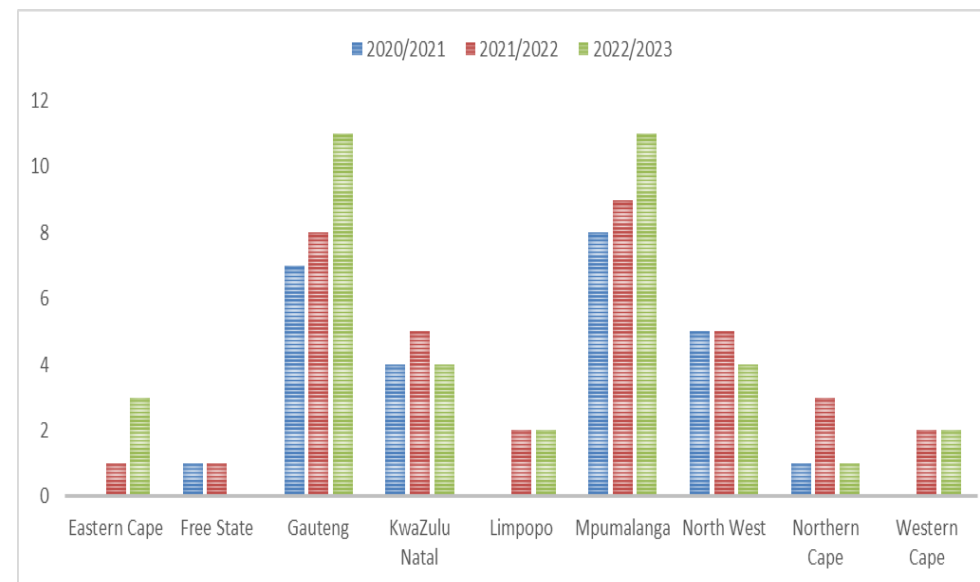
The department's dedication to ensuring compliance with the provisions of water legislation is evident not only in notices and directives but also in the criminal charges instituted against offenders. In the year 2020/2021, a total of seven (7) criminal cases were instituted against offenders. In 2021/2022, three (3) criminal cases were opened, and in 2022/2023, nine (9) criminal cases were opened. This approach showcases the ongoing efforts of the Department to ensure that responsible offenders are criminally charged, and accountable practices are exercised within the mining sector.

5.2.2 INDUSTRY SECTOR

South African industries from the growing agricultural products and irrigation of crops. Gauteng has a high concentration of these types of operations hence the reason there is high number of complaints received associated with industries during the review period. The below bar chart

illustrates non-compliance cases in the industrial sector that were dealt with across all provincial offices.

Industries Cases			
Region	2020/2021	2021/2022	2022/2023
Eastern Cape	0	1	3
Free State	1	1	0
Gauteng	7	8	11
KwaZulu Natal	4	5	4
Limpopo	0	2	2
Mpumalanga	8	9	11
North-West	5	5	4
Northern Cape	1	3	1
Western Cape	0	2	2
Totals	26	36	38



Reported Cases Investigated in the Industrial Sector

Enforcement Action Taken within the Industrial Sector				
Financial Years	NWA Notices Issued	NWA Directives Issued	Criminal Cases Opened	Cases Referred to NPA
2020/2021	9	9	-	-
2021/2022	16	3	-	-
2022/2023	16	9	-	-

Throughout the three-year period, enforcement actions were instigated within the Industrial Sector. In the year 2020/2021, the Department issued a sum of nine (9) NWA notices. In the subsequent year, 2021/2022, the suspected offenders were issued with sixteen (16) NWA notices. Similarly, in the year 2022/2023, sixteen (16) NWA notices were once again issued. The Department's is monitoring compliance of these administrative actions and it ensures that corrective measures are taken to address the non-compliances in the sector.

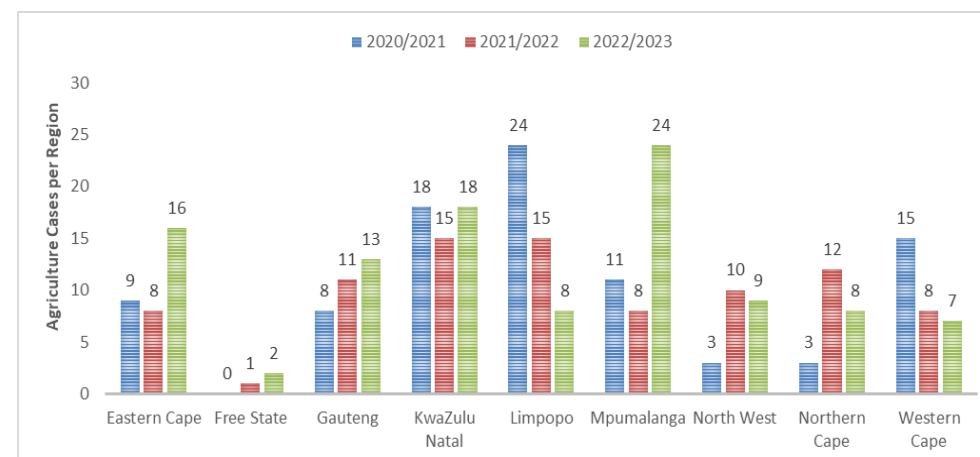
5.2.3 AGRICULTURE SECTOR

The increasing number of reported non-compliance cases related to unlawful water uses and pollution in South Africa highlights the pressing need for effective enforcement actions. Among the various sectors, agriculture plays a pivotal role, accounting for a substantial portion of water usage in the country. With agriculture being the largest consumer at 66% of total water use in South Africa, it becomes crucial to ensure responsible and sustainable water management practices within this sector. To compel water users to comply with water-related legislation, enforcement actions have been implemented. These actions aim to address the reported non-compliance cases and promote adherence to water-related regulations, safeguarding South Africa's valuable water resources for future generations.

During the review period, a total of eighty-eight (88) cases of suspected non-compliance were reported. This is a decrease of 3.2 percent from the previous cases reported of ninety-one (91) in the previous financial year.

The table depicts non-compliance cases in the agricultural sector that were dealt with across all regions.

Agriculture Cases			
Region	2020/2021	2021/2022	2022/2023
Eastern Cape	9	8	16
Free State	0	1	2
Gauteng	8	11	13
KwaZulu Natal	18	15	18
Limpopo	24	15	8
Mpumalanga	11	8	24
North-West	3	10	9
Northern Cape	3	12	8
Western Cape	15	8	7
Totals	91	88	105



Reported Cases Investigated in the Agricultural Sector

Throughout the period of 2020/2021, the Department initiated rectification measures in order to address suspected unlawful water uses and contraventions within the agriculture sector. A total of fifty-seven (57) Notices of intention to issue a directive were issued, followed by the issuance of twelve (12) NWA Directives aimed at ensuring water use compliance. Additionally, a criminal case was registered at SAPS as result of alleged unlawful water uses. In the subsequent year, 2021/2022, there were fifty-two (52) NWA Notices that were issued and a further fifteen (15) NWA Directives were issued. Two (2) criminal cases were registered at SAPS as a result of identification of Section 151 offences. In the most recent year, 2022/2023, the trend persisted as fifty-five (55) NWA Notices were served, and nine (9) NWA Directives were served to non-compliant water users. Furthermore, a significant development occurred as a case was referred to the National Prosecuting Authority (NPA) for deliberation, attesting to the gravity and vigilance with which suspected transgressions are being addressed. These actions collectively reflect a resolute stance on preserving water resources and upholding regulatory integrity within the agricultural realm.

Enforcement Action Taken within the Agriculture Sector				
Financial Years	NWA Notices Issued	NWA Directives Issued	Criminal Cases Opened	Cases Referred to NPA
2020/2021	57	12	1	-
2021/2022	52	15	2	-
2022/2023	55	9	-	1

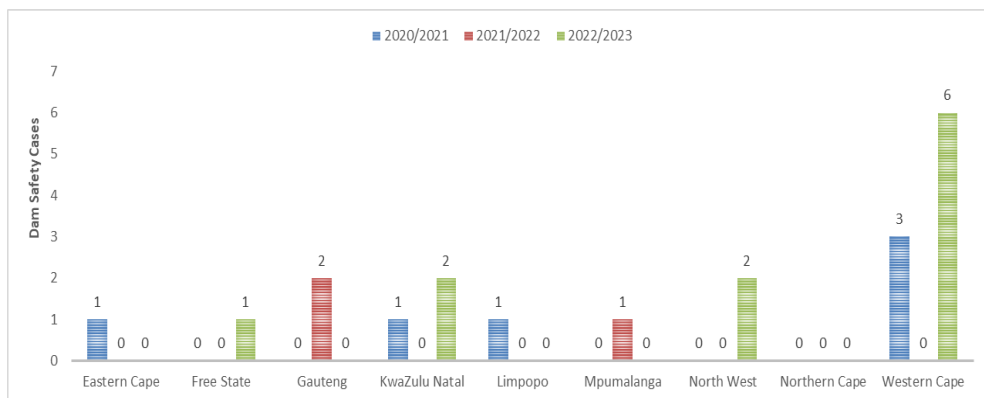
5.2.4 DAM SAFETY OFFICE

The Dam Safety Office is established to implement and administer the Dam Safety Regulations (published in Government Notice R. 139 of 24 February 2012) which became fully effective in January 1987 and are still in force under the new National Water Act, 1998 [NWA] (Act 36 of 1998). Only dams with a safety risk (i.e., dams with a maximum wall height that

exceeds 50 m and with a storage capacity of more than 50 000 m³, or any other dam declared as a dam with a safety risk) are subject to these Regulations. Dam owners that fail to adhere to this specification are in breach of the Dam Safety Regulation.

During the review period, Dam Safety Office referred cases to Enforcement Unit following non-compliance to the requirements of Dam Safety Regulations detected by dam owners. The DWS has received complaints pertaining to the storage of water, specifically raising concerns about the potential inferiority of dam wall structures. The table depicts non-compliance cases received from Dam Safety Office that were dealt with across all regions. The enforcement unit initiated administrative enforcement action against Dam Owners due to *inter alia* failure to submit a Dam Safety Inspection Report from an Approved Professional Person (APP), failure to conduct dam safety evaluation of the dam, failure to have a first dam safety evaluation of a newly completed dam. The table below depicts number of reported non-compliance cases for Dam Safety.

Dam Safety Cases			
Region	2020/2021	2021/2022	2022/2023
Eastern Cape	1	0	0
Free State	0	0	1
Gauteng	0	2	0
KwaZulu Natal	1	0	2
Limpopo	1	0	0
Mpumalanga	0	1	0
North-West	0	0	2
Northern Cape	0	0	0
Western Cape	3	0	6
Totals	6	3	11



During the 2020/2021 business year, a total of approximately 1 120 letters were sent to mainly dam owners to ensure compliance with dam safety legislation. This included a total of 104 dam safety evaluation requests issued to dam owners. A total of 298 applications / notifications for approval as Approved Professional Persons for dam safety tasks were processed, of which 7 applications were submitted to ECSA for their recommendation.

During the review period 2021/22, nine (9) notice of intention to issue a directive and six (6) directives were issued to offenders. Ten (10) dam operators issued with administrative enforcement action from previous financial years complied with the notices and directive issued.

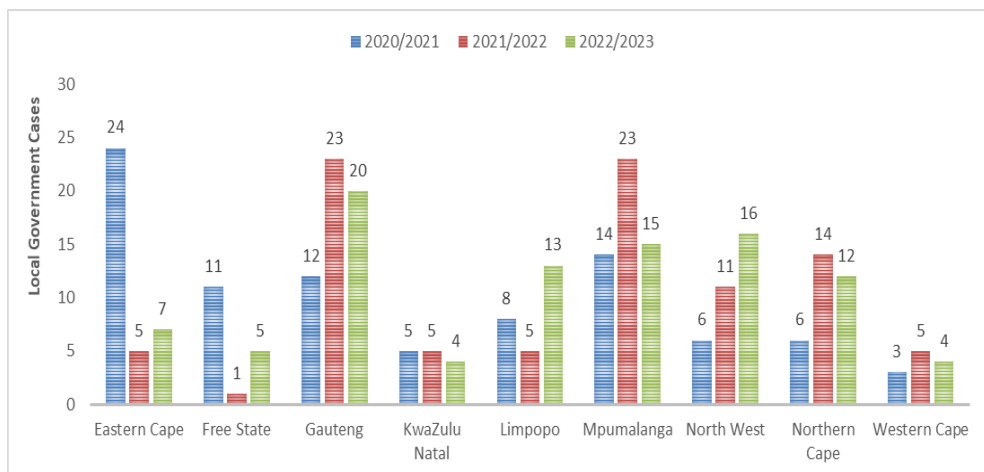
5.2.5 ORGAN OF STATE [LOCAL GOVERNMENT]

Water pollution poses a significant water resources concern, particularly when caused by multiple sources such as sewage overflow from manholes, malfunctioning pump stations, and the discharge of sub-standard effluent from wastewater treatment plants. The overflow of sewage from manholes introduces harmful contaminants into water bodies, while dysfunctional pump stations exacerbate the issue through sewage overflows. Moreover, when wastewater treatment plants discharge sub-standard effluent, it

further compromises the quality of water resources. Addressing these challenges requires comprehensive measures, including improved maintenance of pump stations, effective management of sewage systems, and enforcement against non-compliant wastewater treatment plants to ensure the protection of water resources.

The table depicts number of reported cases that were suspected to non-compliant in all regions.

Local Government Cases			
Sector	2020/2021	2021/2022	2022/2023
Eastern Cape	24	5	7
Free State	11	1	5
Gauteng	12	23	20
KwaZulu Natal	5	5	4
Limpopo	8	5	13
Mpumalanga	14	23	15
North West	6	11	16
Northern Cape	6	14	12
Western Cape	3	5	4
Totals	89	92	96



Three-year comparison of complaints reporting trend in Local Government

Enforcement Action Taken within the Local Government				
Financial Years	NWA Notices Issued	NWA Directives Issued	Criminal Cases Opened	Cases Referred to NPA
2020/2021	39	25	2	1
2021/2022	66	30	1	
2022/2023	65	42	7	5

Over a three-year period within the Local Government sector, a series of enforcement actions have been initiated. In the year 2020/2021, the Department issued thirty-nine (39) NWA notices with the aim of ensuring compliance. In the subsequent year, 2021/2022, this number escalated to sixty-six (66) NWA notices issued within the sector. For the year 2022/2023, the Department issued sixty-five (65) Notices.

The Department escalated its efforts by undertaking more assertive measures, notably through the issuance of directives. In the year 2020/2021, a total of twenty-five (25) directives were issued, followed by a subsequent increment to thirty (30) in the year 2021/2022. Most notably, in the year 2022/2023, forty-two

(42) directives were issued to offenders. These sequential increments are illustrative of the unwavering dedication of the Department in ensuring that water legislations are adhered to.

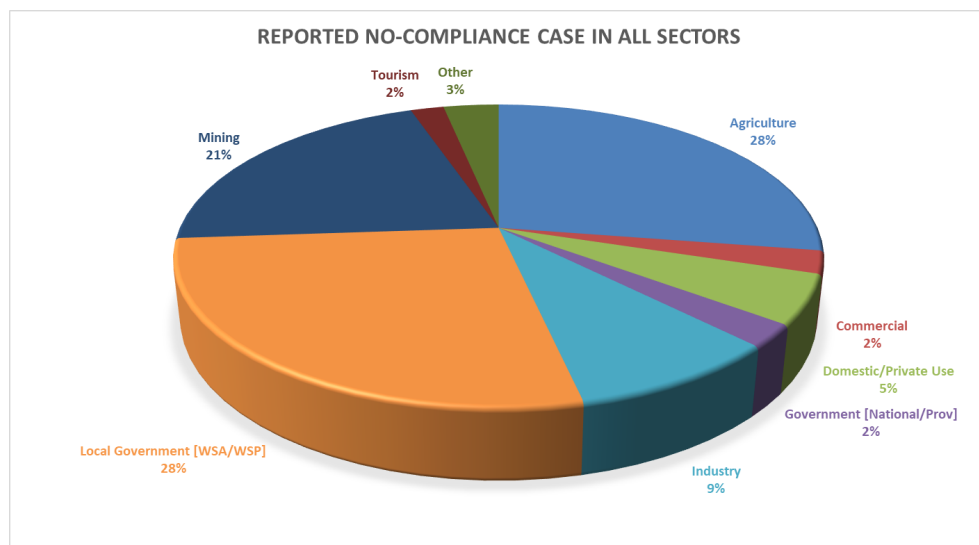
It is noteworthy that the Department's dedication extends beyond mere notices and directives, manifesting in the form of judicial proceedings as well. In the year 2020/2021, a total of two (2) criminal cases were judiciously initiated against transgressors. This paradigm shift gained momentum, culminating in the initiation of five (5) criminal cases during the year 2022/2023. This tactical approach symbolises the Department's commitment to enforcing compliance in the Local Government sector.

5.2.6 OVERALL ENFORCEMENT PERFORMANCE FOR DWS CASES

The pie chart below shows the highest percentage of reported non-compliance cases is in the local government sector followed by agriculture and mining. The high number of reported cases is attributed to fact that irrigated agriculture is the largest single user of water in South Africa which is just over 60%. Most of the complaints received are for over abstraction of water and unlawful storage of water.

The pie chart below shows that Agriculture and Local Government cases reported are the highest due to unlawful water uses and a high number of pollution related cases respectively. Several complaints have been reported regarding unlawful water uses and pollution-related cases, highlighting non-compliance in various sectors. The agriculture sector accounts for the highest proportion of reported cases, with 28% of the complaints attributed to this sector. Additionally, commercial activities have been implicated in 2% of the reported cases, while domestic and private water usage accounts for 5% of the complaints. Non-compliance issues have also been observed in government sectors, with national and provincial entities comprising 2% of the reported cases. The industry sector has been found to be non-compliant in 9% of the reported cases, while

local government entities responsible for water services and sanitation projects make up a significant portion of the complaints, totalling 28%. Furthermore, the mining sector has been flagged in 21% of the reported cases, indicating a significant concern for water-related compliance in this industry. Lastly, tourism and other sectors each account for 2% and 3% of the reported cases, respectively.



Overall Cases dealt with per Sector FY 2022/2023

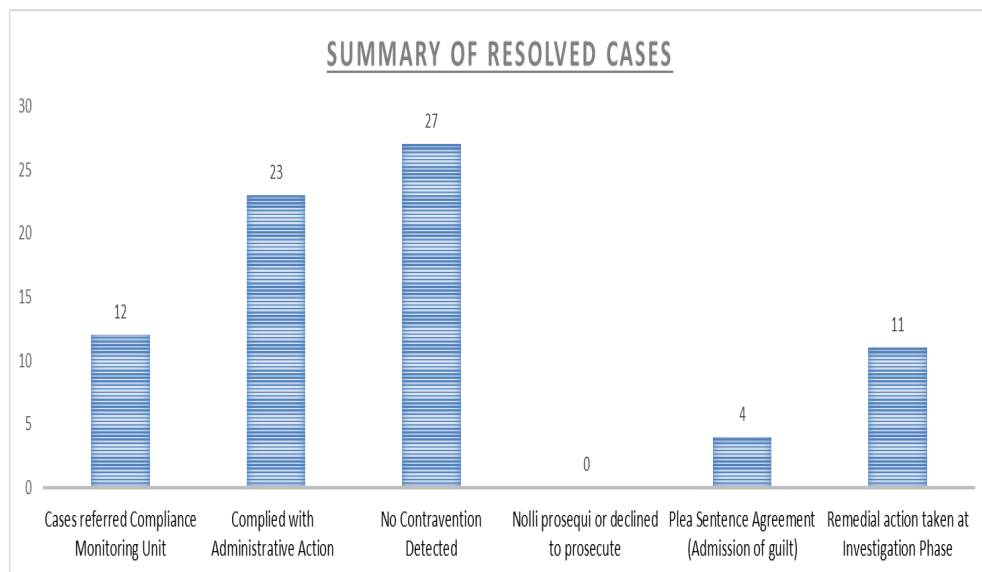
The DWS has undertaken forty-eight (48) follow-up inspections as part of its efforts to ensure compliance with administrative enforcement actions. The primary focus of these inspections is to monitor adherence to the notices of intention to issue directives or the directives themselves that have been issued by the DWS. During these follow-up inspections, it has been observed that in certain cases, transgressors have displayed persistent non-compliance with the notices and directives. Conversely, in other instances, water users have demonstrated compliance by adhering to the directives that were issued. These findings from the follow-up

inspections provide valuable insights into the overall level of compliance with the regulatory measures implemented by the DWS.

The DWS has undertaken an assessment of hundred and seven (107) representations in cases where suspected transgressors have availed themselves of the opportunity to make representations in accordance with the provisions of the Promotion of Administrative Justice Act (PAJA). As part of this process, the transgressors are required to submit an action plan aimed at addressing and mitigating the identified pollution or ceasing the unlawful water uses, as revealed during the investigations. The DWS duly reviewed these representations to determine whether the proposed corrective action plan aligns with the requirements outlined in the directive. Subsequent to such engagement, the DWS will make a decision to either accept or reject the presented representations based on their adherence to the specified provisions.

The DWS has resolved several cases of reported non-compliance through its diligent efforts, as evidenced by the below bar chart. A notable number of cases, totalling twenty-three (23), demonstrated compliance with the administrative actions enforced by the DWS. In twenty-seven (27) instances, no contravention was detected upon thorough investigation, indicating a level of adherence to the regulatory requirements. Significantly, there were no cases in which the DWS declined to prosecute (Nolli prosequi), indicating a firm commitment to pursuing legal action when necessary. Additionally, in four (4) cases, a plea sentence agreement was reached through admission of guilt, reflecting an efficient resolution.

Moreover, during the investigation phase, remedial action was taken in eleven (11) cases, emphasizing the DWS's proactive approach to rectifying non-compliance issues. Overall, these statistics reflect the DWS's effective handling of reported cases of non-compliance, ensuring the enforcement and promoting a culture of compliance within the relevant sectors.



6 CHALLENGES

- Ability to monitor high risk priority water users to be able to give a statistical representative performance status for the sector within current capacity across the DWS, its regions and CMAs and within current fiscal environment Interpretation and quality of water use authorisations have been a challenge and is being addressed with the water use authorisation unit.
- Compliance and Enforcement activities for water uses that originate before the National Water Act remain subject to validation and verification processes and is being addressed by the Water Allocation Reform unit as various V&V projects are re-energised in the coming year.
- Water use entitlements are structured such that water is allocated on an annual basis with no daily abstractions.

- Joint audits with other EMI network partners if not planned well in advance become problematic in terms of resources and is being addressed through WGIV
- Slow and unstable network affecting functionality of IT systems
- Inconsistent use of ECMS for tracking across all provinces require regular training sessions
- Regions not registering reported non-compliance cases on ECMS for tracking
- Exercising powers that EMIs have been trained on and have been designated for specifically opening and investigation criminal offences with the compounding time and resource intensity of conducting criminal investigation
- Capacity constraints and criminal process taking long.
- Ability to give effect to execution of works when users fail to adhere to respective directives due to availability of resources and the challenge of budgeting for such items.
- Delay in execution of works (Budget).

General Findings on water user behaviour:

- To actively ensure compliance to conditions of authorisations.
- To engage the department timeously on conditions that are incorrect or not possible to implement and only when compliance inspections are planned or conducted then water user raise issues about the conditions or write letters to amend license conditions.
- To conduct necessary technical, monitoring and audit self-regulation reports stated in the water use conditions to be compiled and submitted to DWS.
- Rehabilitation, monitoring and maintenance are not performed in many cases.

- Licensee do not in many instances have a documentation record information system in place where the license and technical reports are kept for compliance reference.
- The necessary wetland specialist or other specialists are not appointed or the suitable qualified person does not ensure that the conditions of the water use license are complied with.
- The DWS/FSA court case limits the process of validation and verification, as a result the lawful status of some plantations could not be determined. Also, the genus exchange regulations could not be finalised.
- Water use entitlements within the agricultural sector are structured such that water is allocated on an annual basis with no daily abstractions. This implies that compliance status can only be determined accurately at the end of the cropping season/year. Some water use entitlements provide conditions for users to install and monitor their water use. However, some do not have this provision and it becomes a challenge to determine the actual water being used.

7. CATCHMENT MANAGEMENT AGENCY (CMAs) PERFORMANCE STATISTICS

7.1 BREEDE-GOURITZ CATCHMENT MANAGEMENT AGENCY (BGCMA) PERFORMANCE FOR 2022/23

7.1.1 Key Performance Areas Plan

The BGCMA's mandate and functional responsibilities are aligned to achieve and support the Department Water and Sanitation (DWS) priorities that are aligned with the Outcomes of National Government.

For the CME functions and APP targets for BGCMA falls within Programme 2 (Compliance Monitoring) and Programme 5 (Enforcement)

Programme 2: Water Use Management					
Output Indicators: Annual and Quarterly Targets					
Output Indicators	Annual Targets 2022/23	Q1	Q2	Q3	Q4
Number of audits completed for water use compliance	80	20	20	20	20
Programme 5: Water Resource Protection					
Output Indicators: Annual and Quarterly Targets					
Output Indicators	Annual Targets 2022/23	Q1	Q2	Q3	Q4
Percentage of reported non-compliant cases resolved (Administrative notices and criminal process)	100%	100%	100%	100%	100%

7.1.2 Compliance Monitoring APP Targets 2022/23

BGCMA planned to oversee 80 water users in 2022/2023 and achieved 98. The enterprise breakdown of the users is as follows:

- 6 Wineries monitored
- 1 Piggery monitored
- 85 Irrigation monitored
- 6 WWTW monitored

Because the system was only partly used and BGCMA was still capacitated to use the CME procedures, tools and systems out of the 98 inspections, only thirteen (13) compliance inspections followed the compliance monitoring SOP and captured on the NCIMS and compliance inspection report generated with way forward recommendation and actions to be taken (Table 21).

The score card has not been applied to determine the percentage (%) status of compliance of facilities since this was the first year that the compliance inspection procedure has performed and the BGCMA is still new in applying the CME procedures and use of the system tools.

Eighty-five (85) facilities were either monitored for effluent discharge related matters or for abstraction related matters.

Out of 98 users, 11 users were found to be non-compliant, and recommendations were made in the final reports for actions against non-compliances ranging from corrective action plans to enforcement actions. Four (4) users were issued non-compliance letters and one (1) user was issued a notice of intention to issue a directive. Compliance status of one (1) user could not be determined as the water use activity has not started on the facility.

Table 21: Individual performance: All Water Sectors

Name of Facility		% of Compliances of facilities	Comments / Findings
1	Farm 369/61, WORCESTER		
2	WP Dreyer Trust		
3	Schapenrivier 363/3, Ceres		
4	Khoi Klaas (Pty) Ltd		
5	Grootvlakte 414/76, Rawsonville		
6	Oakhill Sports Campus (Pty) Ltd		Non-compliant with conditions of the licence
7	Grootkop WDF on a portion of the remainder of Erf		
8	Oudtshoorn Local Municipality		
9	THE DYSELSDORP WDF		
10	Prince Albert Waste Disposal Facility		
11	Prince Albert Waste LM: Klaarstroom WDF		
12	Prince Albert LM: Leeu-Gamka WDF		
13	DFFE- Buffelsnek Plantation		

7.1.3 Enforcement

During the review period, Enforcement Units received ninety-one (91) complaints of suspected non-compliances in the agricultural and the local government sector and out these reported cases and previous reported cases hundred and three (103) cases were investigated during this review period. Investigation findings revealed an array of non-compliances which pose a threat to the water resources. This has prompted Enforcement to take administrative action against identified non-compliant water users to compel them to rectify the contraventions. Hundred and two (102) administrative actions were initiated against suspected transgressors.

Further rectification measures were taken wherein one (1) criminal case was opened against a Municipality that did not comply with the prescripts of the water legislations.

Enforcement Activities	
Investigated Cases	103
Follow-Ups (Investigations & Inspections)	68
Administrative Action	102
Criminal Cases Opened	1
Representations Received and Assessed	13
Total	

7.1.4 Joint CME Operations

During 2022/2023, BGCMA conducted V&V follow-up Blitz operation with DWS regional office officials where 21 facilities were inspected, and four mini blitz operations were conducted by BGCMA EMI's:

- 5 properties during Winery Blitz;
- 12 facilities during Onrus Lower De Boss dam blitz;
- 17 facilities were done during Lower and upper Breede Blitz; and
- 12 facilities during the Crag's Blitz.

7.1.5 CME Emergency Pollution Incident Enforcement

During 2022/2023 financial year, BGCMA CME unit received 26 pollution incident related cases for investigation. All reported pollution cases are separate to non-compliances indicated under paragraph 7.1.3 and these pollution incidents were investigated within 24 hours of reported period as per the BGCMA Business Process. Out of 26 cases, 4 notices were issued following the site investigations and the rest was resolved through verbal

directives. Most of these incidents are related to sewage spillages due to the Municipal infrastructure breakdown. Follow up site inspections were conducted, and all the pollution cases were dealt with during this financial year.

7.1.6 Training

CME generic concepts, processes, procedures and IT Application tools (NCIMS and ECMS) and how to compile a Compliance Inspection Report training session to BGCMA was rolled out on 15-17 February 2023 to capacitate the officials to perform their CME functions and use the CME procedures, tools and system.

Three BGCMA officials attended the EMI training offered by DFFE and all three officials successfully completed the training and awarded with their EMI certificates and designation letters during this review period.

7.1.7 Systems

BGCMA used the ECMS and NCIMS partially in 2022/2023. The systems are presently in the process of implementation within BGCMA and its utilization is in its initial stages. It is anticipated that the system's adoption will progressively grow as users become more acquainted with its functionalities.

7.1.8 Key Risks (Challenges)

Objectives	Key Risks	Risk Mitigation
Compliance Monitoring	Authorised water users may not be adequately monitored	<ul style="list-style-type: none"> - Water users registered for waste discharge - Water use audits - Capacitation through skilled staff
Enforcement	Inadequate monitoring of water quality standards	<ul style="list-style-type: none"> - Sampling of DWS Water Quality Monitoring projects - Monitoring of Water Resource points - Funding and technical support of river rehabilitation projects - Follow up reported non-compliant cases - Implement water quality management programmes

7.1.9 Plan for 2023/24

KPI	Annual Target	Quarterly Target
Number of planned blitz operations	2	-
Number of compliance audits against water use authorisations (WULA/GA/ELU)	80	20
Percentage of reports uploaded on the National Compliance Information Management System (NCIMS).	70%	70%

Percentage of reported and investigated alleged illegal water use cases (including queries, complaints, pollution incidence, Ministerial and 24G referral cases)	100%	100%
Percentage of non-compliant cases registered on the enforcement case management system.	80%	80%
Percentage of Resolve reported alleged illegal water use cases, including, complaints, Ministerial and 24G referral cases)	80%	-

BGCMA is planning to conduct two blitz operations in the third quarter and fourth quarter with DWS and DEADP EMI's for 2023/24.

7.2 INKOMATI-USUTHU CATCHMENT MANAGEMENT AGENCY (IUCMA) PERFORMANCE STATISTICS FOR 2022/23

7.2.1 Key Performance Areas

The sub-programme performs inspections and audits, including investigations of reported incidents of resource pollution in compliance with the NWA and other environmental legislation.

Output	Programme	Output	Output Indicators	Annual Targets 2022/23
Outcome 4: Protection and Use of water	Programme 4: Water resource management	Regulative compliance	Percentage of activities compliance to WUAs	90%

Output	Programme	Output	Output Indicators	Annual Targets 2022/23
resources			Record of enforcement action taken non-compliant facilities/ users	100%

7.2.2 Compliance Monitoring APP Targets 2022/23

Planned to oversee 172 water users in 2022/2023 and achieved 172.

Out of 172 facilities, only twelve compliance inspections were conducted, and 160 facilities were only monitored for effluent discharge related matters. The breakdown of twelve (12) water users where compliance inspections were conducted are as follows:

- 6 mines monitored.
- 5 industries monitored.
- 1 local government monitored.

Table 22: Individual performance: All Water Sectors

Name of Facility		% of Compliances of facilities	Comments / Findings
1	Ikoti Coal (Pty) Ltd		Non-compliance to conditions of a license.
2	Umsibhithi Wonerdfontein colliery		Non-compliance to conditions of a license.
3	Northern coal Welter colliery		Non-compliance to conditions of a license.
4	Autumn Glow Investments CC		Non-compliance to conditions of a license.
5	Farm Cromdale		Complaint

Name of Facility		% of Compliances of facilities	Comments / Findings
6	Msobo coal (Pty) Ltd		Compliant
7	Lugendlani Development		Compliant
8	Lawa Estate sawmill		Non-compliance to conditions of a license.
9	Kruger Park Lodge		Non-compliance to conditions of a license.
10	Casterbridge Lifestyle centre		Compliant
11	Woodchem SA (Pty) Ltd		Compliant
12	Machadodorp WWTW		Non-compliant to a condition of a license

The score card has not been applied to determine the percentage (%) status of compliance of facilities since this was the first year that the compliance inspection procedure has performed and the IUCMA is still new in applying the CME procedures and use of the system tools.

7.2.3 Enforcement

During the review period, Enforcement Units received sixty (60) complaints of suspected non-compliances of which were twelve (12) local government sector, twenty-nine (29) private sector, eight (08) mines, two (02) National Department, eight (08) Provincial Department, one (01) SOE and out these reported cases sixty (60) cases were investigated. Investigation findings revealed an array of non-compliances which pose a threat to the water resources. This has prompted Enforcement to take administrative action against identified non-compliant water users to compel them to rectify the contraventions. Sixty (60) administrative actions were initiated against suspected transgressors.

Further rectification measures were taken wherein one (1) criminal case was opened.

Enforcement Activities	
Investigated Cases	60
Follow-Ups (Investigations & Inspections)	60
Administrative Action	60
Criminal Cases Opened	01
Representations Received and Assessed	60
Total	

7.2.4 Joint CME Operations

Only one joint operation conducted with DEA National Department, and it led to a criminal case where Eva lab was charged criminally and found guilty on all counts and fined R500-000 wholly suspended for five years.

7.2.5 CME Emergency Pollution Incident Enforcement

During the period under review, the CME division under Inkomati Usuthu Catchment Management Agency (IUCMA) received thirty (30) reported pollution incidents related cases for investigation. Take note these are separate to the sixty (60) enforcement complaints reported under 7.2.3 section above. All reported matters were attended to with 24hours of reported period as per the IUCMA SOP. Verbal directives were issued on site as provided for in terms of S 20 of NWA. Majority of these issues were related to sewage overflow as a results of municipal infrastructure failure. Twenty-five (25) of the reported matter were resolved with a verbal directive. Only five (05) directives were confirmed in writing with 14 days of issuing a verbal directive. Follow up inspection were conducted, and all users issued with directives has fully complied to the satisfactory of the IUCMA. For the quarter under review all directive matters resolved.

7.2.6 Training

CME generic concepts, processes, procedures and IT Application tools (NCIMS and ECMS) and how to compile a Compliance Inspection Report training session to IUCMA was rolled out on 8-10 February 2023 to capacitate the officials to perform their CME functions.

In respect of EMI Basic Training undertaken during the 2022/2023, one (01) IUCMA official received training by DFFE. The official has successfully completed the EMI training and is awaiting designation. Due to financial constraints the IUCMA could not send all its officials to attend the EMI training as requested.

7.2.7 Systems

Only made use of the ECMS partially. The systems are presently in the process of implementation within IUCMA and its utilization is in its initial stages. It is anticipated that the system's adoption will progressively grow as users become more acquainted with its functionalities.

7.2.8 Key Risks (Challenges)

Outcome	Key Risks	Risk Mitigation
Protection and use of water resources	Issued licenses not adequately monitored.	a) Review the organogram to spit the Compliance Monitoring and Enforcement b) Increase the number of planned inspections. c) Appoint officials to focus on streamflow reduction.

Outcome	Key Risks	Risk Mitigation
	Civil litigation against IUCMA	a) Where there is an intention to legally challenge any decision, that matter must be subjected to a legal opinion. b) Appointment of experienced enforcement officer.

7.2.9 Plan for 2023/24

KPI	Annual Target	Quarterly Target
Percentage of planned inspections for quantity related uses	48	12
Percentage of planned inspections for quality related uses	48	12
Percentage of enforcement action taken against non-compliant users	%	–

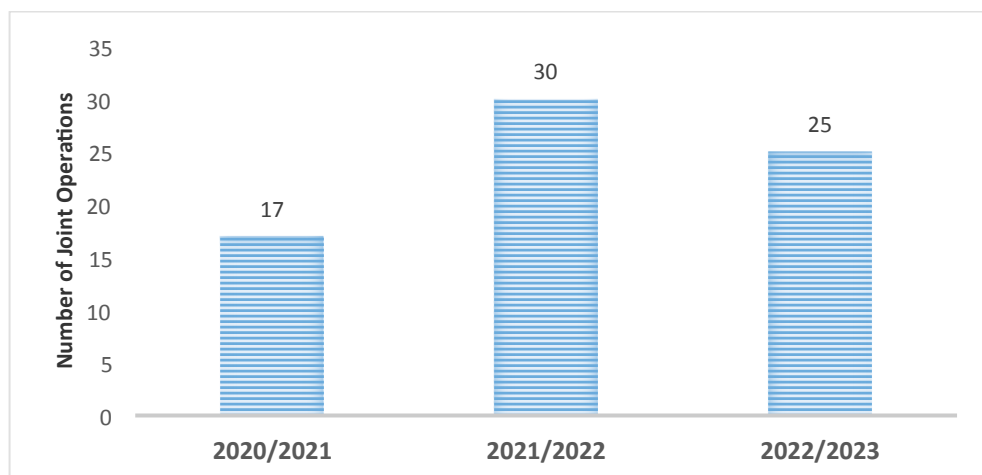
8. JOINT COMPLIANCE AND ENFORCEMENT OPERATIONS

Joint operations by Enforcement Units with Organ of State as sister departments, such as the Department of Mineral Resources (DMR), Department of Forestry, Fisheries, and the Environment (DFFE), South African Police Service (SAPS), and Local Government, offer numerous

advantages in achieving the requirements of the Inter-Governmental Relation Framework Act.

Firstly, collaboration between these departments promotes a streamlined and integrated approach to enforce compliance with the requirements of the NWA, ensuring consistency and effectiveness across different levels of government. Secondly, information sharing, and coordination enable better resource allocation, reducing duplication of efforts and optimizing limited resources. Additionally, joint operations foster mutual understanding and trust among departments, leading to improved decision-making processes. By pooling expertise and resources, these units can address complex cases leading to enhanced protection of water resources. Ultimately, this cooperative model aligns with the principles of the Inter-Governmental Relation Framework Act, fostering intergovernmental cooperation and synergy in addressing shared goals and responsibilities.

Over the past three financial years, the joint operations by Enforcement Units have shown fluctuating trends in the number of reported non-compliance cases. In the financial year 2020/2021, a total of 17 joint operations were conducted to address reported non-compliance incidents. This number increased significantly in the following financial year, 2021/2022, with 30 joint operations conducted, indicating a heightened effort in enforcing compliance. However, in the current financial year, 2022/2023, there has been a slight decrease to 25 joint operations.



Additional to above 25 joint operations DWS were involved with the IUCMA dealt with one joint operation with DFFE during the reporting period that led to a criminal case where Eva lab was charged criminally and found guilty on all counts and fined R500-000 wholly suspended for five years.

During 2022/2023, BGCMA conducted V&V follow-up Blitz operation with DWS regional office officials where 21 facilities were inspected.

8.1 IMPLEMENTATION OF SECTION 53(2): EXECUTION OF WORKS

Limpopo Blitz Operation: Media Coverage



In instances where a water user fails to comply with administrative action, the DWS has the authority to invoke Section 53(2) as a means to rectify the contravention and recover its reasonable costs. Under this provision, the DWS is empowered to undertake any necessary works and execute any other actions deemed essential to address the non-compliance. By utilizing Section 53(2), the DWS can take proactive measures to rectify the situation and ensure adherence to regulatory requirements. Furthermore, it grants the DWS the ability to recover the incurred costs from the individual or entity upon whom the notice was served. This provision serves as a

powerful mechanism for enforcing compliance and safeguarding the integrity of water resource management.

Section 53(2) of the National Water Act provides that *“If the action is not taken within the time specified in the notice, or any longer time allowed, the responsible authority may - (a) carry out any works and take any other action necessary to rectify the contravention and recover its reasonable costs from the person on whom the notice was served”*.

In light of the aforementioned details, the Enforcement Unit in the Limpopo Region identified the owner of Groot Nyl Oog Farm, which consists of two portions, namely portions 4 and 5. The farm is situated between Bela Bela and Modimolle towns within the Limpopo Water Management Area (WMA), specifically in the quaternary catchment A61A. The agricultural sector dominates the area, and the property is owned by Danie and Zelda Muller.

The DWS received a complaint from the Limpopo Department of Economic Development, Environment and Tourism (LEDET) regarding the unauthorized construction of dams on Groot Nyl Oog Farm. The complainant highlighted that the landowner had cleared riparian vegetation within the stream, causing obstruction and diversion of the watercourse flow. Groot Nyl flows from the Vaalwater/Alma site to Donkerpoort Dam, eventually joining the Nyl River, which leads to Nylsvlei, a Ramsar site.

In response to the complaint, the DWS conducted a joint operation with LEDET on October 15, 2020. During the operation, it was observed that the farm owner was in contravention of the provisions outlined in the National Water Act (NWA). Specifically, the owner had constructed eight instream dams with spillways, cultivated approximately twelve hectares of pecan nuts, and drilled five boreholes, of which only three were equipped to extract water from the water resource. Some of the abstracted water was

stored in Jojo tanks, as well as concrete and zinc dams. According to the farm owner, the abstracted and stored water was utilized for irrigating the pecan nut crops.

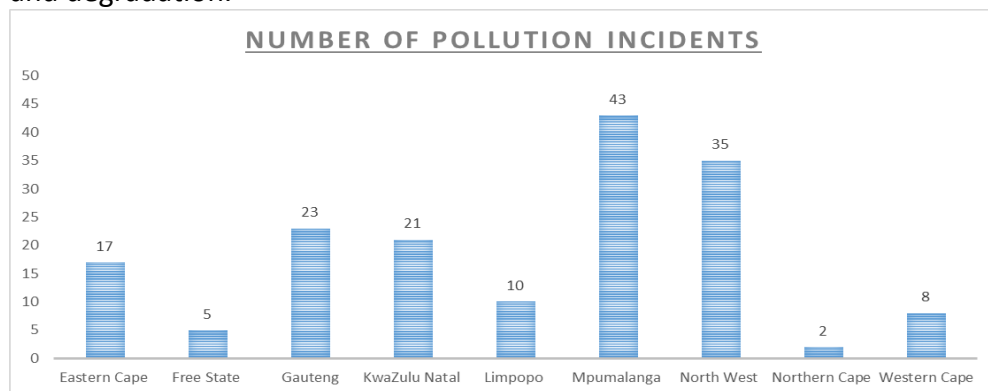
The facility has caused the following impacts by engaging in the above-mentioned water uses, impeding and diverting the flow of water in a watercourse, which affects other lawful downstream water users. Ponding or damming reduces the flow of water and may contribute to siltation of downstream dams from erosion. Downstream erosion may occur due to an increased carrying capacity of the stream, changes in patterns of deposition downstream, and changes in channel bed and habitat type. The facility is situated upstream of the Groot Nyl River, which flows to Donkerpoort Dam. The dam is a source of drinking water for Modimolle Mookgophong Local Municipality, used to purify and supply residents, industries, and the town. The activity has an impact on ensuring the availability of water supply for domestic use.

During the Blitz Operation, the DWS executed the works and is in the process of recovering costs from the transgressor. Water was released by breaking the impeding structures, allowing it to flow to downstream water users in the Nyl River. Disconnection the electricity on the pumps; and sealing of the boreholes was done.

9. EMERGENCY POLLUTION INCIDENT ENFORCEMENT

During the 2022/2023 review period, a total of four hundred and sixty (460) cases of non-compliance were reported. Among these cases, one hundred and sixty-four (164) were related to the control of emergency incidents resulting in water resource pollution. In response to these incidents, the Department conducted thorough investigations and, when necessary, initiated administrative enforcement actions or filed criminal charges against those responsible. These actions were aimed at compelling individuals or entities involved to undertake corrective measures to mitigate pollution.

It is important to highlight that these incidents primarily occurred during normal operations of various activities, often involving spillages, manhole overflows and others. The affected sectors included local government, mining, industrial, and agriculture. The Department is monitoring efforts to ensure that appropriate clean-up and rehabilitation measures are implemented to protect our valuable water resources from further harm and degradation.



The Department issued thirty-six (36) notices and eighteen (18) directives, while a criminal case was initiated against the facility operator who, either intentionally or negligently, engaged in activities that resulted in the

pollution or potential pollution of a water resource. Collaboratively, the Department is actively engaged with SAPS to facilitate the completion of the case docket, which will then be forwarded to the NPA for a decision. Furthermore, seven (7) cases have been closed as facility operators have undertaken corrective measures to clean and rehabilitate the affected areas, effectively mitigating the pollution risk to our water resources.

During the period under review, the CME division under IUCMA received thirty (30) reported pollution incidents related cases for investigation. Take note these are separate to the sixty (60) enforcement complaints reported under 7.2.3 section above. All reported matters were attended to within 24 hours of reported period as per the IUCMA SOP. Verbal directives were issued on site as provided for in terms of Section 20 of NWA. Majority of these issues were related to sewage overflow as a result of municipal infrastructure failure. Twenty-five (25) of the reported matters were resolved with a verbal directive. Only five (05) directives were confirmed in writing within 14 days of issuing a verbal directive. Follow up inspections were conducted, and all users issued with directives have fully complied to the satisfaction of the IUCMA. For the reporting period under review all directive matters resolved.

During 2022/2023 financial year, BGCMA CME unit received 26 pollution incident related cases for investigation. All reported pollution cases are separate to non-compliances indicated under paragraph 7.1.3 and these pollution incidents were investigated within 24 hours of reported period as per the BGCMA Business Process. Out of 26 cases, 4 notices were issued following the site investigations and the rest were resolved through verbal directives. Most of these incidents are related to sewage spillages due to the Municipal infrastructure breakdown. Follow up site inspections were conducted, and all the pollution cases were dealt with during this financial year.

10 JUDGEMENTS PLEA SENTENCING AGREEMENTS



Table 23: Judgements for 2022/23

Parties	CAS Number	Section 151(1) Offences	Judgment
The State vs Nigel Press Blaker	22/06/2021	Section 151(1)(a);(c);(d) and (j)	On the 19 January 2023 the Accused settled a penalty sum of R1 770 392.75 for illegally abstracting dam water for crop irrigation without a water use authorisation agreed to through an informal mediation agreement entered into with the Department.
The State vs Roy Clifford Braithewaite	118/09/2021	151(1)(a); (c); (d) and (j)	Accused settled a penalty sum of R1.5 million for constructing an illegal dam agreed to through a Mediation Agreement entered into with the Department on the 24 November 2022
The State vs Thaba Chewu Local Municipality [Joint matter between Mpumalanga Province: Department of Economic Development, Environment and Tourism and DWS]	131/03/2020	In respect of the charges: COUNT 1: Unauthorised disposal of waste THAT the Accused is guilty of contravening Section 26(1)(a) and (b) read with Sections 1, 36 (5), 67(1)(a) & 68(1) and (2) of the National Environmental Management:	The Accused was convicted and sentence on 13 June 2022 in respect of the plea agreement as follows: ➤ In respect of Counts 1, 4 and 5 for purposes of sentence the Accused was fined to a sum of R10 000000-00 of which half was suspended for a period of five years on certain conditions. The Accused is not convicted of any further offences in terms of National Environmental Management Act, 1998 (NEMA); National Environmental Management:

<i>Parties</i>	<i>CAS Number</i>	<i>Section 151(1) Offences</i>	<i>Judgment</i>
		<p>Waste Act, 59 of 2008;</p> <p><u>COUNT 2:</u></p> <p><u>Failure to comply with the conditions stipulated in the Water Use Licence issued in terms of section 28 of the NWA (Act 36 of 1998)</u></p> <p>THAT the accused is guilty of the offence of contravening section 21(g), 28 (1) and 151 (1) and (2) read with section 152, 153 of the National Water Act 36 of 1998, and read with GNR notice 921 of 29 November 2013, and further read with section 94 of the Criminal Procedure Act, 51 of 1977;</p> <p><u>COUNT 3:</u></p>	<p>Waste Act, 2008 and the National Water Act, 1998 during the period of suspension.</p> <p>➤ In respect of Counts 2, 3, 6 and 7 the Accused was fined to a sum of R5 000 000-00 or direct imprisonment for a period not exceeding five years, wholly suspended for a period of 5 years on the following conditions. The Accused is not convicted of any further offences in terms of National Environmental Management Act, 1998 (NEMA); National Environmental Management: Waste Act, 2008 and the National Water Act, 1998 during the period of suspension.</p> <p>➤ The Accused was ordered to utilise R4 800 000-00 out of the R5000 000-00 imposed on it on or before 1 November 2022, for the urgent and necessary repairs of all the identified equipment by the contractor in terms of the Technical Report.</p>

<i>Parties</i>	<i>CAS Number</i>	<i>Section 151(1) Offences</i>	<i>Judgment</i>
		<p><u>Unlawful Water Use</u></p> <p>THAT the accused is guilty of contravening Section 21(c) and (f) read with Section 151(1) and (2), and read with 152 and 153 of the National Water Act, Act 36 of 1998 and read with GNR 166 of 13 February 2009, and further read with section 94 of the Criminal Procedure Act, 51 of 1977;</p> <p><u>COUNT 4:</u></p> <p><u>Causing significant pollution to the environment</u></p> <p>THAT the accused is guilty of contravening of Section 28 (1), 49A(1)(f) and 49B (1) of the National Environmental Management, Act 107 of 1998, as amended, as well</p>	

<i>Parties</i>	<i>CAS Number</i>	<i>Section 151(1) Offences</i>	<i>Judgment</i>
		<p>as with Sections 1 and 34 (with reference to Schedule 3) of the said Act and further read with section 94 of the Criminal Procedure Act, 51 of 1977;</p> <p><u>COUNT 5:</u></p> <p><u>Unlawful, Negligent disposition and distribution of raw untreated sewer</u></p> <p>THAT the accused is guilty of contravening Section 151(1)(i) read with Section (2), 152 and 153 of the National Water Act, Act 36 of 1998 and read with section 1 and 34 (with reference to Schedule 3), 49A (1) (f) and 49B (1) of the National Environmental Management, Act 107 of 1998, as amended and</p>	

<i>Parties</i>	<i>CAS Number</i>	<i>Section 151(1) Offences</i>	<i>Judgment</i>
		<p>further read with section 94 of the Criminal Procedure Act, 51 of 1977.</p> <p><u>COUNT 6:</u></p> <p><u>Failure to comply with a directive in terms of section 19 and 53 of the National Water Act 36 of 1998 (dated 15 February 2019)</u></p> <p><u>COUNT 7:</u></p> <p><u>Failure to comply with a directive in terms of section 19 and 53 of the National Water Act 36 of 1998 (dated 14 January 2020)</u></p>	
<p>The State</p> <p>Vs</p> <p>Nongobozi Trading CC (Accused 1)</p> <p>Bhekizwe Gilbert Nkosi in his personal capacity</p>	178/01/2020	<p>In respect of the charges:</p> <p>Count 1 Unlawfully conducting mining activities in a nature reserve</p> <p>In that the Accused was guilty of contravening section 48(1)(a) read with section 1,</p>	<p>The Accused (1) was represented by Bhekisizwe Gilbert Nkosi and pleaded guilty to all counts. The Accused (1) was convicted and sentenced on the 16 March 2022 as follows:</p> <ul style="list-style-type: none"> ➤ The Accused pleaded guilty in respect of all 7 counts. ➤ Counts 1 to 3 was taken as one for purposes of sentence. The

<i>Parties</i>	<i>CAS Number</i>	<i>Section 151(1) Offences</i>	<i>Judgment</i>
(Accused 2) Dudizele Florence Dhlamini in her personal capacity (Accused 3) Arnoldus Francois Van Schalkwyk in his personal capacity (Accused 4) Willem Sarel De Klerk in his personal capacity (Accused 5)		<p>section 89(1)(a) and section 89(2) of the National Environmental Management: Protected Areas Act 57 of 2003 and further read with section 332 of the Criminal Procedure Act 51 of 1977</p> <p><u>Count 2</u></p> <p>Digging of soil or similar material in a nature reserve</p> <p>In that the Accused was guilty of contravening section 89(3) read with section 1, section 86 of NEM: PAA 57 of 2003 and read with Regulations 36(b) and 54(a) of Government Notice 53021 dated February 8, 2012, and section 332 of CPA 51 of 1977</p> <p><u>Count 3</u> Entering a nature reserve</p>	<p>Accused was fined to a sum of R5 000 000-00 (five million rand) which was suspended for a period of five years on condition the Accused (company) is not convicted of contravening sections 48(1), 89(2) of National Environmental Management Act, 1998 (NEMA); and 46(1) of the Act 57 of 2003 during the period of suspension.</p> <p>➤ Counts 4-7 was taken as one for purposes of sentence. The Accused was fined to a sum of R5 000 000-00 which was wholly suspended for a period of 5 years on the following conditions. The Accused is not convicted of any further offences in terms of section 49A(1)(f) of National Environmental Management Act, 1998 (NEMA); section 21(c) section 21(f) section 21(i) read with section 1; section 22, section 151(a) and section 151(2) of NWA 36 of 1998, read with section 332 of CPA 51 of 1977 during the period of suspension.</p>

<i>Parties</i>	<i>CAS Number</i>	<i>Section 151(1) Offences</i>	<i>Judgment</i>
		<p>without permission</p> <p>In that the Accused was guilty of contravening section 46(1) read with section 1 and 89(1)(a) and section 89(2) of the NEM: PAA 57 of 2003 read with section 332 of CPA 51 of 1977</p> <p><u>Count 4</u></p> <p>Committing an act that is likely to detrimentally affect the environment</p> <p>In that the Accused was guilty of contravening section 49A(1)(f) read with section 1, section 48B(1) of NEMA 107 of 1998 further read with section 332 of CPA 51 of 1977;</p> <p><u>Count 5</u></p> <p>Conducting unlawful water use activity</p>	

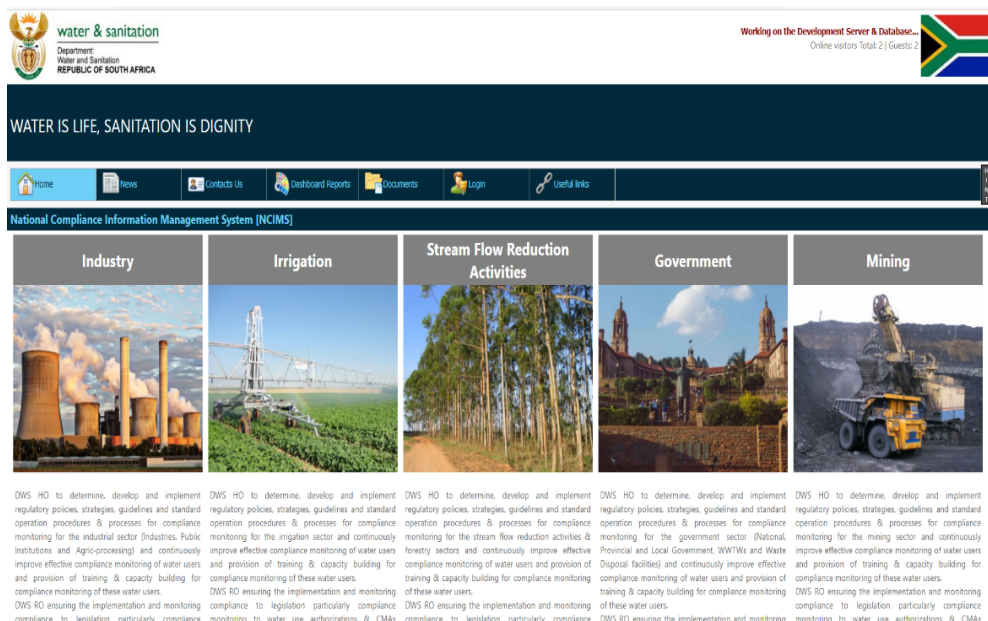
<i>Parties</i>	<i>CAS Number</i>	<i>Section 151(1) Offences</i>	<i>Judgment</i>
		<p>In that the Accused was guilty of contravening section 21(c) read with section 1; section 22, section 151(a) and section 151(2) of NWA 36 of 1998 read with section 332 of CPA 51 of 1977.</p> <p><u>Count 6</u></p> <p>Conducting unlawful water use activity</p> <p>In that the Accused was guilty of contravening section 21(f) read with section 1; section 22, section 151(a) and section 151(2) of NWA 36 of 1998 read with section 332 of CPA 51 of 1977.</p> <p><u>Count 7</u></p> <p>Conducting unlawful water use activity</p> <p>In that the Accused</p>	

<i>Parties</i>	<i>CAS Number</i>	<i>Section 151(1) Offences</i>	<i>Judgment</i>
		<p>was guilty of contravening section 21(i) read with section 1; section 22, section 151(a) and section 151(2) of NWA 36 of 1998 read with section 332 of CPA 51 of 1977.</p>	

11. INFORMATION MANAGEMENT

11.1 NATIONAL COMPLIANCE INFORMATION MANAGEMENT SYSTEM (NCIMS)

In 2015 work commenced to develop a National Compliance Information Management System (NCIMS) that would assist in the prioritisation of water users to be monitored against their water use authorisation, the capturing and storing of compliance inspection and audit reports, a receptacle for third party audits and self-regulation reports, and ultimately to ensure enforcement actions of non-compliances identified at facilities and of repeat offenders. This system was tested during the financial year (2016/2017) and rolled out during 2017/2018 to the provincial offices. The NCIMS and ECMS had successfully been integrated during 2018/2019.



11.2.1 Progress and Achievements on the NCIMS for 2022/23

DWS and Proto-CMA/CMA Users were requested on a quarterly basis and during NCIMS training sessions to submit their contributions on how to improve the system on a day-to-day basis. These requests were consolidated and in collaboration with the IT administrator, enhancements to the system were implemented. A total of three (3) sets of enhancements were rolled out to all Users on 1 August 2022, 2 November 2022, and 4 April 2023.

The NCIMS Manuals were updated to reflect the new enhancements to system and rolled out to DWS and Proto-CMA/CMA Users as follows:

- NCIMS User Manual sent on 6 April 2023 and,
- NCIMS and ECMS Manual sent on 4 February 2023.

A draft Self-Regulation Report Upload Module design and specification document has been developed within the NCIMS website system to enable Water Users to upload self-regulation reports on the system. This enhancement entails (a) granting Water Users access to their profiles on NCIMS to upload their WUA, self-regulation and technical reports, to manage contact information and (b) granting RO, Proto-CMAs/CMAs and HO CME officials' access to uploaded self-regulation reports and to upload self-regulation audit finding letters. It will send automated notifications to the Water User of successful upload of their self-regulation reports as Receipt of Acknowledgement which lessen the administrative actions for the CME officials and ensure all reports / documents are accessible on one system platform as water user and as regulator (national/provincial/CMAs). This module is expected to be implemented by the end of 2023/24 financial year.

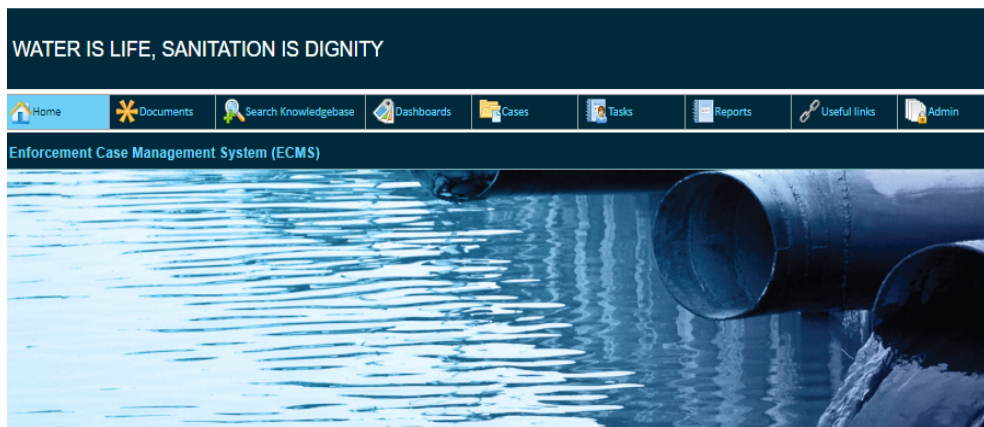
11.2.2 Training on the Use of the NCIMS

The NCIMS currently has 118 active registered users from DWS and Proto-CMAs/CMAs. NCIMS training to all DWS and Proto-CMA/CMA Users were rolled out in two types of training sessions for the First Time Users to accommodate the new officials appointed in the functions of CM and the Refreshers Session to update the active CM officials on the enhancements that were implemented and how to apply it. The First Time Users sessions were held on 13 September 2022 and 25 January 2023. The Refreshers Session were held on 11 October 2022 and 26 January 2023. A total of 57 officials were trained in these sessions using the MS Teams facility.

Additional training was rolled out to the IUCMA and BGCMA on 8-10 February 2023 and 15-17 February 2023 respectively to capacitate the officials in the CME functions in using NCIMS for capturing and generating the compliance inspection reports.

11.2 ENFORCEMENT CASE MANAGEMENT SYSTEM (ECMS)

Enforcement Case Management System (ECMS) serves as a pivotal tool for achieving multiple objectives. Primarily, the system facilitates electronic recording and storage of reported non-compliance cases. Its further aids in the management of these cases to meet the requirements of investigative, administrative, and criminal procedures, thereby contributing to the successful prosecution of such cases. As a key instrument within the enforcement unit, ECMS plays a crucial role in ensuring the effective and efficient functioning of the unit. To continuously enhance system efficiency, the enforcement unit consistently undertakes projects focused on improving the system. This process involves regular review and redevelopment of the system to align with the ever-changing work environment.



WELCOME TO ENFORCEMENT CASE MANAGEMENT SYSTEM (ECMS)

About ECMS

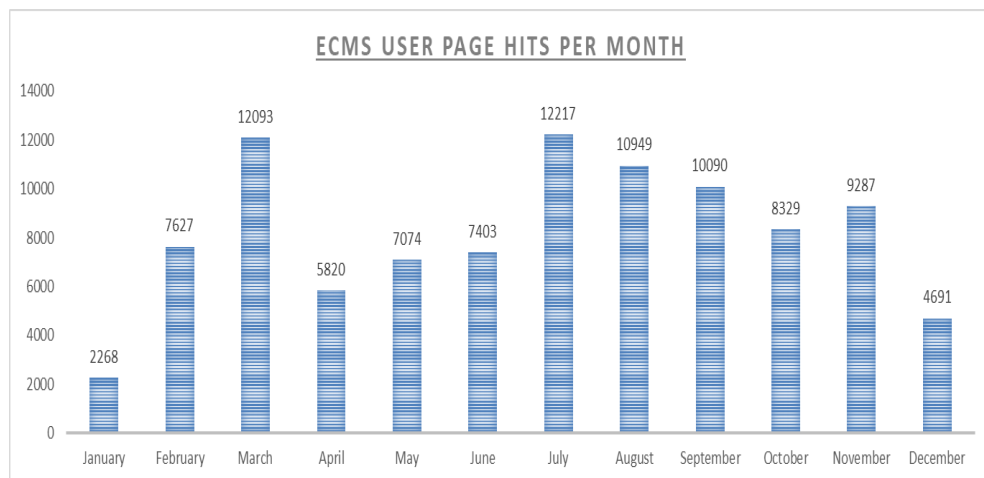
ECMS is a centralized system that enables the electronic management and processing of case related information. ECMS is utilised as an electronic solution for management of non-compliance cases reported to ensure necessary rectification measures are instituted against suspected offenders from the moment they are reported to the time of resolution phase. The system is aimed at improving operational efficiency and compliance to administrative enforcement, civil and criminal requirements.

ECMS users has experienced a significant increase in users, reflecting a growth of 9.6% compared to the previous financial year 2021/2022. This notable expansion can be attributed to the implementation of a new organisational structure, whereby other officials within the DWS are joining Proto-CMAs.

The DWS remains dedicated to continually improving and sustaining the operations of the ECMS, recognizing the importance of maximizing its utilization to its fullest potential. Efforts are consistently directed towards enhancing the functionality and performance of the system, ensuring it meets the evolving needs and requirements of the DWS and its users.

To achieve this goal, regular assessments and evaluations are conducted to identify areas for improvement within the ECMS. Feedback from users is actively sought and incorporated into the ongoing development and maintenance processes.

Training programs are designed and implemented to familiarize ECMS users with the system's features and functionalities, ensuring they are equipped with the necessary skills to fully leverage its capabilities. Ongoing technical support and assistance are also provided to address any issues or concerns that may arise during system usage.



The ECMS has consistently garnered significant page hits per month, as evidenced by the above data. Overall, the consistent level of page hits per month indicates a significant and regular usage of the ECMS, highlighting its importance in managing enforcement cases effectively.

12. CME CAPACITY BUILDING

The capacity of Compliance Monitoring and Enforcement is one of the key priorities highlighted in the NWRS-3 and the DWS CME Strategy and requires action in terms of additional personnel and skilling of existing officials. Of concern is also the sharing of resources between Compliance and Enforcement due to the workload and the differing skill set between inspectors and investigators.

12.1 RECRUITMENT AND SELECTION

Strengthening of Compliance Monitoring & Enforcement capacity remains the key strategic action in order to take strong action against unlawful water users in accordance with the prescribed enforcement procedures. This priority strategic action can be achieved through availability of skilled

human capital. During the financial year 2022/23, new officials dedicated to performing CME functions were appointed in various national and provincial offices.

12.2 DWS AND CMA INTERNAL TRAINING

A training needs analyses was compiled for 2022/23 as part of the WUCME training programme.

Drafting of the formal training programme for internal DWS Water Quality Officials i.e., the Integrated Water Resources Management (IWRM) Orientation Course (5-days) and the development of advanced Sampling training course in collaboration with DFFE for EMLs is in process.

The Integrated Water Resource Management [IWRM] Five-Day Orientation Course has been provided on 14-18 November 2022 and 27 Feb- 3 March 2023 for 2022/23 for DWS and CMA officials and consisted of different presenters from specific fields of expertise within DWS to present a module to an estimated 80-officials over the two training sessions. The IWRM Orientation Course has also been accredited with South African Council for Natural Scientific Professions (SACNASP).

The orientation course provides an overview of the following amongst others: IWRM Overview, National Water Resource Strategy 3 (NWRS-3), Legislative framework tools, Resource Directed Measures (classification, resource quality objectives, reserve surface and groundwater), scientific and engineering water related concepts, all water sectors involved and water services regulation related to water quality impacts, WDSCS, water use authorisation, waste management, compliance monitoring and enforcement, pollution incidents including case studies / water quality monitoring and a sampling practical, land remediation, etc.

In respect of EMI Basic Training undertaken during the 2022/2023, twenty-one (21) DWS and CMAs officials received training by DFFE. There was a 100% pass rate for these officials who have all since been designated as EMI's.

Further training of internal stakeholders is continuing whereby officials are capacitated by attending training tabled in the Performance Management Development System. As skills development is a crucial aspect in improving performance in the Branch Regulation but due to work demands officials have great difficulty to disengage to attend training. The DWS has therefore identified the need for an e-learning platform to bridge this gap to ensure dissemination of training material that allows officials to participate and self-learning in convenient segments and at their own pace without compromising service delivery.

Additional training was rolled out to the IUCMA and BGCMA on 8-10 February 2023 and 15-17 February 2023 to capacitate the officials in the CME generic concepts, processes, procedures and IT Application tools (NCIMS and ECMS) and how to compile a Compliance Inspection Report training session to CMAs.



Figure 2: EMI Trained delegates May 2022

Internal DWS / CMA training courses are indicated below in Table for officials to perform their duties more effectively and efficiently and to enable them to be designated as EMIs. A WUCME database register is updated on a quarterly basis for official receiving training and which training sessions attended for 2022/23. It gives a good indication who still needs to be trained and for which advance courses.

Table 24: CD: WUCME Internal Capacity Building held for 2022/23

No	WUCME Training Course	Internal Stakeholder	Q1	Q2	Q3	Q4	Presenter(s)
WUCME OVERARCHING/JOINT TRAINING							
1.	CMA CME training: CME generic concepts, IT	IUCMA & BGCMA	x	x	x	IUCMA (8-10 Feb 2023) BGCMA	D: CM & D: E, CDSS unit

No	WUCME Training Course	Internal Stakeholder	Q1	Q2	Q3	Q4	Presenter(s)
	Systems and reporting requirements training session					(15-17 Feb 2023)	
Capacity Development Systems & Support Unit							
2.	Nolle Prosequi Training	DWS Enforcement Officials	29 March 2022				DWS CDSS unit
3.	Criminal Docket Training	DWS Enforcement Investigation officials	22 March 2023				DWS CDSS unit
4.	EMI Basic training course (3 weeks)	DWS/Proto-CMA/CMAs CME officials	EMI Basic Training: 09-27 May 2022 Cape Town		EMI Basic Training 3-21 Oct 2022 KZN		DFFE, DWS CDSS unit
5.	EMI Executive Basic Training course (Gauteng)	DWS Regional Heads & DDG		27 – 29 July 2022			DFFE, DWS CDSS unit
6.	Use of NCIMS Training	DWS/Proto-CMA/CMAs CM officials		13 Sept 2022 (new users)	11 Oct 2022 (refresher)	25 Jan 2023 (new users) 26 Jan 2023 (refresher)	DWS CDSS unit & Elias Magagane (D: CM)
7.	Draft SOP-Illegal dams with a safety risk	DWS/Proto-CMA/CMAs CME officials			11, 26 & 28 Oct 2022 & 2 Nov 2022		DWS CDSS unit
WUCME SECTOR SPECIFIC TRAINING							
D: Water Resource Regulation							

No	WUCME Training Course	Internal Stakeholder	Q1	Q2	Q3	Q4	Presenter(s)
8.	IWRM Orientation Course (5-day)	DWS/Proto-CMA/CMAs			14-18 Nov 2022 (42 officials trained)	27 Feb – 3 March 2023 (39 officials trained)	DWS Officials
D: Enforcement							
9.	Use of ECMS Training	DWS/CMA new users DWS/CMA Existing users			24 to 28 Oct and 1 Nov 2022		Mr. TP Mphahlele (D: E)

12.3 EXTERNAL STAKEHOLDER ENGAGEMENT

During the 2022/2023 financial year the sub-directorate: Enforcement Support conducted legally oriented capacity building training sessions with its external stakeholders such as SAPS. Our external stakeholders have a direct involvement in the investigation and prosecution of criminal matters and thereby enforce compliance with the National Water Act. Therefore, these engagements are important to build the capacity and skills base of the personnel within these institutions to successfully investigate and deal with water related criminal cases. The following sessions were held:

SAPS

SAPS Mooiriver	NWA Capacity Building Training (Enforcement)	20-Apr-22
SAPS Mogwadi (Dendron)	NWA Capacity Building Training (Enforcement)	25-Apr-22
SAPS Kimberley	NWA Capacity Building Training (Enforcement)	10-May-22
SAPS Estcourt	NWA Capacity building Training (Enforcement)	25-May-22
SAPS Brandfort	NWA Capacity building Training (Enforcement)	15-Jun-22
SAPS Pilgrim's Rest (Thaba Chweu Municipality)	NWA Capacity Building Training (Enforcement)	21-Jul-22
SAPS Zamdela	NWA Capacity Building Training (Enforcement)	26-Jul-22
SAPS Windsorton	NWA Capacity Building Training (Enforcement)	19-Sep-22
SAPS Vosman	NWA Capacity Building Training (Enforcement)	12-Oct-22
SAPS Witbank	NWA Capacity Building Training (Enforcement)	13-Oct-22
SAPS Bronkhorspruit	NWA Capacity Building Training (Enforcement)	25-Oct-22
Springbok SAPS (Namakwa)	NWA Capacity Building Training (Enforcement)	18-Oct-22

Upington SAPS (ZF Mgcawu)	NWA Capacity Building Training (Enforcement)	17-Oct-22
De AAR SAPS (Pixley Ka Seme)	NWA Capacity Building Training (Enforcement)	19-Oct-22
Kuruman SAPS (JTG)	NWA Capacity Building Training (Enforcement)	20-Oct-22
Provincial SAPS N/C (Frances Baard)	NWA Capacity Building Training (Enforcement)	21-Oct-22
Kriel SAPS	NWA Capacity Building Training (Enforcement)	26-Oct-22
SAPS Ottosdal	NWA Capacity Building Training (Enforcement)	08-Feb-23
SAPS Lydenburg	NWA Capacity Building Training (Enforcement)	22-Feb-23
SAPS Thabazimbi	NWA Capacity Building Training (Enforcement)	27-Feb-23
SAPS Paulpietersburg	NWA Capacity Building Training (Enforcement)	01-Mar-23
SAPS Sanieshof Basic	NWA Capacity Building Training (Enforcement)	09-Mar-23
SAPS Biesiesvlei Basic	NWA Capacity Building Training (Enforcement)	10-Mar-23

NPA

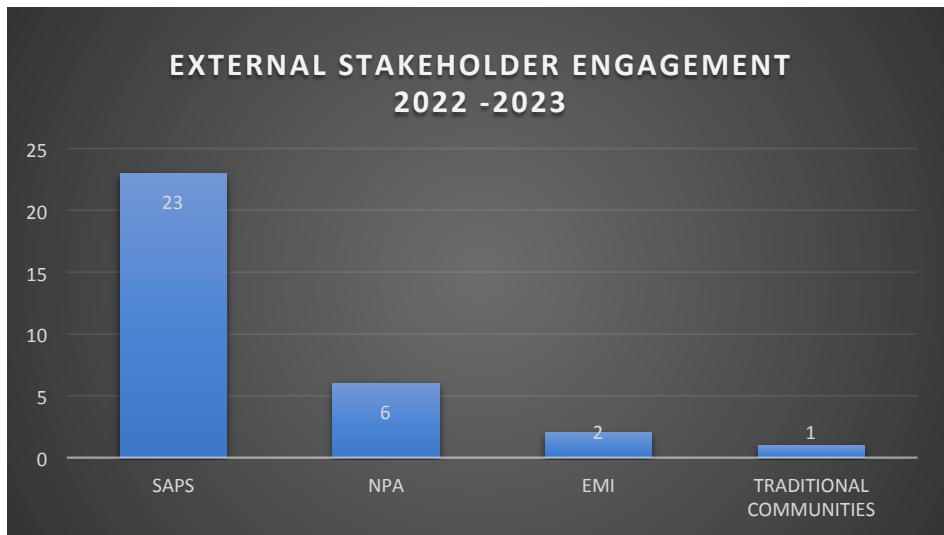
NPA Kimberley Magistrates Court	NWA Capacity Building Prosecutor Training	10-May-22
NPA Nelspruit Mpumalanga	NWA Capacity Building Prosecutor Training	31-May-22
NPA Ntuzuma Magistrates Court	NWA Capacity Building Prosecutor Training	2022/09/30
NPA DPP Office Gauteng	NWA Capacity Building Prosecutor Training	11-Oct-22
NPA KZN DPP Maritzburg Cluster	NWA Capacity Building Prosecutor Training	28-Oct-22
NPA Paulpietersburg Magistrates Court	NWA Capacity Building Prosecutor Training	03-Mar-23

TRADITIONAL COMMUNITY TRAINING

Ga Mothapo Traditional Council	Conduct Community Capacity Building Training	22-Jun-22
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Mothapelo Community Training conducted on 22 June 2022.



3. COMPLIANCE PROMOTION/STAKEHOLDER

Stakeholder management is one the primary objectives of the Enforcement Unit. This objective ensures the management of relations and liaison with the unit's key stakeholders, such as the South African Police Service, National Prosecuting Authority, Public Protector of South Africa, State Security Agency and civil society organisations. This objective is achieved through conducting of community awareness campaigns, participation in catchment forums and capacitation of key stakeholders. During the review period, Enforcement officials attended various catchment management forums in order to ensure transparent and inclusive stakeholder participation in water sector and for compliance promotion.

14. PLAN FOR 2023/24

Compliance Monitoring will continue to build on targets set for compliance monitoring whilst pursuing more effective ways and measures of achieving compliance in the water sector quicker. One of the implications of the restructuring process expected to be finalized in 2023/24 Financial Year, is that the CM function will be performed by the Pro-CMA and the CMAs. Training of new officials taking over the CM function will be critical to ensure continuity in the monitoring process. Key projects will include continuation of drafting the ELU regulations, the implementation of the water metering regulations and capacity building across all sectors.

Communal Property Associations (CPAs): To respond to reported allegations of non-compliance and non-payment of water use charges by the CPAs, the DWS planned to have dedicated audit operations for the CPAs. The focus of which is to ensure that the CPAs comply with the water legislation. The operation will be run as a collaboration between the DWS and the Department of Agriculture, Land Reform and Rural Development (DALRRD).

The CPAs are registered with the Department of Agriculture, Land Reform and Rural Development (DALRRD) and are required to report annually and provide their annual financial statements, land transactions, list of committee members, minutes of meetings and membership list. There are 1 599 registered CPAs. The Eastern Cape has 215, Free State has 54, North-West has 188, Gauteng has 35, KZN has 380, Northern Cape has 93, Western Cape has 32, Limpopo has 202 and Mpumalanga has 400. Due to this high number, the DWS plans to focus on those CPAs with reported non-compliance to water legislation.

The main problem with the CPAs from a water perspective is the non-payment of water use charges as well as the lack of hands-on in water use. Most CPAs do actively farm the land transferred to them, instead, they lease the land. This affects the DWS's ability to fund operations and maintenance of infrastructure as well as infrastructure development.

Criteria for the auditing of self-regulation reports: Authorised water users have a duty to comply with various conditions as set out in their water use license to protect and manage their impact on the environment and water resources. This is to ensure efficient and sustainable use and to cater for the needs of the ecology and downstream users. One of the requirements is for authorised water users to self-regulate; to monitor and audit their own compliance to the conditions set out in the water use authorisations they are operating under and submit these reports to the department.

This is usually a requirement in Water Use Licenses (WULs) for Licensees to conduct annual internal audits to appoint an independent external auditor to conduct an external annual audit. Audit reports are sent to the DWS for assessment. Environmental Audits to be conducted and reports to be submitted is also required as the General Authorisations. There are many other self-regulating monitoring, assessing and auditing reports that are required from water users, depending on the sector, the water uses and activities undertaken against the authorisation issued.

The DWS has developed a draft SOP for auditing self-regulation reports and developed a design and specification document (DSD) for a self-regulation report upload module on the NCIMS website system to enable water users to upload self-regulation reports on the system in future. The SOP for self-regulation audits will be finalised and the development of uploading self-regulation reports module on the NCIMS and implementation will be rolled during 2023/24. Self-regulation audits have been conducted by some head office sectors in the past to quickly determine status of compliance of water users (as screening tool and early warning sign or planning tool for compliance inspections) at a desktop level to be able to assess more water users' compliance performance to their water use authorisations within a financial year than only the planned compliance inspections for the particular year. Compliance monitoring do not have set criteria for assessing these self-regulation reports received from the water users, for all water sectors, hence the plan to embark on such in the 2023/24 financial year. The criteria will not only assist DWS officials in assessing the reports but also the Environmental Practitioners who compile audit reports on behalf of the water users.

The DWS has identified the need for accessibility of compliance data both in performing its core mandate as well as meeting Sustainable Development Goal Targets (SDG) in 2030. In order to assist in facilitating this access monitoring and reporting regulations are being developed to assist with the monitoring, assessment and the submission of prescribed information, audits and reports for authorised water users to the Integrated Regulatory Information System (IRIS). This regulation will also give effect to ensure the upload of self-regulation reports by water users onto the NCIMS which the latter system is planned to be integrated into the IRIS.

Enforcement: During 2023/2024, the Department will be in the process implementing the approved organizational structure. As delineated by the new structure, the Enforcement function is being transitioned to the Proto-CMAs (Proto Catchment Management Agency). This relocation of the Enforcement function to the Proto-CMAs necessitates a concerted effort to bolster the criminal enforcement capacity of new officials that will be integrating into the Proto-CMAs from various units encompassed within the Department.

The overarching objective of this initiative is to strengthen the enforcement function within the Proto-CMAs, enhancing the ability to effectively address cases of non-compliance and transgressions. As a result, the infusion of skilled individuals from different departmental units into the Proto-CMAs serves to consolidate and augment the criminal enforcement function and aligning with the strategic direction of the Department.

DWS also plans to intensify its Compliance Monitoring and Enforcement activities to reduce illegal activities that impact on the health of aquatic ecosystems. The compliance monitoring and enforcement will be focused on high impact activities in order to achieve the optimal use of limited state resources.

One of other causes of deterioration of water quality is Wastewater Treatment Works (WWTW). Most municipalities with their limited budgets and other resources are not managing WWTWs as effective as required and therefore have a serious water quality impact and risk on the receiving water resources. It is for this reason that joint audits were done with DFFE as well. DWS will engage with CoGTA and SALGA to holistically improve the performance of WWTWs.

DWS in conjunction with the Water Research Commission (WRC) (which is funding the project) has embarked on a research project entitled “**Enabling the incorporation of administrative penalties into the National Water Act**”. The (WRC) issued a solicited Terms of Reference (ToR) for the research and calculation methodology of the quantum of administrative penalties to be imposed for offences in terms of the National Water Act (No. 36 of 1998) and selected subordinate legislation (other SEMA’s). This is for inclusion and application in the National Environmental Management Administrative Penalties Amendment Bill, 2022, when passed. The Branch: Regulation Compliance and Enforcement is also in the process of developing the policy framework for the creation of a dedicated banking account for use when performing regulatory functions.

A Service Provider has been appointed to conduct this research for the DWS & WRC. The WRC has appointed a Reference Group (RG) which consists of key stakeholders from within the Department of Forestry, Fisheries and Environment (DFFE) as well as the Department of Water and Sanitation (DWS) to guide and support the SP. It is anticipated that a Draft Research Report detailing the key objectives as set out in the research proposal will be received before 31 August 2023. Another key deliverable, the Calculation template for variable administrative penalties should also be received by 30 September 2023.

CME Training & Systems integration: The DWS CME Strategy approved in March 2018 is progressively being implemented with the further training of CME personnel and external stakeholders and well as further development, enhancement and integration of the information application systems. A communication strategy will also be developed for targeted compliance promotion and to highlight enforcement successes to serve as deterrent.

Capacity Development, Systems and Support unit within WUCME has embarked on the development of an **e- Learning platform** to facilitate the management and dissemination of training content to WUCME officials and Environmental Management Inspectors (EMI) at national, provincial, and CMA levels. This type of system will alleviate the need for only classroom-based contact sessions which are limited in terms of both size and scope and enables a mechanism to provide updates and refresher courses without unnecessary budgetary implications. The development and implementation of the e-Learning solution will be undertaken internally. The testing of the solution and updating specifications is to be concluded and standardised and aligned WUCME training and assessing modules to be compiled and uploaded to the system in 2023/24.

