

ANNUAL REPORT

2017/2018



We develop the South African Agricultural Industry.
Ons ontwikkel die Suid-Afrikaanse Landbou Industrie.



CENTRE OF EXCELLENCE

Natural Resources



Wayman Kritzinger

Wayman Kritzinger served as chair of the Centre of Excellence. He was assisted by Willem Symington as deputy chair and Cornie Swart as additional member. Janse Rabie was the functionary.

WATER AFFAIRS

Raw water tariff dispensation

The department of water and sanitation's (DWS) approved water tariff dispensation for 2018/19 was circulated to the affiliates. The percentage increase in the water resource infrastructure (WRI) tariff initially exceeded the agreed-upon maximum of 17% (7% PPI plus a further maximum of 10% depending on the level of under-recovery of costs by the government water scheme).

Agri SA's Natural Resources Centre of Excellence raised the matter with the DWS, after which the necessary adjustments were made.

Review of the national water policy and legislation

Agri SA's Natural Resources Centre of Excellence has been at the forefront of reviewing national water policy. Significant policy and legislative amendments regarding water governance in South Africa include:

- **National Water Resource Strategy**

The requirement for a National Water Resource Strategy (NWRS) is stipulated in terms of the National Water Act, 1998 (Act No 36 of 1998) (the NWA). The NWRS is a strategic policy document dealing with the overall management of South Africa's water resources.

Agri SA's Natural Resources Centre of Excellence participated in the proposed update of the NWRS. There have been significant developments, which are expected to have a direct bearing on further interactions of the NWRS. An official draft of the NWRS is expected to be published during August/September 2018.

- **National Water and Sanitation Master Plan**

The National Water and Sanitation Master Plan (NW&SMP) follows from the NWRS and essentially entails the implementation plan of the NWRS.

Agri SA's Natural Resources Centre of Excellence submitted extensive comments on the NW&SMP to the department of water and sanitation (DWS), which comments were circulated to all our members for noting.

Finalisation of the NW&SMP is currently ongoing and further engagements thereon will take place during the latter half of 2018.

- **New Water and Sanitation Act**

The DWS intends publishing a draft National Water and Sanitation Bill for comment during mid-2018.

The draft Bill is intended to consolidate the current NWA and the Water Services Act, 1997 (Act No 108 of 1997), leaving a single Act dealing with both bulk water supply and municipal water and sanitation services in South Africa.

Agri SA's Natural Resources Centre of Excellence will be at the forefront of participating in developments surrounding the draft Bill (expected mid-2018).

- **Single Catchment Management Agency**

The DWS initiated public workshops on the creation of Single Catchment Management Agency (CMA) (in lieu of the present intended nine CMAs) towards the latter half of 2017. On 15 December 2017, DWS invited submissions of written comments on the Proposal and Draft Business Case for the Single CMA.

Agri SA's Natural Resources Centre of Excellence participated in the specialist workshops on the creation of a single CMA and submitted extensive written comments on the draft Business Case, copies of which were circulated to our members for noting. Agri SA's Natural Resources Centre of Excellence also participated as member of a panel of experts convened on behalf of the DWS by the Water Research Commission (WRC) on the implications of the creation of a single CMA.

The proposed creation of a single CMA has since indefinitely been placed on hold by the DWS.

- **Independent Economic Regulator**

In December 2017 the DWS published a draft Business Case for the creation of an Independent Economic Regulator for South Africa.

The draft Business Case proposes the creation of an entity separate from the DWS to deal with, amongst other things:

- Insufficient investment in maintenance, refurbishment and replacement of infrastructure;
- Poor management of services - interrupted supply, water quality, etc;
- High levels of unaccounted for water - theft, wastage, unbilled usage;
- Areas still unserved, particularly in sanitation;

- Weak tariff setting and billing;
- Value for money in use of Municipal Infrastructure Grant and Equitable Share; and
- High levels of debt: national and provincial government to local government water services (between local government to water boards; water boards to the DWS) and between the DWS and the raw water users.

Agri SA's Natural Resources Centre of Excellence submitted extensive written comments on the draft Business Case to the DWS, copies of which were circulated to our members for noting. Further developments on the proposed establishment of an Independent Economic Regulator will be closely monitored by Agri SA and we will keep our members and affiliated organisations duly updated and informed in this regard.

- **Transfer of water use entitlements**

Agri SA's Natural Resources Centre of Excellence was provided with an internal circular by the DWS on the interpretation of section 25 of the NWA. In terms of this circular, DWS is of the view that section 25 of the NWA cannot be interpreted to allow for the private trading in water use entitlements.

Agri SA's Natural Resources Centre of Excellence was provided with a copy of a legal opinion obtained by the South African Association of Water User Associations (SAAFWUA), calling into question the interpretation afforded to

section 25 of the NWA in terms of the circular and advising that the DWS be placed on terms to withdraw its circular or face High Court challenge.

Agri SA is intent on pursuing this matter in High Court proceedings (either independently or together with SAAFWUA).

- **Verification and validation process**

Agri SA's Natural Resources Centre of Excellence is of the view that the verification and validation of existing lawful water use entitlements is crucial with respect to any strategy or policy formulation within the water sector in South Africa.

The current verification and validation process by the DWS is at various stages of finalisation throughout South Africa.

Agri SA's Natural Resources Centre of Excellence is actively tracking and pressuring the DWS's progress in the finalisation of the verification and validation process. Once the DWS has finalised the close-out reports for the above areas/projects, it will start a process of engaging with Agri SA with the view of providing it with a proper update of the implementation of these projects.

Agri SA's Natural Resources Centre of Excellence will continue pressuring the DWS on this critical issue.

- **Water metering requirements**

On 23 February 2018, the DWS published Government notice 141 calling on irrigation boards and water users associations to install water measuring devices for water taken for irrigation purposes and to monitor compliance of the regulations requiring that the taking of water for irrigation be measured, recorded and reported.

In terms of Government notice 141, irrigation boards and water user associations that have water use authorisations to abstract water for irrigation purposes were required to install water measuring devices by 23 March 2018.

Agri SA has consistently maintained that the implementation date of Government notice 141 is too short. Agri SA's Natural Resources Centre of Excellence submitted objections to the DWS in this regard. Agri SA will continue informing its members regarding the requirement for water use metering and reporting in terms of existing government requirements.

Agri SA has called on its affiliated members to take note of the water metering requirements and to inform water users in the agricultural sector to implement such metering requirements as may be reasonably prescribed.

Illegal water use

The illegal use of water is a grave concern and causes conflict and inequality among irrigators. Those who comply with the rules find themselves in a relatively weaker position.

Agri SA has consistently maintained its position (as adopted by its congress) that it cannot and will not approve, endorse or in any way support the unlawful use of water by its members.

To this end, Agri SA believes the verification and validation process of water use rights should be expedited and that the results should be made available for public scrutiny in the respective water catchment areas.

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Comments in this regard must then be evaluated in order to compile a database that is as accurate as possible.

Agri SA believes local CMAs will be able to curb illegal water use.

Deteriorating water quality

There is an increasing concern over the impact of deteriorating water quality on the agricultural sector. The pollution of water resources, both surface and subterranean, has increased to such an extent that agricultural production could suffer. Although pollution occurs on several levels, municipalities are key roleplayers in this regard.

Agri SA has over time followed various approaches to address poor water quality. This includes seeking senior legal counsel on water users' legal position in relation of the DWS's liability.

Agri SA's Natural Resources Centre of Excellence believes water quality should be monitored at catchment area at provincial level. This issue should be raised in the inter-departmental C-SAW structures, and also where the CMAs are already functional. The emergency numbers at the DWS and department of environmental affairs (DEA) must also be tested to determine the functionality thereof. Problems in this regard must be referred to Agri SA's Natural Resources Centre of Excellence for follow-up.

Agri SA's Natural Resources Centre of Excellence is aware of the DWS's intention to develop an integrated national water quality policy and strategy and will comment thereon after it is published.

Water restrictions

Agri SA's Natural Resources Centre of Excellence is concerned about the DWS's inability to monitor and enforce the water restrictions published in the Government Gazette. It also seems as if prior consultation is not satisfactory, which could influence the accuracy of the calculations.

Agri SA's Natural Resources Centre of Excellence indicated that effective water control will only be possible where water user associations (WUAs) and catchment management structures with the necessary skills are in place.

Concerns remain over the interpretation of the DWS's operational rules for implementation and lifting of water restrictions. Adequate rainfall should result in the immediate lifting of water restrictions.

Problems with the interpretation of the operational rules relating to the introduction and lifting of water restrictions have been raised by Agri SA's Natural Resources Centre of Excellence with the DWS.

Building of new dams and upgrading of existing dams

Agri SA's Natural Resources Centre of Excellence requested the DWS to provide information on the department's planning regarding the building of new dams and upgrading of existing ones.

The DWS provided the following information:

- **Western Cape**

Work to raise the Clanwilliam Dam wall is anticipated to start soon. The canals will also be replaced and upgraded. This will stabilise water provision and moderately improve the irrigation potential for emerging farming operations. The Western Cape department of agriculture is actively involved in this project.

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A project to pump surplus winter water from the Berg River to the Voëlvelei Dam to improve the supply of water from the dam will be starting soon. This water will serve largely to supplement household water for Cape Town and Saldanha.

No further dams are currently envisaged.

- **Eastern Cape**

The Mzimvubu River development entails the building of two dams. Although agriculture forms part of the motivation, there are question marks over the affordability of the water. The building of further dams, which is in fact being considered, does not focus primarily on agriculture, except small-scale farmers in certain circumstances.

There are various large dams in the former Transkei area that were built with a view to agricultural development, but this was implemented only to a limited extent. Examples are the Xonxa, Lubisi and Ncora dams. Irrigation from the Doring River Dam at Indwe has also ceased. At present the dam only supplies water for household purposes.

- **Central**

In this system, which includes the Orange River and Vaal River catchment areas, the second phase of the Lesotho Highland water project, namely the building of the Podihale Dam, should already have started, but this has been delayed.

- **KwaZulu-Natal**

Various large projects are under way or in the investigation phase, but only for urban water supply.

- **Limpopo**

Given the demands of other sectors and cities on available water, the possibility of further irrigation development in the province is extremely slim.

Illegal licensing of water uses

Agri SA's Natural Resources Centre of Excellence is increasingly becoming aware of irregularities in the issuing of agricultural water use licences by the DWS's regional offices in certain parts of South Africa.

This matter is of deep concern to Agri SA. Agri SA's Natural Resources Centre of Excellence has referred this matter to Agri SA's legal committee for referral to a suitably experienced attorney.

Launch of dedicated Agri SA Water Desk

Agri SA appointed Gregory Smith permanently during 2018 with the task to establish and manage a dedicated water desk within Agri SA's Natural Resources Centre of Excellence. The Agri SA Water Desk was accordingly launched on 2 May 2018.

The Agri SA Water Desk will, amongst other things, focus on water policy and legislative proposals such as the draft National Water and Sanitation Master Plan and the National Water Resource Strategy. The current amendments to the National Water Act, for example, will determine the cost of water for agricultural users, which is why it is necessary to engage with government and other key stakeholders from the start to work towards a fair outcome. The Agri SA Water Desk will also give inputs to the Water Research Commission (WRC) on research priorities and will act as a forum for top water experts to share their insights in a meaningful way.

In May 2018 Agri SA's Natural Resource Centre of Excellence convened a specialist task team comprised of leading water and

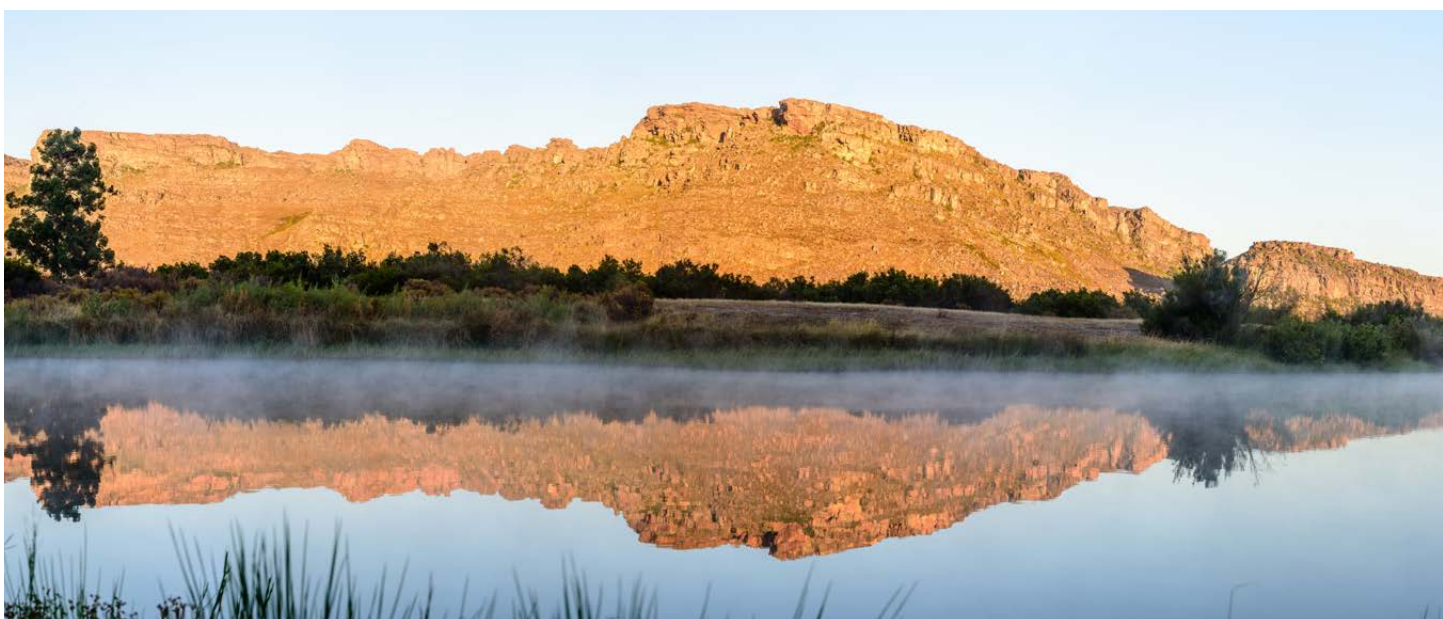
regulatory affairs leaders who, together with Agri SA, are in the process of refining Agri SA's key priorities for the Agri SA Water Desk.

ENVIRONMENTAL AFFAIRS

Shale-gas development

Agri SA's Natural Resources Centre has been at the forefront of opposing the proposed establishment of a shale-gas industry in South Africa. Agri SA has consistently maintained that, in the absence of information as to the availability of water and details as to how contaminated soil and water will be disposed of, it cannot endorse or support the proposed creation of a shale-gas industry in South Africa.

Agri SA brought four appeals against the granting of environmental authorisations for



exploration activities against Rhino Oil & Gas proposed to take place in North West, Free State, KwaZulu-Natal and the Eastern Cape provinces. A result on the appeal is expected towards mid-2018.

Agri SA has been informed that Shell intends to significantly reduce its efforts with respect to shale-gas development in South Africa. In the absence of Shell withdrawing its applications for exploration rights in the Karoo, Agri SA's Natural Resources Centre of Excellence will continue to exercise vigilance against Shell and other interested parties in this regard.

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Memorandum of Understanding – Chamber of Mines

Agri SA and the Chamber of Mines are parties to a Memorandum of Understanding which, amongst other things, aims to provide a communication platform on issues of mutual concern. In terms of the Memorandum of Understanding, Agri SA and the Chamber of Mines appointed an external consultant to investigate and assess areas where agriculture and mining can co-exist and is in the process of

preparing an overlay atlas, which is intended to be used by the department of mineral resources when deciding on whether to allow mining in certain high-value agricultural areas.

Agri SA will constantly evaluate and re-evaluate its relationship with organised mining. Should the current Memorandum of Understanding prove not to benefit the agricultural sector, Agri SA will reconsider its current relationship with the Chamber of Mines.

Preservation and Development of Agricultural Land Act

The draft Preservation and Development of Agricultural Land Bill (PDALB) has currently stalled.

The purpose of the PDALB is to retain and protect high-potential agricultural land for agricultural use. Such land is currently being threatened by competing demands such as those of the mining industry. Existing legislation does not offer an adequate legal base for agriculture in this regard.

The Chamber of Mines disagrees with agricultural stakeholders within Business Unity South Africa (Busa) regarding the constitutionality of PDALB. The difference of opinion relates largely to the veto rights of the relevant ministers and the powers of the respective levels of government. The Chamber of Mines has sought a legal opinion in this regard.

Agri SA monitors the process and will, if necessary, seek legal opinions in its own right.

National Environmental Management: Biodiversity Act – Lists and Regulations of Alien and Invasive species

Agri SA's Natural Resources Centre of Excellence provided extensive comments on the proposed Alien and Invasive Species Lists and Alien and Invasive Species Regulations issued for comment by the DEA in February 2018.

Agri SA's Natural Resources Centre of Excellence is concerned with the propensity of the DEA to over-regulate issues where no apparent significant environmental degradation occurs.

Agri SA previously prepared a guideline document in this regard, which is available for affiliates' use.

Contradictory statutory requirements: Environmental impact regulations to the National Environmental Management Act, read with the Conservation of Agricultural Resources Act

The Environmental Impact Assessment (EIA) regulations place a regulatory and financial burden on farmers because a basic assessment is required for certain activities that form part of routine farm management. Certain listed activities, including preventing erosion, require EIAs, which holds cost implications for all farmers concerned.

There is also a legal dilemma in that the National Environmental Management: Biodiversity Act (NEMA) – EIA regulations and the Conservation of Agricultural Resources Act (CARA) place contradictory obligations on the land owner in respect of the eradication of bush invasion. These contradictions make it impossible for farmers to comply with both sets of legislation.

Agri SA's Natural Resources Centre of Excellence has approached the department of agriculture, forestry and fisheries for clarity around the interpretation of certain listed activities, subject to EIAs, in terms of NEMA, but which are contrary to the CARA legislation.

Agri SA's Natural Resources Centre of Excellence currently participates in two sub-working groups under the auspices of Daff to address the matter.

Migrating pests – black fly control

Agri SA has addressed representations to Daff to secure approval for a national control policy at ministerial level for black fly and quelea, similar to the locust control policy. Feedback received from Daff indicates that the department is in the process of reviewing all migrating pest control policies to align them with the Disaster Management Act, Act 57 of 2002. Stakeholders such as Agri SA's Natural Resources Centre of Excellence will be involved in the process.

A research project is being conducted by the Water Research Commission (WRC) aimed at black fly control. The Red Meat Producers' Organisation is involved in this.

Representations were addressed to Daff to include the fall army worm to the list of migrating pests.

Land care

Agri SA's Natural Resources Centre of Excellence has participated extensively with the department of agriculture, forestry and fisheries (Daff) on initiatives to combat land degradation. These include the formulation of a comprehensive strategy to combat bankrupt bush infestation throughout South Africa as well as assisting Daff in its formulation of a Conservation Agriculture Policy.

Agri SA's Natural Resources Centre of Excellence also provided extensive comments on, for example the Draft Alien and Invasive Species Lists and Regulations as published by the DEA in February 2018 and the DEA proposed National Environmental Laws Amendments Bill, which include significant proposed amendments to South Africa's National Environmental Management: Biodiversity Act, 10 of 2004.

In May 2018, Agri SA Head of Natural Resources participated in a study tour to Europe under the theme "Soil information for sustainable development,

agricultural, conservation and land use policies in South Africa", led by the Agricultural Research Council in collaboration with the University of Stellenbosch and the department of agriculture, forestry and fisheries. The project was fully funded by the EU-SA Dialogue Facility and will assist in the creation of a soil information management system for agriculture in South Africa.