



Gobierno de Reconciliación  
y Unidad Nacional

*El Pueblo, Presidente!*

**ANA**



Managua, Nicaragua  
September 2010





Gobierno de Reconciliación  
y Unidad Nacional

*El Pueblo, Presidente!*

**ANA**



NATIONAL WATER LAW  
LAW 620

AND

ENABLING REGULATIONS FOR THE  
NATIONAL WATER LAW  
DECREE 44 - 2010

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## TABLE OF CONTENTS

Introduction.....	5
NATIONAL WATER LAW (LAW 620).....	7
<b>TITLE I GENERAL PROVISIONS.....</b>	<b>10</b>
Chapter I Purpose and Scope of Application.....	10
Chapter II Legal Framework for Water Resources and Assets.....	11
Chapter III Definitions.....	12
<b>TITLE II GUIDING VALUES AND PRINCIPLES, MANAGEMENT TOOLS, WATER PLANNING, AND DECLARATION OF PUBLIC USE.....</b>	<b>15</b>
Chapter I Guiding Principles for Water Resources.....	15
Chapter II Management Tools.....	16
Chapter III Water Planning.....	17
Chapter IV Declaration of Public Use.....	18
<b>TITLE III WATER ADMINISTRATION SYSTEM.....</b>	<b>18</b>
Chapter I National Water Resources Council.....	18
Chapter II National Water Authority (ANA).....	19
Chapter III Basin Organizations.....	21
Chapter IV Basin Committees.....	22
Chapter V National Water Rights Registry Office.....	23
<b>TITLE IV WATER USE AND EXPLOITATION.....</b>	<b>23</b>
Chapter I Concessions, Permits and Licenses.....	23
Chapter II Granting of Concessions, Permits and Licenses.....	24
Chapter III Applications for Concession Agreements or Permits.....	26
Chapter IV Extensions.....	26
Chapter V Suspension of Concession Agreements or Permits.....	27
Chapter VI Extinguishment and Annulment.....	27
Chapter VII Rights and Obligations of Holders.....	28
Chapter VIII Common Provisions.....	29
<b>TITLE V USE OF NATIONAL WATERS.....</b>	<b>30</b>
Chapter I Human Consumption.....	30
Chapter II Drinking Water Services.....	30
Chapter III Use of Water for Agriculture and Livestock.....	31
Chapter IV Use of National Waters for Electrical Power Generation.....	31
Chapter V Environmental Conservation.....	32
Chapter VI Other Uses.....	32
<b>TITLE VI ECONOMIC FRAMEWORK FOR WATER MANAGEMENT.....</b>	<b>33</b>
Chapter I Water Rate Structure.....	33
Chapter II National Water Resources Fund.....	33
Chapter III Environmental Water Services.....	34

<b>TITLE VII</b>	<b>PROTECTION OF WATER</b>	<b>34</b>
Chapter I	General Provisions.....	34
Chapter II	Wastewater Discharge Permits.....	36
Chapter III	Suspension and Extinguishment of Wastewater Discharge Permits.....	37
Chapter IV	Other Wastewater Discharge Provisions.....	37
Chapter V	Moratorium Areas and Reserve Areas.....	37
Chapter VI	Control of Water Currents and Flood Protection.....	38
Chapter VII	Water Production.....	38
<b>TITLE VIII</b>	<b>INVESTMENT IN HYDRAULIC INFRASTRUCTURE.....</b>	<b>38</b>
Chapter I	General Provisions.....	38
Chapter II	Share of Private and Public Investment in Hydraulic Works.....	39
<b>TITLE IX</b>	<b>VIOLATIONS, SANCTIONS AND APPEALS.....</b>	<b>39</b>
Chapter I	Violations.....	39
Chapter II	Sanctions.....	40
<b>TITLE X</b>	<b>TRANSITORY AND FINAL PROVISIONS.....</b>	<b>42</b>
Chapter I	Transitory Provisions.....	42
Chapter II	Final Provisions.....	43
<b>ENABLING REGULATIONS</b>	<b>OF THE NATIONAL WATER LAW (Law 620).....</b>	<b>48</b>
Chapter I	General Provisions.....	51
Chapter II	Management Tools.....	52
Chapter III	Institutional Water Resource Management.....	53
Chapter IV	The National Water Authority.....	53
Chapter V	ANA's Technical, Operational and Regulatory Functions.....	54
Chapter VI	Basin Organizations.....	56
Chapter VII	Basin Committees.....	58
Chapter VIII	National Water Rights Registry Office.....	59
Chapter IX	Water Use.....	60
Chapter X	Multiple-use or Strategic Water Concession Agreements.....	61
Chapter XI	Application for and Extension of Concession Agreements or Permits.....	62
Chapter XII	Suspension of Concession Agreements or Permits.....	64
Chapter XII	Rights and Obligations of Holders.....	64
Chapter XIV	Use of Water for Human Consumption.....	65
Chapter XV	Use of Water for Agriculture and Livestock.....	66
Chapter XVI	Use of National Waters for Electrical Power Generation.....	67
Chapter XVII	Additional Uses and Custody of Other Water Resources.....	68
Chapter XVIII	General Water Protection Provisions.....	68
Chapter XIX	Special Regulations for Private Use of Groundwater.....	69
Chapter XX	General Provisions on Investment in Hydraulic Infrastructure.....	70
Chapter XXI	Share of Private and Public Investment in Hydraulic Works.....	70
Chapter XXII	Sanctions.....	71
Chapter XXIII	Conflicts Arising among Local Basin Organizations.....	73
Chapter XXIV	Transitory Provisions.....	73
Chapter XXV	Final Provisions.....	74

## Introduction

The main reason for reprinting the National Water Law (Law 620) is to disseminate the new enabling regulations to this Law, contained in Executive Decree 44-2010. Although some of the provisions of the previous regulations have been retained, the new regulations are based on a new philosophy that seeks to coordinate state institutions with jurisdiction in water resource management and protection, each with clearly defined functions, duties and responsibilities.

The new regulations ratify that **the National Water Resources Council (CNRH)** is tasked with overseeing the National Water Authority, as provided for in Law 620. The **CNRH “is the highest advisory and coordinating body, as well as consensus-building and participation forum, with authority to approve general, planning and follow-up policies for water sector management by the National Water Authority (ANA).”**

Custom not only precedes legislation but is also a source of law. In this respect, the new regulations recognize the right of the country's indigenous peoples to participate and make decisions regarding use and exploitation of national waters in the territories where they have lived since before the founding of Nicaragua as a nation-state.

It is not possible to list here all the changes contained in the new regulations, but it is worth pointing out that these go into greater detail as concerns many of the concepts included in Law 620. There is now greater clarity as these regulations build on the concepts contained in the Law while adhering to its spirit.

The National Water Authority was created by Law 620, enacted when President Daniel Ortega Saavedra ordered its publication in *La Gaceta*, Official Parliamentary Record, No. 169 of 4 September, 2007, and was established on 30 June, of the year 2010.

We expect that ANA's first publication will help promote and disseminate our rights and obligations regarding sustainable management and protection of national water resources.

Managua, 6 September, 2010.

*Luis Ángel Montenegro*  
*Minister Director*  
*National Water Authority (ANA)*



**NATIONAL WATER LAW  
LAW 620**



**Published in *La Gaceta* No. 169,  
Official Parliamentary Record, of 4 September 2007**

**The President of Nicaragua**

To all who shall see these presents, know that:

**THE NATIONAL ASSEMBLY**

**CONSIDERING**

**I**

That while water is a natural resource belonging to the entire nation, it is incumbent on the state to promote social and economic development through conservation, development and sustainable use of the resource, as well as to prevent its privatization.

**II**

That the indigenous peoples and ethnic communities of the Caribbean Coast are entitled to use and enjoy water resources available in their communal lands, pursuant to the principles established in the relevant legislation.

**III**

That many efforts have been made by the National Water Commission over the past years within the framework of the National Action Plan for Water Resource Management (PARH), and by the organized population itself to formulate and draft a law that regulates access to and use of water resources. However, such efforts have not materialized for technical and other reasons related to political will.

**IV**

That given the absence of a legal framework for water resources in Nicaragua, legislation is required to create an institutional framework, a legal system for sustainable use and exploitation of water resources, and the establishment of institutional relationships with the private actors involved, as well as citizen organization and participation in water resource management. Furthermore, water is to be defined as a finite, vulnerable and strategic natural resource for the country, essential to sustain life and development. Therefore, access to water is a right associated with life and human health, and must be guaranteed to the Nicaraguan people by the state.

**NOW, THEREFORE**

**By virtue of the authority vested in me**

**hereby dictate the**

**following:**

**NATIONAL WATER LAW**

## **TITLE I GENERAL PROVISIONS**

### **Chapter I Purpose and Scope of Application**

**Art. 1** The purpose of this Law is to create an institutional legal framework for administration, conservation, development, use, sustainable and equitable exploitation, as well as preservation in quantity and quality of existing water resources in the country, be they surface or groundwater, wastewater discharge or any other, while simultaneously ensuring protection of all other natural resources, ecosystems, and the environment.

**Art. 2** Specific objectives of the Law:

- a) Set up and regulate the integrated management of the country's water resources, such as hydrographic and hydrogeological basins, sub-basins and micro-basins.
- b) Establish and define the functions and faculties of the institutions involved in water sector management and user rights and obligations, as well as ensure citizen participation in water management.
- c) Regulate the granting of rights to use or exploit water resources and assets.

**Art. 3** Water is a national asset and its use and enjoyment are regulated by this law and its enabling regulations. The provisions contained herein are public and in the public interest, and apply to all water resources nationwide, whatever their state or condition.

In order to regulate particular legal matters not covered by these provisions, specific regulations subordinate to the precepts, objectives and scope of this law may be approved. As regards drinking water and sanitary sewer services, hydropower generation and irrigation, the pertinent sector institutions shall be tasked with managing these pursuant to legislation in force.

**Art. 4** Drinking water services must not be privatized neither directly nor indirectly. They shall always be considered of a public nature. Administration, monitoring and control of water resources shall be under the responsibility and protection of the state through the institutions that have been or may be created for this purpose.

**Art. 5** It is the obligation and undeniable priority of the state to promote, facilitate, and adequately regulate the supply of drinking water to the Nicaraguan people in sufficient quantity and quality, and at differentiated costs, while also benefitting those sectors that have the least economic resources.

The provision of such essential service to consumers in obvious conditions of extreme poverty may not be interrupted except when due to acts of God. In any event, alternative temporary methods of service delivery shall be provided in designated sites or through delivery by water wagons. Moreover, water service to hospitals, health centres, schools, orphanages, nursing homes, prisons, fire stations and markets may not be interrupted.

**Art. 6** This Law recognizes the right of indigenous peoples nationwide and of ethnic communities in the Caribbean Coast to use and enjoy the waters available in their communal lands pursuant to legislation in force regulating these resources.

## Chapter II Legal Framework for Water Resources and Assets

**Art. 7** Surface and groundwater anywhere in the country, as well as the natural elements that form hydrographic basins, whatever their state, quality and condition, belong to the entire nation. The power of eminent domain rests with the state, as provided for in this Law and its enabling regulations.

**Art. 8** National ownership of water resources shall remain in effect, including waters diverted by construction works from their original natural course or channel, or are prevented from flowing into these, or subject to treatment.

Wastewater resulting from use of national waters shall also be subject to the power of eminent domain by the State when discharged into public receiving water bodies.

**Art. 9** Public domain of national waters includes the following national assets:

- a) Beds of natural, navigable or floatable waters pursuant to provisions in the Civil Code in force,
- b) Naturally or artificially exposed beds of lakes, lagoons, and estuaries,
- c) The beaches, banks and shores of seas, rivers and lakes over the expanse established by the pertinent legislation,
- d) For purposes of resource protection of saline terrain,
- e) Mainland within up to two hundred meters from the high tidal line and thirty meters to each side of the banks and shores of perennial river and lake beds.
- f) Public works to regulate water use or exploitation, including facilities, buildings and the parcels where these are built,
- g) Existing islands or islands forming in lakes, lagoons, estuaries, dams and reservoirs, or in publicly owned watercourses, except for islands formed when water currents isolate private or communal lands.

**Art. 10** Maritime waters shall be regulated by provisions in the Constitution of Nicaragua and pertinent legislation, except when used:

- a) As a source of supply of any kind,
- b) In aquaculture or fish farms located on the mainland or in estuaries and bays,
- c) Artificial breeding and rearing of finfish and shellfish,
- d) For industrial use,
- e) As a source of energy to generate electrical power or of any other kind,
- f) Desalination to convert seawater into freshwater,
- g) For extraction of sea salt from sea water, and,
- h) As wastewater discharge destination or to protect water from pollution.

**Art. 11** This Law shall also regulate thermal and medicinal waters, as well as water with other special properties that may be used to produce geothermal energy.

### **Chapter III Definitions**

**Art. 12** For the purposes of this law, the following terms shall mean:

**Aquifer:** A geologic formation or group of formations interconnected hydraulically, able to receive, store and transmit groundwater, which may be extracted for use or exploitation. An aquifer's lateral and vertical boundaries are conventionally defined for national groundwater assessment, management and administration purposes.

**Continental waters:** National waters consisting of surface and groundwater located in the country's continental territory.

**National waters:** National territorial waters, whatever their state, location, quality and condition, are public assets under the terms established in the Constitution of Nicaragua and the Law on Environment and Natural Resources.

**Wastewater:** Wastes that result from domestic, commercial, industrial and agricultural use or from any use in general, or a combination of these. Any water affected or modified in its quality, with physical, chemical or biological characteristics adversely affecting or with the potential to adversely affect the receiving bodies of water into which it is discharged.

**Groundwater:** Water that seeps into the ground and saturates soils or rocks where it is stored. It supplies surface water bodies, such as streams and aquifers. Groundwater is classified as deep and shallow.

**Surface water:** Perennial or intermittent water flowing downhill on the Earth's surface into rivers, lakes, lagoons and wetlands.

**National Water Authority (ANA):** The central government's highest technical and regulatory body for water affairs, tasked with managing the nation's waters resources and inherent assets.

**Permits:** Administrative agreement with mayor's offices or, as the case may be, with the Regional Councils of the Autonomous Regions of the Atlantic Coast entered into by natural and/or legal, public or private persons, for use or exploitation of national waters that do not require significant volumes.

**Channel or streambed:** A natural or man-made channel or streambed with enough capacity to drain maximum ordinary flows without overflowing. When such overflowing occurs, natural watercourses are used as channels until works to carry the water are built.

**Concession:** Agreement with the National Water Authority entered into by natural or legal, public or private persons for use or exploitation of national waters and inherent public assets unrelated to the uses specified in special exploitation licenses, assignments and permits referred to in this Law.

**Non-point Source Pollution:** Pollution from chemical products used in agriculture or from hazardous toxic substances able to pollute surface or groundwater sources resulting from runoff and soil erosion.

**Hydrographic basin:** Territorial unit that is different from other units in that it usually is demarcated by an imaginary line connecting the highest elevation points in it, where water springs up from the ground or drains down in several forms, and is stored or flows on the surface, subsurface or underground to an outlet that may be the ocean or an interior receiving body of water through a drainage network in which channels converge into a main channel. A hydrographic basin is made up of sub-basins and these are in turn made up of micro-basins.

**Cross-border Basins:** These are common hydrographic basins shared with Nicaragua's adjoining countries.

**Receiving Body:** Natural water flow or reservoir, dam, watercourse, maritime zones or public assets where wastewater is discharged, as well as land used for infiltration or injection of wastewater.

**Damage:** Loss, reduction or degradation in quantity and quality of water resources or of any elements that make up a basin, as well as damage to third parties caused by human action or omission, or by acts of God.

**Drainage Districts:** Previously demarcated surfaces without irrigation infrastructure, although natural conditions of humidity from prolonged heavy rains make them suitable for farming by using a variety of techniques and works that allow for appropriate drainage of excess water. Farmers in these areas may organize for the purpose of improving use of water, soils and infrastructure.

**Irrigation Districts:** A zone that consists of one or several surfaces previously demarcated, with a specific irrigation zone located within its perimeter, the respective hydraulic infrastructure works, surface and groundwater, as well as water storage reservoirs, public buffer zone, and all other assets, facilities and related works required for operation. Farmers in these areas may organize for the purpose of improving use of water, soils and infrastructure.

**Integrated Basin Management:** On the one hand, the state and society must implement regulatory, administrative, operational and monitoring activities to ensure sustainable development and optimum living standards for the population in each basin; on the other, emphasis must be placed on conservation to promote sustainable use of soils, waters and forests, as well as on other associated resources and the environment.

**Wetlands:** Transition zones from aquatic to terrestrial systems consisting of temporary or permanent flood areas, which may or may not be subject to tidal influence, such as swamps, freshwater and saltwater marshes limited by permanent or seasonal water absorbing vegetation, areas where soil is predominantly wet, and lacustrine areas or permanently moist soils due to natural aquifer discharge.

**Licenses for Water Exploitation:** Administrative agreement issued solely by the National Water Authority awarding exclusive rights to use and exploit national waters to supply aqueducts that carry drinking water to the population or to generate electricity. As regards exploitation licenses intended to supply aqueducts, these shall only be granted to the competent public institutions.

**Water User Organizations:** Created by water users to participate in basin committees and other organizations accredited by the Water Authority.

**Wastewater Discharge Permit:** Authorization granted by the Water Authority to natural or legal, public or private persons to discharge wastewater into public-use water bodies.

**Water Resource:** Natural asset commonly known as water in all its physical forms.

**Recharge:** Volume of water received by an aquifer over a given time by natural, artificial or incidental recharge.

**National Water Rights Registry Office (RPNDA):** Entity attached to the National Water Authority where rights of access to water resources are registered. It is tasked with monitoring rights regarding access to water resources and any modification or transfer of these rights, as well as of established easements.

**Reuse:** Use or exploitation of wastewater with or without previous treatment.

**River Banks:** Strips of land next to a watercourse or a natural or artificial storage reservoir measured horizontally from the level of maximum ordinary flows.

**Environmental Water Services:** Services and social interest benefits generated by or derived from hydrographic basins and their components. These include conservation of water cycles, provision of quality water in sufficient quantity, aquifer recharge, and purification of water bodies, as well as mitigation of the impact of natural disasters, protection of biodiversity, ecosystems and all forms of life, soil protection and recovery.

**Irrigation Unit:** Agricultural area with irrigation systems and infrastructure, separate or part of an irrigation district, smaller in surface than the latter, managed by user associations and organized producers who associate to provide irrigation services through autonomous management systems, and operate hydraulic infrastructure works to catch, divert, pipe, regulate, distribute and discharge national waters for agricultural irrigation.

**Use or Exploitation:** Use of water resources by drawing a given volume from a water body directly or through works and facilities, adjusting the available water supply in quantity and quality for the specific purposes intended.

**Social Use:** Effective use of waters for socially acceptable purposes. This excludes all attempts at speculation and hoarding, and entails the obligation to use these resources in an equitable, efficient and rational manner.

**Consumptive Use:** The difference between the extracted volume of water of a specific quality minus the volume of water also of a specific quality that is discharged into a receiving body.

**Non-consumptive use:** Use or exploitation that does not cause a difference between volume and quality of water initially captured and the volume and quality of wastewater discharged, except for losses due to evaporation.

**Use for Human Consumption:** Use of national waters to meet the specific needs of people and their homes, including any domestic animals, provided that there is no profitable activity involved.

**User:** Any natural or legal person who captures or uses water resources, and who may or may not require a concession or permit for using or exploiting these resources.

**Lake, Lagoon and Estuary Reservoirs:** Natural water deposits demarcated by the level of maximum ordinary flow.

**Wastewater Discharge:** The act of discharging, infiltrating, depositing or injecting wastewater into a receiving body or the public sewer system. This entails mandatory pre-treatment or treatment pursuant to quality control regulations. Once discharged, wastewater becomes of public domain.

**Public zones:** River banks or zones adjacent to public watercourses, reservoirs or other water storage deposits.

**Reserve Zones:** Area in which there are constraints on use or exploitation rights of a portion or all water resources in a hydrological region, basin, micro-basin or aquifer, as concerns the organization or provision of public services, the implementation of a water resource restoration, conservation or preservation program, or due to the state's decision to exploit these in the social interest.

**Moratorium Zones:** Total prohibition of surface or groundwater exploitation in a given region, basin or aquifer due to serious degradation of water resources in both quantity and quality, or to the negative effects on the water ecosystem.

**Protected Zones:** A strip of land surrounding a national hydraulic infrastructure and associated facilities, whenever such works are considered to be strategic or in the interest of public security. Protected zones are to be determined on a case-by-case basis by the Water Authority or respective regional basin organization.

## TITLE II GUIDING VALUES AND PRINCIPLES, MANAGEMENT TOOLS, WATER PLANNING AND DECLARATION OF PUBLIC USE

### Chapter I Guiding Principles for Water Resources

**Art. 13** Notwithstanding the provisions of Decree 107-2001, "National Water Resources Policy", published in *La Gaceta*, Official Parliamentary Record, No. 233 of 7 December, 2001, this Law is founded on the following values and principles:

- a) **Strategic Resource.** Water is a strategic resource for the economic and social development of the country. Water is a matter of national priority, and its use, efficient exploitation, quality, and protection against floods and droughts are required conditions to support sustainable economic and social development, as well as to ensure basic water supply to current and future generations.
- b) **Knowledge.** Knowledge of the country's water resources is of utmost priority to the state, as an essential element to sustainable water management. The state shall provide the means required to install, operate and manage meteorological, hydrological and hydrogeological networks.
- c) **Preservation and Protection.** Water is a vital, limited, vulnerable, and finite resource. Thus, it is an essential and undeniable duty of government and society at large to preserve and ensure water sustainability. Access to water is an inalienable right of all human beings.
- d) **Responsible Management.** Water is a natural resource that must be protected and responsibly managed. Permanent and continued access to it is a right inherent to life. Water supply for human consumption is of the highest national priority.

- e) **Integrated Management.** Water management is based on integrated management of ground basins and surface waters, multiple water use and interrelation of water, air, soil, flora, fauna and biodiversity.
- f) **Citizen Participation.** The state shall ensure that all groups and stakeholders participate in policy-making and enforcement of the national water policy, as well as of the respective plans and programs through processes that bring decision-making as close as possible to those who are directly affected by these.
- g) **Accountability.** Natural or legal persons who pollute water resources shall have to take responsibility for paying the costs involved in restoration of water quality. Conversely, those who make efficient and clean use of water resources shall be awarded incentives, including of a fiscal nature.
- h) **Harmonious Coordination.** There must be harmonious coordination among public institutions in order to strengthen and improve their individual actions or functions, and therefore prevent overlapping and conflicting competences.
- i) **Precaution.** Precaution shall prevail when there is reasonable doubt of any negative effects on water resources or basins. The competent authority shall determine whether there is sufficient cause to impose preventive measures and sanctions deemed necessary to prevent damage. And,
- j) **Subsidiary Rigour.** The principle of subsidiary rigour is applicable to cases where water planning, administration, protection and monitoring measures dictated by regional or local entities within their sphere of competence are more rigorous than those issued by the Water Authority.

## **Chapter II Management Tools**

**Art. 14** The following are tools for water resource management:

- a) **National Water Resources Policy (PNRH).** This policy is the master tool for water management and guides all other water management tools.
- b) **The Legal Framework.** A set of legal provisions, such as laws, regulations, technical standards, and administrative provisions that regulate water resources.
- c) **System of Concessions, Licenses and Permits.** Intended to ensure quantitative and qualitative control of water use, as well as the effective exercise of water access rights.
- d) **Collection of Fees for Use, Exploitation, Wastewater Discharge, and Protection of Water Resources.** The collection of these fees aims at providing users and society with clear information on the real value of water and the ways in which the cost of this resource affects its prices, provision of services and conservation. Further, it is intended to stimulate the rational use and reuse of water by means of pertinent processes and mechanisms, as well as to obtain the financial means to fund water planning.
- e) **Payment of Environmental Services for Water Resources.** The payment of environmental services is intended to set the economic, technical, legal and environmental basis for putting into practice a consistent and generalized payment system for environmental services provided by the country's basins.

- f) **Social Tools.** These are used to secure access to water resources for rural and marginalized urban communities.
- f) **The National Water Resource Information System.** It is made up in particular of geographic, meteorological, hydrological and hydrogeological information, including management of data banks, network operation and maintenance, as well as dissemination of the collected information.
- g) **Financial and Tax Incentives.** These are intended to encourage the development and implementation of public and private plans, programs and projects that support conservation, use and exploitation of national water resources, as well as to improve water quality, recirculation and reuse, including the promotion of sector research and technological development. And,
- h) **Social Support.** It allows rural and marginalized urban communities to benefit from access to water resources.

### **Chapter III Water Planning**

**Art. 15** Water planning and other tools for planning –considered also a management tool – are mandatory given that they are essential to more effective, productive, and rational water management, as well as to conservation of natural and environmental resources. Planning must specify the national, regional and local objectives of the National Water Policy and the priorities for use and exploitation of national water resources, as well as water conservation in quantity and quality, the persons in charge of its implementation, and the source and final use of the required resources.

**Art. 16** The drawing up of a comprehensive water plan shall take into account the criteria needed to ensure sustainable social use, as well as the integrated exploitation of water resources from basins and aquifers as management units.

**Art. 17** As part of water planning, the National Water Authority shall draw up a National Water Resources Plan that shall lay the foundations for designing individual plans and programs for each basin under the responsibility of the basin organizations. These plans must be approved by the National Water Resources Council (CNRH).

Approved plans and programs shall be an integral part of the water planning process. The National Water Resources Council (CNRH) shall periodically evaluate the progress made in implementing the National Plan and the basin plans and programs.

**Art. 18** The National Water Resources Plan and the basin plans and programs shall be published in *La Gaceta*, Official Parliamentary Record, without detriment to their wide and full dissemination by the National Water Authority through the national written media. These must be reviewed and updated at least every three years.

## **Chapter IV Declaration of Public Use**

**Art. 19** For the purposes of this Law, the executive branch may, at the request of the National Water Authority and after consultation with the Regional Councils of the Autonomous Regions of the Atlantic Coast and Municipal Councils, declare of public use:

- a) Acquisition or exploitation of land, real estate, and transport infrastructure required for construction, operation, maintenance, conservation, restoration, improvement or development of public hydraulic works and the respective services.
- b) Integral protection of water supply catchment areas, giving priority to soil and forest resource conservation, which shall be subject to reforestation programs. And,
- c) Creation, modernization and technification of irrigation or drainage districts, as well as other irrigation areas in order to allow for and improve integrated water and land management.

**Art. 20** The effects that may derive from the provisions in this chapter shall be subject to the terms of the Expropriation Law (Law 229), published in *La Gaceta*, Official Parliamentary Record, No. 58 on 9 March, 1976.

## **TITLE III WATER ADMINISTRATION SYSTEM**

### **Chapter I National Water Resources Council**

**Art. 21** The National Water Resources Council (CNRH) is hereby created as the highest advisory and coordinating body, as well as consensus-building and participation forum, with authority to approve general, planning and follow-up policies for water sector management by the National Water Authority (ANA).

The Council shall be made up of office holders or their representatives in the following institutions and entities:

- a) Ministry of Environment and Natural Resources (MARENA), which shall preside over the Council,
- b) Ministry of Agriculture and Forestry (MAGFOR),
- c) Ministry of Health (MINSA),
- d) Ministry of Development, Industry and Trade (MIFIC),
- e) Nicaraguan Institute of Territorial Studies (INETER),
- f) Intendency of Drinking Water and Sewage Systems,
- g) Nicaraguan Energy Intendency,
- h) A representative of the Ministry of Energy and Mines,

- i) A representative of the National Commission on Water and Sanitation (CONAPAS),
- j) A representative of each Regional Council of the Autonomous Regions of the Atlantic Coast,
- k) Four representatives of productive sectors, and
- l) Four representatives of user organizations.

Office holder representatives shall have enough authority to make decisions at the CNRH meetings. The Director of the National Water Authority (ANA) shall participate in CNRH meetings but without the right to vote.

The National Water Resources Council (CNRH) may, when deemed necessary, invite other public administration entities, user and society representatives to attend its meetings without the right to vote.

**Art. 22** The CNRH shall have authority to set up a technical advisory committee made up of technicians and experts in the field who are to be designated by members of the Council, though they may not act as representatives of Council members. The committee's faculties and functions shall be defined in the enabling regulations.

**Art. 23** Notwithstanding other powers vested in the committee by this Law and its enabling regulations, the National Water Resources Council (CNRH) shall have the following inescapable functions:

- a) Draw up and update the National Water Resources Policy.
- b) Approve the National Water Resources Plan and the basin plans and programs.
- c) Act as inter-sectoral consultation and coordination entity for water planning and integrated management.
- i) Hear and solve matters submitted to its consideration regarding water administration and the National Water Authority's income, assets, and resources.
- e) Approve the establishment of basin organizations and committees.
- f) Following consultation with the sectors and actors involved, approve concessions for multiple water uses or of strategic importance for the country, covering more than one sector or basin, or involving the construction of large-scale hydraulic works. And,
- g) Approve its internal regulations.

## **Chapter II National Water Authority (ANA)**

**Art. 24** The National Water Authority (ANA) is hereby created as a decentralized central government entity endowed with legal standing, administrative and financial autonomy. ANA shall carry out technical, regulatory, operational, control and monitoring functions to manage national water resources pursuant to this Law and its enabling regulations.

**Art. 25** ANA shall, in order to ensure decentralized and effective integrated management of the country's water resources, propose the required basin organizations to the National Water Resources Council (CNRH) for approval pursuant to provisions in Chapter III of this Title.

**Art. 26** ANA's technical and regulatory functions are the following, among others:

- a) Formulate and draw up the National Water Resources Plan.

- b) Coordinate the drawing up of water plans for each basin and oversee compliance with these.
- c) Prepare a water balance for each basin in coordination with the competent authorities.
- d) Propose management regulations for basins and aquifers.
- e) Classify water bodies according to their potential uses.
- f) Propose moratoriums, protection or reserve areas to the competent authorities based on the required technical decisions.
- g) Coordinate technical cooperation programs.
- h) Promote scientific research and technology development on issues relating to water.
- i) Promote training of the required human resources.
- j) Grant, modify, extend, suspend or extinguish concession agreements and licenses for use or exploitation of water and its assets, as well as permits for wastewater discharge in publicly-owned receiving water bodies.
- k) Set up the operating structure of the National Water Rights Registry Office.
- l) Propose to the executive branch the establishment and modification of a rate structure for water use or exploitation to carry out the appropriate legislative procedures.
- m) Set the rules and regulations, and monitor construction of hydraulic infrastructure works of all kinds.
- n) Conduct periodic studies and analyses for economic and financial assessment of water supply by source, location and use to establish criteria for a water rate structure, including payment of environmental water services. And,
- ñ) Propose declarations of high-risk flood zone classifications.

**Art. 27** ANA's technical and operational functions are, among others:

- a) Manage and oversee in a comprehensive manner the national water resources in each basin regulated by this Law, in addition to preserving and monitoring the quantity and quality of water. Draw up management plans for the various aquatic ecosystems together with MARENA and the respective municipal councils.
- b) Manage and oversee public assets and state hydraulic works, except those under the care of other public or private entities, or granted to concession users.
- d) Set up, structure and manage the National Water Rights Registry Office.
- e) Set up and coordinate the Water Resource Information System to make it possible to determine the quantity and quality of available national water resources, and take inventory of water uses and users.
- f) Build directly or through contracts with third parties, public hydraulic works under the care of the state.
- g) Mediate and serve at the request of users as arbiter to solve water-related conflicts.
- i) Draw up and implement programs aimed at providing meters, devices or indirect methods for volumetric measurement to all national water users.
- i) Define the requirements and guidelines to set up irrigation and drainage districts and units.

- j) Carry out, temporarily and provisionally, the technical and operational functions of basin organizations pursuant to the terms of this Law and its enabling regulations. And,
- k) Act as an appeal body for decisions made by basin organizations.

**Art. 28** The organic structure of the National Water Authority (ANA) shall be defined in the enabling regulations of this Law. The National Assembly shall appoint ANA's Director from three-candidate shortlists submitted by the President of Nicaragua in strict adherence to the requirements that must be met for this position.

**Art. 29** Following approval by the National Water Resources Council (CNRH), ANA may partially or fully delegate its technical and operational functions to the basin organizations.

The transfer of ANA's technical and operational functions to the basin organizations does not mean that ANA is released from its duties, as it shall remain responsible for these and the regulatory functions referred to in Article 26 of this Law.

**Art. 30** For the purposes of this Law, when reference is made to the term Water Authority, it is referring to the National Water Authority (ANA) or the basin organizations, as the case may be.

### **Chapter III Basin Organizations**

**Art. 31** Basin organizations are hereby created as entities generally derived and dependent on ANA's overall management concept as concerns the country's ground basins and surface waters. They shall operate as government entities with specialized technical, operational, administrative and legal functions, in harmony and in coordination with ANA, to manage, monitor and oversee water use or exploitation within the geographical scope of their respective basin.

In the absence of a basin organization in a particular territory, ANA shall directly and temporarily carry out the technical and operational functions assigned to basin organizations until they are established.

**Art. 32** Basin organizations shall be made up of:

- a) A board of directors,
- b) A director, and
- c) The technical and administrative units that are strictly necessary.

**Art. 33** The board of directors shall be composed of:

- a) A delegate from ANA who shall preside over the board,
- b) A delegate from MARENA,
- c) The mayors of all municipalities that are part of a basin,
- d) A delegate from INETER,
- e) A delegate from MAGFOR, and

f) A delegate from MINSAs.

The basin organization's director shall act as technical secretary. The basin organization's board of directors shall, when deemed appropriate, invite delegates from the other executive branch institutions, water users or social stakeholder groups to attend its meetings without voting rights. The functions of the board of directors shall be defined in the enabling regulations of this Law.

**Art. 34** The National Water Resources Council (CNRH) shall, at the request of the National Water Organization (ANA), appoint a director for each basin organization in strict adherence to the enabling regulations of this Law. The faculties and duties of a director shall be defined by the respective basin organization's board of directors.

#### **Chapter IV Basin Committees**

**Art. 35** Citizen participation in water management shall be encouraged through basin, sub-basin and micro-basin committees. These shall be made up of:

- a) Representatives of the different water users,
- b) Representatives of the board of directors of the respective basin organization,
- c) Representatives of the Regional Autonomous Councils, where applicable, and
- d) Representatives of accredited non-governmental organizations.

These committees shall serve as forums for consultation, coordination and consensus-building among basin organizations, public entities, municipalities, Autonomous Regions, where applicable, as well as non-governmental organizations and users of the respective basins. These committees shall be set up and operate pursuant to provisions in the enabling regulations of this Law.

The basin committees shall be made up of an equal number of user and civil society representatives, as well as government officials.

Following a technical analysis, more than one basin committee may be set up within each administrative geographical jurisdiction of the respective basin organization.

**Art. 36** Basin committees shall participate in the process of drawing up plans and programs prepared by basin organizations, and ensure the following:

- a) Improved water administration,
- b) Development of hydraulic infrastructure and relevant services, and
- c) Management of financial mechanisms that support water preservation and conservation efforts.

## **Chapter V National Water Rights Registry Office**

**Art. 37** The National Water Rights Registry Office (RNDA) is hereby created as a separate entity, although financially and administratively dependent upon the National Water Authority (ANA). All water use concession agreements, permits, licenses and assignments, as well as wastewater discharge permits shall be registered with this registry. Their extension, suspension, termination and all other acts and contracts related to the full or partial transfer of rights by concession or permit holders, or any modification or amendment to registered agreements or permits shall also be registered, subject to the provisions in the enabling regulations of this Law.

**Art. 38** The works and facilities for national water use and exploitation, including surface, ground and wastewater, shall be registered with the National Water Rights Registry Office and the owners of these facilities shall provide all information officially requested. Furthermore, moratoriums, protected and reserve areas, rosters of users in irrigation units and districts, declarations of classification of national water bodies and of flooding areas, as well as easements, taxes and restrictions on the property in connection with such rights shall also be registered, without prejudice to their registration with Public Property Registries and the responsibilities that correspond to the Nicaraguan Institute of Territorial Studies (INETER) and to the National Cadastre pursuant to the relevant legislation.

**Art. 39** Certificates of registration issued by the National Water Rights Registry Office shall be considered as proof before third parties of holder rights and rights to water use and discharge of wastewater, as well as of inherent public assets. *Vis-à-vis* basin organizations and ANA, registration shall be an essential requirement for the transfer of these rights to third parties.

**Art. 40** Anyone may consult the National Water Rights Registry Office and request at his or her own expense certificates of registration and the documents from which these originated, as well as of non-existence of a record or subsequent registration.

## **TITLE IV WATER USE OR EXPLOITATION**

### **Chapter I Concessions, Permits and Licences**

**Art. 41** National waters shall only be used or exploited by natural or legal, public or private persons after issuance of:

- a) Concession agreement granted by the National Water Authority for use or exploitation other than granted by a license.
- b) Special license granted by the National Water Authority for:
  - Supply of drinking water to the competent state institutions, and
  - Production of hydroelectric and geothermal energy.
- c) Authorization granted by mayor's offices or Autonomous Regional Councils of the Atlantic Coast when an administrative cooperation agreement has been signed with ANA.

**Art. 42** The process to grant licenses for use or exploitation of national surface waters or groundwater to supply aqueducts or other means of supplying drinking water under the care of the competent public institutions; or for generation of hydroelectric and geothermal power under the care of natural and legal, public or private persons shall be subject to special regulations, dictated by the National Water Authority for these purposes.

**Art. 43** The permits referred to in paragraph c) of article 41 shall be granted in the following cases:

- a) Collection of water to supply minor aqueducts or equal to 500 connections,
- b) Collection of water for irrigation of minor plots or equal to 3 hectares, or
- c) Collection of water for use of less than 3,000 cubic meters per month.

**Art. 44** The rights granted by licenses or permits for urban public uses and human consumption shall not entail changes in the course of the water except in cases where the end use is the same.

**Art. 45** Notwithstanding previous provisions, the National Water Authority (ANA), the Regional Councils and the mayor's offices shall take the following into account to grant concessions, licenses or permits:

- a) The National Water Resources Policy,
- b) The National Water Resources Plan,
- c) Water resources planning by basin,
- d) Cross-border basin management plans,
- e) Classification of potential uses for water bodies,
- f) Declaration of moratoriums in specific areas,
- g) Declaration of water reserve areas for specific uses, and
- h) Requested hydrogeological studies.

**Notwithstanding all of the** foregoing, preference shall be granted to the state or its institutions for any required use or exploitation of water.

## **Chapter II**

### **Granting of Concessions, Permits and Licenses**

**Art. 46** Granting of concessions, permits and licenses shall be dependent upon:

- a) Studies on mean annual water supply available,
- b) The rights of water use or exploitation registered with the National Water Rights Registry Office,
- c) The potential social impact of the water use or exploitation applied for,
- d) The signing of a contract between the applicant and ANA.

Indicators of potential use and exploitation shall be considered in the following order of priority when the determination is made whether or not to grant a concession, permit or license:

1. Human consumption,
2. Drinking water services,
3. Agriculture and livestock,
4. Environmental conservation,
5. Production of energy for public use and self-use,
6. Industrial,
7. Aquaculture and fish farming,
8. Medicinal, pharmaceutical and cosmetic use,
9. Tourism and recreational uses,
10. Navigation,
11. Use in a variety of beverages, processed for sale to the national public only, and
12. Other unspecified uses in which water is a relevant component or factor.

The basin organization may change the aforementioned order when required by social interest and after hearing the opinion of users in basin committees, except as concerns human consumption in urban areas, which shall always have preference over any other use.

In any case, concessions and licenses for use and exploitation of national waters by natural and legal, public and private persons must be ratified by the National Assembly when their impact is nationwide, or they are multiple-use or of strategic nature for the country, or cover more than one sector or basin, or involve construction of large-scale hydraulic works.

**Art. 47** The National Water Authority (ANA) or basin organization, as the case may be, shall grant concessions for agricultural irrigation:

- To a landowner when water is located on his property. And,
- To whoever can prove they have made previous use of said water.

**Art. 48** Concessions or permits for use or exploitation of national waters shall be granted for a period that under no circumstances shall be less than five nor more than thirty years, in accordance with the established uses.

The lifespan of a concession or assignment shall be defined by the Water Authority based on:

- a) The conditions of the supply source,
- b) The specific use involved,
- c) Preferred uses in the respective area, and
- d) Growth expectations for such uses.

### **Chapter III**

#### **Applications for Concession Agreements or Permits**

**Art. 49** Applications for concessions or permits shall be submitted in writing and contain the following:

- a) Identification of applicant or legal representative, as the case may be,
- b) Identification or location of site or body of water from where the resource shall be collected,
- c) Title of ownership or assignment of rights issued by the owner of the land,
- d) Environmental impact study when required,
- e) Information on current water usage,
- f) The required stream flow or water volume expressed in decimal metric system units on a monthly basis,
- g) Initial water use specification,
- h) Term of concession or permit applied for,
- i) Final disposal, volume and characteristics of wastewater to be discharged,
- j) Construction work permits, and
- k) All others referred to in the enabling regulations of this Law.

**Art. 50** Applications for concessions for any use shall include acceptance of the obligation to comply with mandatory technical regulations issued by MARENA regarding wastewater discharge, collection, use or application of agrochemicals or hazardous toxic products and other substances that may contaminate the soil, subsoil and national water bodies.

**Art. 51** The National Water Authority (ANA), through the basin organizations, or the respective mayor's offices, as the case may be, shall approve or reject applications for concession or permit within a period not to exceed sixty business days after completion by applicants of the aforementioned requirements.

**Art. 52** As regards the Autonomous Regions of the Atlantic Coast, prior to granting any concession, approval must be sought from the Autonomous Regional Councils. Concessions shall be granted or denied in a period not to exceed ninety days.

### **Chapter IV**

#### **Extensions**

**Art. 53** Concessions or permits may be extended for a term, volume or usage equal to that in the original agreement, provided that holders have not incurred grounds for extinguishment established in this Law, and apply for extension six months prior to the expiration date.

Failure to submit the application within the established term shall be considered a waiver of the right to apply for extension.

**Art. 54** The following issues shall be taken into account to grant an extension:

- a) The investments made or to be made in hydraulic development at concessionaire's expense,
- b) The status of water availability, and
- c) The impact on water sources.

Effective compliance with the terms established in the respective agreement or permit, or the provisions of this Law and its enabling regulations through the expiration date shall be considered an essential element to grant the extension.

## **Chapter V Suspension of Concession Agreements or Permits**

**Art. 55** The right to water use, regardless of enforcement of applicable sanctions, shall be suspended when the holder fails to fulfil his obligation to pay the fees referred to in this Law over a period of more than one fiscal year.

**Art. 56** In any event, the holder of the right to water use shall be granted a period of fifteen business days as of the date of the official notification to present his allegations before ANA or the respective basin organization, as the case may be. Based on these allegations, ANA or the basin organization may impose on the holder thereof a reasonable period to legalize his situation prior to enforcing the pertinent suspension.

The suspension is of a temporary nature and shall subsist only for as long as the violator fails to legalize his situation or the Water Authority dictates a decision to lift such suspension.

## **Chapter VI Extinguishment and Annulment**

**Art. 57** The right to water use shall only be extinguished due to the following:

- a) Expiration of the effective period set forth in the respective agreements and permits, except if extended under the terms of Article 53 of this Law.
- b) Resignation by the holder or dissolution or extinguishment of the legal person holding the rights to water use.
- c) Death of the holder, except when successor rights are proven to exist.
- c) When the Water Authority declares partial or full extinguishment due to failure to use or exploit national waters over three consecutive years as of the date of the respective concession or permit.
- d) Declaration of public use, in which case indemnity shall be required and the amounts to be paid shall be fixed by an expert as provided for in the Law.
- f) Significant decline in the capacity and sustainability of the water source at risk of degradation or extinction. And,
- g) Legal decision.

Declaration of extinguishment of rights to water use as provided for in this article shall require a previous hearing of the holders thereof. The concessionaire may use his rights before the competent courts, prior to the declaration of public use.

**Art. 58** Annulment of the right to water use, regardless of the applicable sanctions, may be declared by the Water Authority in the following instances:

- a) When false information was provided to be granted an agreement or permit.
- e) When error or intentional deceit, attributable to the concessionaire or third parties, is found in the issuance of an agreement or permit.
- f) When the agreement or permit was granted by an official without authority to do so, and
- d) When the agreement or permit was issued in violation of this Law or the corresponding regulation.

## **Chapter VII Rights and Obligations of Holders**

**Art. 59** The holders of a right to water use may:

- a) Use or exploit national waters and public assets pursuant to the terms of this Law, its enabling regulations, and the respective agreement or authorization.
- b) Build at his own expense the works required to exercise the rights conferred upon him in the respective agreement or permit.
- c) Obtain legal easements under the terms established in the applicable legislation.
- e) Waive his rights.
- f) Request administrative amendments or duplicates of concession agreements or permits.
- g) Obtain an extension of rights to water use pursuant to provisions in Article 53 of this Law. And
- h) All other rights granted by this Law and its enabling regulations.

**Art. 60** The obligations of the holder of rights to water use shall be as follows:

- a) Carry out the works and tasks necessary for water use or exploitation according to the terms and conditions provided for by this Law and its enabling regulations, as well as the respective concession or permit; oversee their implementation in order to prevent negative effects on third parties, water bodies, the hydraulic functioning of supply sources, basins and aquifers.
- b) Make a commitment in the agreement or permit granted to install and keep in good condition the equipment and devices required to measure the collected volume of water or stream flow.
- c) Comply with payments or pay the corresponding fees pursuant to provisions in this Law and its enabling regulations, as well as in other applicable provisions.
- d) Comply with the general provisions and mandatory technical regulations issued by the competent authorities in charge of hydraulic safety, ecological balance, environmental health and protection.
- e) Allow staff from ANA, basin organizations and other institutions to inspect the works and facilities under construction or already built, including well drilling.

- f) Allow readings and checking of measuring devices, and provide any information that is required. And,
- g) Implement the following actions for hydrological recovery ordered by MARENA or MAGFOR, as the case may be:
  - 1. Prevent slash and burnt practices.
  - 2. Implement soil and water conservation practices.
  - 3. Promote reforestation and forest management on a surface equal to that of the project area when such projects are not subject to an Environmental Impact Assessment. And,
  - 4. Prevent and control water pollution and exhaustion.

## **Chapter VIII**

### **Common Provisions**

**Art. 61** A concession or permit and its extensions do not guarantee volume of flow or invariable flow conditions. Thus, the state shall not be held accountable when due to natural causes it is unable to guarantee to the holder the flow or volume granted in concession.

**Art. 62** In cases of multiple-use concessions or large-scale works, the CNRH, with support from its advisory technical committee and in coordination with ANA, shall previously conduct technical and viability enquiries among sectors that could be at risk of harm by granting rights of use, exploitation or wastewater discharge, notwithstanding consultations and approvals provided for by law for the Autonomous Regions of the Atlantic Coast and the opinion of the respective municipalities.

**Art. 63** The holder of a right of water use may not change partially or fully the destination or use of waters without prior permit from the Water Authority. This variation shall be final. A permit shall always be needed whether consumptive use is changed or not, with the exception of water used for human consumption and to supply the population.

The application for permit mentioned in the previous paragraph must indicate:

- a) Data or references in the concession agreement or permit.
- b) Type of variation or modification of the pertinent use.
- c) Any information regarding modification of the point of extraction.
- d) Site and quality of wastewater discharges. And,
- e) The variation, if any, in consumptive use and modification of the water flow shall not be higher than originally granted or authorized.

Should the permit be approved, it is required to submit an Environmental Impact Assessment pursuant to the terms established in the law.

**Art. 64** A technical decision issued by the National Water Authority or Autonomous Regional Councils, or by the relevant municipality when delegated by and in coordination with MARENA is required to implement projects for water diversion and storage works. Furthermore, a technical decision is required for building,

replacing, relocating or expanding projects, or to change the capacity or metering instruments and equipment of existing wells, or any other works built or to be built that are or shall be utilized for use and exploitation of national waters.

**Art. 65** The Water Authority has the obligation to meet established deadlines to decide on the applications submitted and send the respective notifications to the interested parties.

## **TITLE V USE OF NATIONAL WATERS**

### **Chapter I Human Consumption**

**Art. 66** Waters used for human consumption are of the utmost priority for Nicaragua and shall not be subject to or conditioned by any other use.

**Art. 67** Everyone has the right, without the need for previous permit, to use national waters by manual or mechanical means utilizing human strength or animal draught power, for purposes of human consumption or for watering livestock, provided that access is free, no harm is caused to third parties, there is no diversion or containment, water quality is not changed, and activities carried out do not cause any form of degradation, change or pollution to the watercourse and its banks.

**Art. 68** Natural or legal persons who collect or distribute water for this kind of uses are responsible for complying with mandatory technical regulations related to health and quality.

### **Chapter II Drinking Water Services**

**Art. 69** Use or exploitation of national surface or groundwater to convey water by aqueduct or any other means of supplying drinking water requires a special exploitation license granted by the National Water Authority (ANA) pursuant to the specific regulations issued to this effect by the Water Authority, taking into account provisions in Article 4 of this Law.

This special license is independent from that which is issued by the competent authority to provide public drinking water and sanitary sewer services.

**Art. 70** Provision of public drinking water and sanitary sewer services to the population by means of aqueducts or any other means is of exclusive competence of the state through the institutions created for these purposes and pursuant to provisions in the specific legislation.

**Art. 71** In cases where there is no permanent and continued coverage of the aqueduct system to supply drinking water, the competent institutions in charge of this public service shall temporarily ensure minimum water supply in terms of quantity and quality in any way and by any means. These same institutions shall draw up basic drinking water supply projects at an accessible cost, especially when these are aimed at serving marginalized population groups or persons living in spontaneous urban or rural settlements.

**Art. 72** Anything related to compliance with regulations on drinking water and sanitary sewer services is governed by provisions in the sector legislation in force.

### **Chapter III**

#### **Use of Water for Agricultural and Livestock**

**Art. 73** Pursuant to provisions in this Law and its enabling regulations concessions may be granted to:

1. Natural or legal persons for individual use or exploitation of national waters intended for agricultural, livestock or forest purposes. Concessions for agricultural and livestock use shall be granted for areas that exceed twenty hectares within the same property.
2. Legal persons organized into associations to administer and operate an irrigation district.

**Art. 74** The executive branch through the Ministry of Agriculture and Forestry (MAGFOR) and in coordination with the National Water Authority shall actively promote the productive development and rational use of irrigation to improve and expand agricultural production and export, including aquaculture, to competitive levels. Thus, national food sovereignty shall be gradually ensured as concerns at least staple foods. Facilities and economic, tax and financial incentives shall preferably be established in the following cases:

- a) When efficient and productive use of water volumes granted in concession or authorized is confirmed.
- b) When implementation of modern technologies and methods within optimum cost and competitiveness parameters that increase clean production and prevent pollution of surface and groundwater is verified.

**Art. 75** The Water authority shall promote the organization of rural producers and construction of a collective infrastructure in the form of irrigation districts or units for agricultural, pastoral and forest use or exploitation.

These irrigation districts or units may be made up of natural or legal persons who use water in a specific basin to provide irrigation services for agriculture, livestock and aquaculture through public networks. The enabling regulations of this Law shall regulate all matters related to the operational objectives and requirements for these districts and units.

**Art. 76** Duly treated wastewater may be used for irrigation after verifying that it will not affect human health and the ecosystem.

For the purposes of this article, fertigation is defined as use of duly treated wastewater from agribusiness industries that serve as nutrients for the soil and prevent basin contamination.

### **Chapter IV**

#### **Use of National Waters for Electrical Power Generation**

**Art. 77** The state shall be given priority in setting up power generating plants that make rational, sustainable and productive use of water resources. They shall be limited in scale to levels that ensure environmental protection and conservation of natural resources and their setting. For these purposes, economic and social impact studies shall respect the constitutional rights of the population directly affected.

**Art. 78** Use or exploitation of national surface or groundwater for power generating plants requires exclusive license granted by the National Water Authority pursuant to specific regulations dictated by this authority.

This license is independent from that which is granted by the competent authority in energy production.

**Art. 79** Prior authorization from the state institution that regulates power generation activities pursuant to legislation in force is required to grant license for use or exploitation of national waters.

**Art. 80** The leading institution in the national energy sector shall implement on-going coordination with ANA to request, prior to promoting power generation projects, that it provides technical information on the generation potential, availability of the resource and likelihood of negative effects on other uses or on third parties, as well as MARENA's strategic environmental assessment of the viability and environmental impact of works on the environment, in order to safeguard the respective rights.

**Art. 81** Permits to set up hydroelectric power plants requiring dams or major infrastructure works shall be subject to special and specific laws for each project. These shall in turn be subject to the terms and conditions established in the environmental impact and social-economic studies called for by this Law for each project, in addition to the required approval from the National Water Resources council (CNRH).

## **Chapter V Environmental Conservation**

**Art. 82** MARENA, based on the studies conducted in coordination with the National Water Authority (ANA), the Nicaraguan Institute of Territorial Studies (INETER) and other state institutions, shall determine the minimum flow and water quality conditions required to maintain ecological balance and sustain biodiversity in basins, sub-basins and micro-basins, or in rivers, lakes, lagoons, estuaries, mangroves or specific aquifers.

**Art. 83** Minimum flows and water quality conditions referred to in the previous article shall constitute a non-transferable water management right, safeguarded and administered by MARENA.

**Art. 84** The Water Authority shall promote incentives and economic stimuli, including tax and financial, for natural or legal persons who protect and conserve water sources, as well as reforest the basins where their lands are located.

## **Chapter VI Other Uses**

**Art. 85** Use or exploitation of national surface or groundwater for uses other than those mentioned in previous chapters, such as commercial, mining and medicinal transportation requires a concession granted by the National Water Authority (ANA) under the terms of this Law and its enabling regulations.

Use or exploitation of national surface or groundwater for tourism shall be subject to the provisions of the pertinent legislation, notwithstanding that the specific activities subject to the above provision are defined in the enabling regulations of this Law.

**Art. 86** The aforementioned concession shall be granted to stakeholders who obtain the required permits for each activity as regards use or exploitation of national waters, in addition to carrying out these activities in a lawful manner.

## **TITLE VI ECONOMIC FRAMEWORK FOR WATER MANAGEMENT**

### **Chapter I Water Rate Structure**

**Art. 87** Payment of fees is established for use or exploitation of national waters and assets managed by the Water Authority. These fees shall be set up and approved by means of special legislation dictated by the National Assembly. MARENA shall be tasked with proposing fees for wastewater discharges that are to be included in the special legislation.

- a) The relative availability of water in the place or region where the extraction takes place; b) the productivity and economic benefit from the use of water granted to the user.
- c) Whether use is consumptive or not.
- d) Whether it is an input or a main component of the end product.,
- e) The volumes used.
- f) Its contribution to the generation of taxes or employment.
- g) Whether it is used to produce assets intended for export. And,
- h) Whether it is used to produce basic consumer goods.

The Water Authority may take into consideration sensitive issues of a social and humanitarian nature to ensure supply of drinking water to the population in the lowest income segment, living in conditions of extreme poverty and with special needs.

**Art. 89** The fees collected from use or exploitation of national waters shall preferably be allocated to cover expenses incurred in administration, planning, research, technological development and information systems, as well as to finance public investment in social works for marginalized communities, and works to protect and enhance the environment.

### **Chapter II National Water Resources Fund**

**Art. 90** The National Water Resources Fund shall be established and financed essentially with revenue from fees, budget allocations, fines paid for violations to this Law, other contributions and donations from national or international entities.

**Art. 91** The main objective of the National Water Resources Fund is to contribute to finance programs and activities related to the Water Resources Policy, National Plan, hydrologic basin plans and basin restoration.

**Art. 92** The National Water Resources Fund shall be managed by a committee governed by special regulations. These shall be approved by the executive branch based on a proposal submitted to it by the National Water Resources Council (CNRH).

### **Chapter III Environmental Water Services**

**Art. 93** When identifying environmental water services special attention shall be paid to regions, basins, sub-basins and aquifers showing highest levels of environmental degradation or at increased risk of exhaustion that may cause or is causing changes in the vegetation cover, damages to the fauna, and exposure of the population to risks due to climate changes in microsystems and other disasters.

**Art. 94** Environmental water services shall aim at ensuring good basin and aquifer performance. A schedule of fees may be established to pay for these services in:

- a) Recharge areas, including forests and jungles,
- b) Stream sources,
- c) Polluted receiving water bodies,
- d) Overexploited aquifers,
- e) Wetlands,
- f) Natural and artificial reservoirs, as well as estuaries,
- g) Lakes, lagoons, estuaries, and rivers used for tourism, recreation and productive purposes with quantity and quality problems.

**Art. 95** For the purposes of provisions in this chapter and in order to sustainably finance water-related environmental services, ANA shall implement charging and payment mechanisms for these services. In this respect it shall request participation and support of institutions and organizations.

Payment for environmental water services stimulates conservation, protection and rational use of existing water and other natural resources in specific basins. It shall be regulated by special legislation.

ANA shall oversee that all providers of environmental water services receive fair remuneration and payment for services provided.

## **TITLE VII PROTECTION OF WATER RESOURCES**

### **Chapter I General Provisions**

**Art. 96** It is of social interest to ensure the quality of national water bodies by promoting and implementing the necessary measures and actions for due and permanent protection and conservation of these resources. The felling or cutting down of trees or plants of any species is prohibited within an area of two hundred meters from the banks of rivers and shores of lakes and lagoons to protect existing water resources, notwithstanding the provisions in Article 57 of the Special Law on Crimes against the Environment and Natural Resources (Law 559) of 21 November, 2005.

**Art. 97** The state, together with municipal governments, municipal associations, the private sector, non-governmental organizations, and the population at large, is responsible for the protection, conservation and

proper use of the waters of the Great Lake of Nicaragua or Cocibolca.

This lake shall be considered a natural reserve of drinking water, of the highest interest to the country and utmost priority for national security. Thus, mechanisms and specific regulations are to be established to ensure and regulate water productivity and at the same time ensure that water flows are maintained and increased to allow for development of economic activities without affecting the quantity and quality of water production. Furthermore, introduction and growing of invasive exotic species is prohibited, pollution of the resource and degradation of the ecosystem due to industrial and domestic wastewater discharge is to be prevented.

**Art. 98** The state is responsible for ensuring recovery and sanitation of Lake Managua or Xolotlán, and polluted lagoons for the purpose of subsequently defining, in coordination with all government institutions and civil organizations involved, the types of uses that shall be permitted or authorized by the National Water Authority (ANA) in consultation with the National Water Resources Council (CNRH).

**Art. 99** Natural and legal persons using or exploiting water for any use or activity are obligated to comply with the regulatory provisions established by MARENA to prevent their pollution and return them to the state in adequate conditions in order to enable their subsequent use in other activities or uses, and maintain the balance of ecosystems.

Public and private companies that carry out economic activities using water resources shall allocate a percentage of their income to stimulate owners who efficiently manage water resources, forests and soils in basins pursuant to provisions in Article 87 of this Law.

**Art. 100** Well drilling or assessment of streams for drinking water, and other ways of water catchment to supply the population shall require in-depth hydrogeological studies of the environment, as well as full physical, chemical and biological analyses of heavy metals, pesticides and others.

Companies engaged in building residential neighbourhoods, houses or export processing zones of any kind must build their own system of wells to supply drinking water to these developments. These wells shall be managed by the competent national agency.

**Art. 101**, For the purpose of ensuring protection of national water resources, MARENA in consultation with the Water Authority shall:

- a) Promote the implementation of water protection plans in basins and aquifers, considering the existing relationship between these and soil use, as well as with the quantity and quality of water.
- b) Promote or implement the necessary measures to prevent that waste and toxic substances from any activity pollute national waters and inherent public assets;
- c) Implement programs to reduce pollutant emissions and establish commitments with the various agents that discharge wastewater into national receiving water bodies to set specific terms for these to gradually comply with the relevant technical regulations;
- d) Conduct the necessary consultation processes between water users and other groups in civil society to determine quality goals, the periods to achieve them, and the resources that they need to obtain to this effect; and
- e) Coordinate studies and other works necessary to determine the parameters that wastewater discharge must comply with, the capacity for assimilation and dilution of national water bodies, as well as the load of pollutants that these may receive.

Furthermore, MARENA shall work closely with other institutions involved in:

- a) Planning and carrying out studies to evaluate the quality of national water bodies in accordance to the use intended for these and the carrying out of systematic and permanent monitoring;
- b) Monitoring to ensure that water supplied for human consumption complies with the pertinent quality regulations;
- c) Supervision to ensure that wastewater use complies with water quality regulations issued to this effect; and
- d) Implementation of timely and efficient rapid response mechanisms in emergency or environmental contingency conditions present in national water bodies or assets, as well as the implementation of studies required to determine and quantify environmental damage to receiving water bodies, as well as the cost of repair.

## **Chapter II Wastewater Discharge Permits**

**Art. 102** Natural or legal, public or private persons require a permit granted by the Water Authority pursuant to the regulations and guidelines established by MARENA for on-going, intermittent or occasional wastewater discharge in receiving water bodies whether they are national waters or public assets, including maritime waters; a permit is also necessary to infiltrate or inject wastewater to public land or other parcels if there is danger that the subsoil and aquifers may be polluted.

**Art. 103** The Water Authority shall answer user applications within sixty business days of admission of the respective application.

**Art. 104** Natural and legal, public or private persons who discharge wastewater in the receiving water bodies referred to in this Law, shall:

- a) Treat wastewater prior to discharge in the receiving water bodies;
- b) Pay the fee for wastewater discharge into national receiving body waters;
- c) Install and maintain measuring equipment or devices for measuring water flow, and sampling points that allow for verifying the volume of discharge and taking of samples for the purpose of determining actual concentrations compared to parameters foreseen in the discharge permits;
- d) Report to MARENA and the Water Authority any change in the processes when it causes modifications in the characteristics or volumes of wastewater;
- e) Operate and maintain directly or through third parties the works or facilities required for management or treatment of wastewaters, as well as ensure quality control of these waters prior to discharge into receiving water bodies;
- f) Comply with the technical regulations and where applicable with the other specific discharge conditions to prevent and control extended or dispersed toxic pollution resulting from management and application of substances that may pollute the quality of national waters and receiving water bodies;
- h) Allow staff from MARENA and where applicable the Water Authority to carry out visits for inspection and verification of compliance with technical regulations and the respective permits; and

h) all others required in the laws and regulatory provisions.

### **Chapter III Suspension and Extinguishment of Discharge Permit**

**Art. 105** At ANA's proposal or upon inspection, MARENA may order the suspension of activities from which wastewater discharges originate, should these exceed permissible limits.

**Art. 106** The permit for discharge of wastewater shall be declared extinguished when discharge fees cease to be paid for over a fiscal year, if a timetable for payment by instalment has not been agreed to.

### **Chapter IV Other Provisions on Wastewater Discharge Permits**

**Art. 107** In places that lack sewer and sanitation systems, natural or legal persons who do not use as raw material substances that generate wastewater discharges containing heavy metals, cyanide and toxics, where their discharge volume does not exceed two thousand (2000) cubic meters per month, may carry out wastewater discharges after obtaining permit from the competent authority though subject to the provisions established in the technical regulations in force in Nicaragua.

Those not mentioned in this article shall be subject to build the treatment systems for wastewater discharges following permission and pursuant to the mandatory technical regulations in force.

**Art. 108** In all areas exposed to pollution by non-specific sources, management, application and use of substances that may pollute lands and waters, or produce damages to human health or to the environment shall be suspended immediately and production, stockpiling, marketing and distribution are to be cancelled, in addition to establish resource restoration measures, and the respective administrative and criminal sanctions.

### **Chapter V Moratorium Areas and Reserve Areas**

**Art. 109** MARENA may declare moratorium or water reserve areas taking into account the National Water Resources Plan, the basin plans and programs, as well as the national, regional and municipal territorial organization, including damages that arise or may arise in a water region, basin or aquifer, with or without the technical studies conducted by ANA for this purpose.

MARENA and ANA shall coordinate with the National Police and Army to ensure effective compliance with moratoriums and protection of reserve areas.

**Art. 110** The declarations that establish, terminate or modify moratoriums and national water reserves shall be published in any written means of communication with nationwide readership and register with the National Water Rights Registry.

## **Chapter VI Control of the Water Currents and Flood Protection**

**Art. 111** The National Water Authority (ANA) with support from other state institutions and municipalities shall classify and establish flood zones, issue the required regulations and recommendations, as well as set up warning, operational, monitoring and follow-up measures.

**Art. 112** Notwithstanding the foregoing, natural or legal persons, or local authorities may build provisional hydraulic works to face an emergency or to prevent damages to permanent works caused by extraordinary stream flows and acts of God. When the emergency is over, they must notify the Water Authority and, as the case may be, tear down these works at their own cost.

**Art. 113** Prior to authorizing a productive activity or a housing development, or any activity that involves construction of permanent works of any type or size, the competent authorities shall take into account the flood zone classification registered with the National Water Rights Registry Office or consult with the Water Authority for the purpose of granting or denying these permits.

## **Chapter VII Water Production**

**Art. 114** The National Water Resources Council (CNRH) shall, in its first meeting, create a technical committee from among its members to formulate and draw up a national water resources plan based on land use planning guidelines and a river basin approach to adequate use of soil, as well as to ensure medium and long-term water production and protection.

**Art. 115** The plan shall take into account all feasible actions to protect and restore critical areas for water production such as water infiltration zones, recharge areas, surface and groundwater bodies. Priority programs or initiatives are aimed at informing and educating users in general. These must involve concrete actions such as setting up a signage system, placing boundary markers, putting up fences, cleaning, removing pollutants and reforesting basins, sub-basins and micro-basins.

**Art. 116** Hydrological restoration plans to improve water production shall include the obligation to protect forests or mountainous water source areas and aquifer recharge zones, as these are critical areas for water production.

**Art. 117** The National Water Production Plan, following approval by the National Water Resources Council (CNRH), shall become part of the National Water Resources Policy.

## **TITLE VIII INVESTMENT IN HYDRAULIC INFRASTRUCTURE**

### **Chapter I General Provisions**

**Art. 118** National water users may build directly or through third parties hydraulic infrastructure works required for water use or exploitation.

These works shall be managed and operated by users or associations set up for this purpose.

**Art. 119** The Water Authority shall oversee construction of works and may, at any time, adopt the corrective measures required to ensure compliance with the provisions of this Law and its enabling regulations. Furthermore, it may, at the request of investors and concessionaires, provide technical assistance for adequate construction, operation, conservation, improvement and modernization of hydraulic works and operation services.

## **Chapter II Share of Private and Public Investment in Hydraulic Works**

**Art. 120** In order to promote, develop and engage participation in financing, building and operating public hydraulic infrastructure works, except when these are intended to supply drinking water, the Water Authority shall enter into public works and services contracts with natural or legal persons to:

- a) Build, equip and operate hydraulic infrastructure. The works and their operation may remain under the care of a company or group of companies.
- b) Operate, conserve, maintain, restore and expand hydraulic infrastructure. And,
- c) Build, equip and set in motion such works.

**Art. 121** Preference shall be given to contracts with user organizations and other civil organizations aimed at promoting the development and construction of hydraulic works intended to be of social benefit.

**Art. 122** As regards the process, time frame, regulation and termination of public works and services contracts, relevant provisions in this Law and its enabling regulations shall be applied to the granting of concessions or permits for water use or exploitation.

## **TITLE IX VIOLATIONS, SANCTIONS AND APPEALS**

### **Chapter I Violations**

**Art. 123** Any action or omission related to the provisions of this Law and its enabling regulations constitutes a crime or violation. The following are considered serious violations:

1. Use or exploit water resources without permit or the respective agreement.
2. Modify or deviate waterways, storage reservoirs or water flows.
3. Occupy storage reservoirs, waterways, river banks, protection zones and other assets referred to in this Law without concession or permit from the competent authority.
4. Implement monopolistic and speculative practices using concession agreements.
5. Infiltrate or inject untreated wastewater and toxic substances that may contaminate public or private land soil, sub-soil or aquifers without detriment to the sanctions established in sanitary and environmental provisions.
6. Fail to register with the National Water Rights Registry Office as required in the terms provided for in this Law and its enabling regulations.

7. Use or exploit water volumes exceeding authorized levels.
8. Fail to install, maintain, repair or replace the devices required to record or measure the quantity and quality of waters used, exploited or discharged under the terms provided for in this Law and its enabling regulations.
9. Modify or alter systems or equipment to measure the volumetric flow rate of used water without permit from the competent authority.
10. Supply water for human consumption that does not comply with the respective technical quality regulations.
11. Prevent, hinder or oppose inspection, recognition and verification visits by MARENA or the Water Authority.
12. Fail to submit data required by the Water Authority and MARENA, as the case may be.
13. Use or exploit wastewater without complying with the technical regulations related to quality and specific conditions established for this purpose.
14. Fail to establish works, facilities or systems for the treatment of wastewater or liquid effluent discharge in accordance with the terms set forth in the legislation, the regulations or all other technical rules and provisions dictated by the competent authority.
15. Fail to shut down wells subject to relocation or replacement, or the rights of which are fully transferred to another parcel of land.
16. Fail to report to the Water Authority any change in the production process alters wastewater characteristics or volumes.
17. Use a river drainage system to discharge liquid effluents. And,
18. Fail to activate emergency or contingency plans or to activate these efficaciously.

## **Chapter II Sanctions**

**Art. 124** Concerning serious violations, the Water Authority shall apply administrative sanctions on a gradually increasing scale, as follows:

- a) Pecuniary fines ranging from US\$27.00 to US\$54.00 dollars, the equivalent amount of which is payable in córdobas.
- b) Temporary or definitive, total or partial closure of wells and of water extraction outlets or water exploitation works;
- c) Extinguishment of agreement, authorization, license or permit; and
- d) Damage to drilling works, leading to inability to make use of water.

**Art. 125** Sanctions established in the previous article may be applied in a cumulative manner, notwithstanding other fiscal sanctions and penalties for criminal and civil liability against violators. Should a legal person be sanctioned with a fine, his or her legal representative shall be jointly and severally liable.

Applicable fines for the violations listed in this Law shall be specifically allocated to the National Water Resources Fund.

**Art. 126** In order to enforce the sanctions referred to in this chapter, the following shall be taken into consideration:

- a) the seriousness of the violation,
- b) the purpose,
- c) recidivism, in which case the fine shall double.

Prior to enforcement of sanctions, the Water Authority shall carry out the respective inspections and investigations, and take the relevant minutes.

Should a violation be confirmed, the violator shall be notified in order to guarantee the exercise of the right to his defence. Sanctions shall enter into force as of the date the decision is notified. The procedure to qualify and enforce administrative sanctions shall be established in the regulations.

**Art. 127** The obligation to redress damages shall be imposed as administrative sanction. The competent authority has the power to retain or keep in deposit or custody the machinery and equipment required to cover the inflicted damage.

Furthermore, it has the power to remove or tear down works or infrastructure built or installed without permit.

**Art. 128** Administrative appeals against decisions or acts dictated by the Water Authority shall be filed as provided for in the Law for Organization, Jurisdiction and Procedures of the Executive Branch (Law 290) published in *La Gaceta*, Official Parliamentary Record, No. 102 of 3 June, 1998.

**Art. 129** Notwithstanding the provisions in Article 123 of this Law and Article 7 of the Special Law on Crimes against the Environment and Natural Resources (Law 559) of 21 November, 2005 and the Criminal Code of Nicaragua, the following constitute crimes against water resources:

- a) Damage or destruction of state-owned national assets referred to in this Law, carrying a two-year prison term.
- b) Use or exploitation of national waters by any means in moratorium areas without concession or permit, or use of water volumes that exceed those granted by concession or permit, carrying a two-year prison term.
- c) Discharge of wastewater containing toxic substances into water bodies used to supply water to the population, carrying a five-year prison term.
- d) Infiltration of highly contaminated fluids or wastes into the soil or subsoil causing irreversible damage to water sources, the human health and the environment, carrying a ten-year prison term.
- e) Disposal or discharge of dangerous toxic substances, hazardous materials or wastes into rivers, as well as other pollutants in waterways, storage reservoirs, maritime waters, deposits and water flows, carrying a five-year prison term.
- f) The felling or cutting down of trees or plants of any species located within two hundred meters of river

banks and shores of lakes and lagoons, carrying a five-year prison term.

- g) The carrying out, directly or through third parties, of drilling works to extract or have access to water in management, moratorium or reserve areas without the respective permit. In this case, whoever ordered these works shall be jointly and severally liable, carrying a two-year prison term.
- h) Use of water volumes exceeding those generated by wastewater discharges in order to dilute wastewater in an attempt to comply with technical regulations concerning the environment or specific discharge conditions, carrying a two-year prison term.
- i) Any change to the hydraulic infrastructure authorized for water use or exploitation, and its operation, carrying a three-year prison term.
- j) Discharge of solid wastes or materials into water bodies or sewer systems, carrying a one-year prison term. And,
- k) Discharge of liquid effluents into the coastal marine environment with a temperature that is different from that of the receiving water body, carrying a two-year prison term.

**Art. 130** Should companies or industries be involved in crimes against water resources, the judicial authority shall order the liable parties that environmental damages be repaired. This includes cleaning and recovery of pollutants, as well as the temporary or definitive closing down of such companies depending on the seriousness of the damage caused and the indemnification to the affected persons, as the case may be.

Everybody has the obligation to report the crimes mentioned in the previous articles to the competent authority.

## **TITLE X TRANSITORY AND FINAL PROVISIONS**

### **Chapter I Transitory Provisions**

**Art. 131** The executive branch shall establish the National Water Authority (ANA) pursuant to the terms provided for in this Law in a period not to exceed six months after the entry into force of the law.

**Art. 132** The National Water Authority (ANA) shall be assigned a period not to exceed eighteen months after its inception to set up basin organizations and request the approval of the National Water Resources Council (CNRH) pursuant to provisions in this Law.

**Art. 133** The executive branch shall, at the appropriate time, include in the national budget the allocation provided for in the National Water Law to ensure the operation of the institutions created by this Law.

**Art. 134** The executive branch shall submit to the National Assembly in a period not to exceed nine months after the entry into force of this Law the Water Tariff Bill for use or exploitation of national water resources, as well as wastewater discharges into national receiving bodies referred to in Article 87 of this Law.

**Art. 135** Concessions or permits for water use or exploitation issued prior to the entry into force of this Law shall remain in force up to their date of expiration. However, should these concessions or permits require renewal or change, they shall adjust to the provisions of this Law concerning new concessions or permits.

**Art. 136** Concessions or permits for use or exploitation of water may be reviewed by the Water Authority. Should the recorded data be found to be erroneous or inconsistent with the water exploitation volume this shall be reported to the holder so that he may legalize his situation in a period not to exceed 90 business days after notification pursuant to the terms established in this Law.

**Art. 137** Natural or legal persons having made investments in water infrastructure prior to the entry into force of this Law shall, in a period not to exceed six months after its entry into force, legalize their situation and adjust to the terms and conditions provided for in it.

Active higher education institutions recognized by the National Council of Universities (CNU), which offer courses on agriculture, livestock and forestry as part of their study programs, are exempted from the above provision. This exception does not release them from fulfilling the obligations established in the Law.

## **Chapter II Final Provisions**

**Art. 138** Investments made prior or during the process of application for national water user rights are not a condition for granting these rights.

**Art. 139** Easements may be imposed pursuant to the legal framework in force on public or private properties, in areas that are essential for exploitation, use, reuse, conservation and preservation of water, essential ecosystems, works to protect river banks, roads and paths, flood areas, dam areas, water transfer channels, aqueducts and in general in any hydraulic work that requires these. In the case of the Autonomous Regions, these shall be established following an agreement with the affected communities.

**Art. 140** Should there be a need to only implement provisional measures in order to achieve the goal sought the Water Authority may at its discretion order such measures as are applicable, as well as the temporary transfer of assets and rights pursuant to the Law. The types of measures and procedures to follow shall be established in its enabling regulations.

**Art. 141** The various consumptive and non-consumptive uses of water, prevention of pollution and associated costs shall be regulated pursuant to the provisions of this Law, in addition to provisions in the Special Law on Crimes against the Environment and Natural Resources (Law 217) of 6 June, 1996 and other applicable administrative and fiscal provisions.

**Art. 142** Provisions in Chapter II and Sections I, II and III of the General Law on Environment and Water Resources (Law 217), as well as the functions established for government ministries concerning the exploitation of natural resources in the Law on Organization, Jurisdiction and Procedures of the Executive Branch (Law 290) shall complement the provisions of this Law, as applicable and *nem con*.

**Art. 143** Silent consent shall not apply to water resources. Officials who fail to decide within the terms established in this Law shall be subject to the sanctions provided for in the pertinent legislation.

**Art. 144** All income from payment of fees for water use or exploitation, fines, and other provisions established in the Law shall be allocated to the Treasury Single Account.

Collected revenues shall be used exclusively for the purposes and objectives of the National Water Resources Fund pursuant to Articles 90 and 91 of this Law.

The National Assembly shall periodically request to the Ministry of Finance and Public Credit and other entities involved reports on disbursements made and to the National Water Authority the results achieved through use of these disbursements.

**Art. 145** Natural and legal persons who maintain their own water extraction systems through wells or any other rustic or advanced technology system for commercial or industrial purposes shall be subject to all the provisions of this Law, specifically as related to the National Registry, fees and all other payments established. Wells intended exclusively to be used for family consumption are exempted from this provision.

**Art. 146** All garbage dumps whether individual or municipal shall be located within no less than three kilometres from any water source.

**Art. 147** Every natural or legal person who owns properties registered under his or her name in areas defined as aquifer recharge or water production areas have the obligation to allocate 25% of such properties to reforestation projects for the purpose of ensuring conservation of water resources.

Compliance with the foregoing paragraph shall be taken into consideration to grant the incentives provided for in the relevant law and its enabling regulations.

Producers who comply with the 25% mentioned above shall have the right to water use exempt from payment of fees in their properties as incentive.

**Art. 148** Use or exploitation of waters from crater lagoons existing in the country is subject to provisions in the Nicaraguan Mandatory Technical Standard on Environmental Monitoring of Crater Lagoons (NTON 05 002-99), which sets forth technical specifications for protection and conservation of these lagoons and the natural quality of their waters, published in *La Gaceta*, Official Parliamentary Record, No. 153 of 15 August, 2000.

The National Water Authority (ANA), following the technical decision of the Ministry of Environment and Natural Resources (MARENA) and in coordination with municipal governments may restrict, modify, suspend, or cancel any permit granted for use or exploitation of these waters, provided that pollution and changes in the use of soils are verified or that there is a possibility of natural disasters which might put the lives of people and the ecosystem in general at risk.

**Art. 149** For the purposes of this Law, in particular those matters regulated in Chapter II Legal Framework for Water Resources and Assets described in Article 9, national assets are to be understood as those that are defined as such in the Civil Code. Assets in the domain of the state shall be understood to refer to national, municipal and communal lands, without detriment to *in rem* rights acquired by law by the legitimate owners prior to the entry into force of this Law. *In rem* rights and legitimate leasing agreements granted by the municipalities to private citizens, national or foreign natural or legal persons shall be respected. Furthermore, the obligation of owners and/or lessees previously referred to concerning the protection and reforestation of the respective zones, as well as prevention of all pollution is ratified.

**Art. 150** Municipal governments have the obligation to give priority to drinking water, sewer and sanitation over any other project, as well as to ensure sustainable basic water infrastructure to reduce the vulnerability of the population caused by water crises due to climate change.

**Art. 151** Monopolistic practices or tendencies of any kind in use or exploitation of water resources are prohibited pursuant to provisions established in this Law.

The competent authority shall keep effective control of concessions, licenses and permits granted through the National Registry Office in order to avoid this kind of activities.

Assignment of use or exploitation of water resources shall be made in accordance with an established order of priority for the state and its utilities, municipalities, community organizations, mixed capital companies and private companies.

Government officials who infringe upon the provisions of this Law shall respond with their assets at all times for the damages caused.

**Art. 152** Pursuant to provisions in Article 28, should the shortlist of three candidates submitted by the President of Nicaragua be rejected by the National Assembly, he shall submit a second list of candidates within the next fifteen calendar days. Should the candidates of this second list be rejected again, the National Assembly shall proceed to elect a candidate by majority vote at the request of any of its members.

**Art. 153** This Law shall be regulated by the executive branch pursuant to provisions in the Constitution of Nicaragua, without detriment to the scope, content and objectives of the law.

**Art. 154** This Law repeals any *nem con* regulation or provision in force and specifically the following:

- a) Decree on natural waterways and water falls published in *La Gaceta*, Official Parliamentary Record, No. 60 of 15 March, 1919.
- b) Regulations on waterways and water falls published in *La Gaceta*, Official Parliamentary Record, No. 40 of 19 February, 1923.
- c) Law on drilling permits and the creation of a National Well Registry Office, Decree 11-L, published in *La Gaceta*, Official Parliamentary Record, No. 82 of 15 April, 1969.
- f) Decree 49-94, Reorganization of the National Water Resources Commission published in *La Gaceta*, Official Parliamentary Record, No. 215 of 16 November, 1994.
- e) Paragraph c) of Article 42 of Law 290, published in *La Gaceta*, Official Parliamentary Record, No. 102 of 3 June, 1998. Reforms to the functions and responsibilities of Decree 49-94 within the scope of MIFIC's jurisdiction.
- f) Law on Suspension of Concessions of Water Use (Law 440) published in *La Gaceta*, Official Parliamentary Record, No. 150 of 11 August, 2003.

**Art. 155** This Law shall enter into force six months after its publication in *La Gaceta*, Official Parliamentary Record

Issued in the city of Managua in Plenary Session at the National Assembly on the fifteenth day of the month of May of two thousand seven.

René Núñez Téllez  
President of the National Assembly

Wilfredo Navarro Moreira  
Secretary of the National Assembly

**NOW THEREFORE**

Let it become Law of the Republic of Nicaragua. Publish and execute. Managua, twenty ninth August of the year two thousand seven.

Daniel Ortega Saavedra,  
PRESIDENT OF THE REPUBLIC OF NICARAGUA



**ENABLING REGULATIONS OF  
THE NATIONAL WATER LAW  
LAW 620**



**PRESIDENTIAL HOUSE**

**DECREE 44-2010**

**The President of the Republic**

**WHEREAS**

**I**

Article 153 of the National Water Law (Law 620), pursuant to provisions in Article 150, paragraph 10 of the Constitution, establishes that it is the duty of the executive branch to regulate the aforementioned National Water Law,

**II**

The drawing up of regulations mandated by the Law requires strict adherence to the principles, definitions, general and specific objectives contained in the aforementioned National Water Law. Furthermore, it requires respect for the spirit of the law to attain harmonious coordination among all public entities associated with the water sector, as is required to strengthen and improve water management. It is in this manner that the goal of the Government of Reconciliation and National Unity (GRUN in Spanish) of providing quality water in sufficient quantity to the Nicaraguan people seems more achievable now .

**III**

Structures are needed to effectively enforce Law 620, as are the mechanisms and procedures to achieve the proposed objectives. Regulations are required not only consistent with the Law itself but also with all other legal provisions in force regulating the institutions in charge of specific water-related activities.

**NOW, THEREFORE,**

**By virtue of the authority vested in me by the Constitution**

**HEREBY DICTATE**

**The following:**

**DECREE**

**Enabling Regulations of  
The National Water Law  
Law 620**

## Chapter I General Provisions

**Article 1. Purpose.** The purpose of these general regulations is to establish the legal framework to enforce the National Water Law (Law 620), published in *La Gaceta*, Official Parliamentary Record, No. 169 of four September of the year two thousand seven, without detriment to special regulations that may be dictated by virtue of Article 3, second paragraph, of the aforementioned Law.

For all purposes, when reference is made to the Law in these regulations, it is to be understood as the National Water Law (Law 620).

**Article 2. Enforcing Authorities.** The authorities in charge of enforcing these regulations shall be those that are designated and recognized by the Law: the National Water Resources Council (CNRH); the National Water Authority (ANA), the basin organizations, and the basin committees. These authorities must work harmoniously and in coordination with public institutions associated with water resources, as well as with the respective municipal and regional governments. All other public institutions that by virtue of legal provisions in force have or shall be given jurisdiction over water resources shall be regulated by their own legal framework.

**Article 3. Definitions.** Definitions of terms and the guiding principles contained in Articles 12 and 13 of the Law, shall also serve to define the categories, terms or words used in these enabling regulations, and in any special regulations that may be issued. When a term is not expressly defined in the Law, definitions for the same term contained in other legal provisions in force related to water shall be applied supplementarily, such as those in the Environment and Natural Resources Law (Law 217), published in *La Gaceta*, Official Parliamentary Record, No. 105 of 6 June of the year 1996 and its enabling regulations.

**Article 4. Quality Standards.** The Ministry of Health (MINSa) shall set forth the technical water quality standards for human consumption, taking into consideration persistent organic pollutants (POPs), banned in Nicaragua, as well as any other toxic pollutant harmful for human consumption. MARENA, MAGFOR, ENACAL, INAA, FISE and any other institution deemed appropriate by MINSa shall agree to provide any information that may be helpful to establish the aforementioned standards. Such requests by MINSa shall be granted high priority. These standards must be approved by ANA.

ANA shall not authorize the utilization of water for irrigation of crops that use persistent organic pollutants (POPs). The interested parties shall be obligated to provide at their own expense any chemical analysis requested by ANA. These analyses are to be performed at laboratories certified by ANA.

**Article 5. Water Resources of Indigenous Peoples.** Any permits granted by ANA for use of water resources of indigenous peoples throughout the country and of ethnic communities in the Caribbean Coast shall be agreed upon with the Autonomous Regional Council or the respective Elders Council.

**Article 6. Complementary Regulations.** Any regulations that complement these enabling regulations or special regulations of this Law shall be drawn up by the competent bodies. These shall take into consideration the opinions and needs of the local population at the site where water-related activities are to take place or through citizen consultation when administrative decisions affect the population at large.

## Chapter II Management Tools

**Article 7. Sector Planning.** In addition to the management tools specified in Article 14 of the Law, the National Water Authority, a decentralized central government entity endowed with authority to manage, oversee and administer water resources nationwide, is delegated to coordinate the National Roundtable on Water, without preventing institutions linked to the water sector from implementing their own individual five-year and annual operating plans. Sector Strategies and Annual Operating Plans (AOP) drawn up by the institutions involved in the sector must adjust these to the guiding principles and other government policies, in particular to the National Water Resources Plan.

Annual Operating Plans (AOPs) must have financial support to be implemented. Pursuant to provisions in Article 13, paragraph h) of the Law, streamlined management must always be sought and conflicts around jurisdiction are to be avoided by securing needed institutional synergies, including citizen participation.

**Article 8. Water Resources Policy, Plan and Strategies.** Pursuant to provisions in Article 17 of the Law, the National Water Authority shall draw up a National Water Resources Plan in a period not to exceed two years. Approval from the National Water Council (CNRH) shall be required.

For purposes of water planning regulated by Chapter III of the Law, public institutions in charge of specific areas of water management shall formulate sector policies, plans and strategies consistent with the National Water Resources Plan and national strategy.

The respective organizations shall revise and adjust these management tools every three years or earlier should situations arise that make this necessary.

Notwithstanding their publication in *La Gaceta*, Official Parliamentary Record, these management tools must be widely disseminated among the population, including with emphasis on education in order to foster awareness from an early age of the importance of taking care and protecting water resources.

**Article 9. Priorities.** ANA shall, with resources from the National Water Fund, give priority to all projects and works that help ensure the quality, quantity and sustainability of water resources for water consumption. ANA shall focus on urban and rural sectors that have been deprived of this basic human right.

**Article 10. Investments.** ANA shall invest funds for the protection, preservation and management of water resources pursuant to provisions in Law 620 and all other pertinent provisions in these enabling regulations.

**Article 11. Information System.** All public and private institutions shall provide, at ANA's request, any available information or any information generated by these as regards national water resources in a period not to exceed thirty calendar days as of the date of request, with the purpose of setting up the National Water Information System referred to in Article 27, paragraph e) of the Law. For these purposes, ANA shall coordinate with the various institutions linked to the National Environmental Information System (SINIA).

ANA shall keep physical and digital records of information fully available to the public at no cost in a documentation centre established for these purposes. ANA may declare any given information as being of national interest and restrict access to it and its use.

### **Chapter III Institutional Water Resource Management**

**Article 12. Institutions Related to the Water Sector.** For the purposes of this Law, the following organizations or public entities are considered as directly associated to water resources:

- a) National Water Resources Council (CNRH), a collegiate body, created pursuant to provisions in Article 21 of the Law.
- b) National Water Authority (ANA)
- c) Basin Organizations
- d) Basin Committees
- e) Drinking Water Committees
- f) Ministry of Environment and Natural Resources (MARENA)
- g) Ministry of Agriculture and Forestry (MAGFOR)
- h) Nicaraguan Institute of Territorial Studies (INETER)
- i) Water Intendancy at the time these regulations were issued (INAA)
- j) Nicaraguan Aqueduct and Sewer Company (ENACAL)
- k) Ministry of Energy and Mines (MEM)
- l) Social Emergency Investment Fund (FISE)
- m) Drinking Water and Sanitation Committees
- n) All others that may be created in the future for these purposes.

### **Chapter IV National Water Authority**

**Article 13. Budget and Organic Structure.** Pursuant to provisions in Article 28 of the Law, the organic structure of the National Water Authority is as follows: an Executive Director with ministerial rank elected by the National Assembly, and the following offices:

- a) Scientific Division
- b) Drinking Water and Sanitation Division
- c) Division of Basins
- d) Division of Concessions
- e) Planning Division
- f) Financial and Administrative Division
- g) Legal Division

**Article 14. Complementary Structures.** The Executive Management shall set up as many divisions, sections or offices as necessary to the operation of this institution pursuant to relevant legislation.

Charges, salaries, per diem allowances and all other expenses in the institution shall be duly accounted for and included in the national budget consistently with Decree 19-2007, Civil Service Wage Regulations, published in *La Gaceta*, Official Parliamentary Record, No. 34 of 16 February 2007.

**Article 15. Organizational Functions.** A Functions Manual shall be drawn up to ensure compliance with the functions assigned to ANA in Articles 26 and 27 of the Law. It shall be prepared by ANA in a period not to exceed 90 days as of the date of approval of these enabling regulations.

**Article 16. Requirements and Powers for the Position of Director.** The Director of the National Water Authority, appointed by the National Assembly as provided for in Article 28 of the Law, shall have the powers of a legal representative.

The candidates considered in the shortlists referred to in Article 28 of the Law must be individuals of moral standing and intellectual integrity to fill this position, specialized in the field and/or with expertise in water resource management.

The proposed individuals must not be linked commercially in any way with private institutions involved in business activities related to the water sector.

**Article 17. Mandate, Duration and Termination of the Position of ANA's Director.** The Executive Director elected by the National Assembly for a five-year period as of the swearing date pursuant to provisions in Article 28 of the Law, shall have ministerial rank and the powers of a legal representative.

Termination of the Executive Director may be due to the following:

- a) Resignation
- b) Death
- c) Removal from office by the National Assembly at the request of the President of Nicaragua.

**Article 18. Temporary Replacement.** Should the position of Director appointed by the National Assembly become temporarily vacant due to unforeseen circumstances the President of Nicaragua shall designate a director *ad interim* only for administrative purposes under the direct supervision of the President's Office until a new director is appointed.

**Article 19. ANA's Internal Rules and Regulations.** ANA's organic rules and regulations shall be drawn up by ANA and approved by the CNRH.

## **Chapter V**

### **ANA's Technical, Operational and Regulatory Functions**

**Article 20. Objective.** Pursuant to the technical, operational and regulatory functions provided for in Articles 26 and 27 of the Law for the National Water Authority and in order to carry these functions, the following regulations are hereby established in this chapter.

**Article 21. Moratorium Zones.** Moratorium zones shall be declared based on the water balance of a specific basin or geographic space. ANA shall submit to MARENA a request based on documented scientific evidence and criteria pursuant to Article 109 of the Law.

However, should hydrological depletion or deterioration require that MARENA declares a moratorium zone it shall do so without ANA's study.

Should a moratorium declaration affect concessions, permits or licenses, a note shall be written on the margins of records with the National Water Rights Registry Office.

**Article 22. Research and Study Programs on Water Resources.** ANA, in coordination with the National Council of Universities and other educational bodies, shall set up research, graduate and master programs on water resources in search for increasing the number of human resources specialized in water-related areas, including technological alternatives to detected problems.

ANA may also sign cooperation agreements with foreign universities or cooperation organizations with similar goals.

**Article 23. Assignment of Water User Rights.** ANA shall guarantee transparency, respect for acquired or preferential rights, and actions subject to due process when dictating a decision to grant, modify, extend, suspend or terminate concession agreements and licenses, as referred to in Article 26, paragraph j) of the Law. This decision shall be registered with the National Water Rights Registry Office when not subject to appeal pursuant to the established terms.

**Article 24. Construction of Hydraulic Infrastructures.** ANA shall regulate construction of hydraulic infrastructure in consultation with the pertinent sector institutions, taking into account at all times that priority is given to use for human consumption.

Public hydraulic works referred to in paragraph f) of Article 27 of the Law shall first comply with the procedure provided for in Decree 76-2006, Environmental Evaluation System, and any other applicable technical and legal provision before starting.

ANA may build hydraulic works directly or through contracts signed with competent companies in the field, subject to the provisions of the Public Procurement Law (Law 323), as amended and its enabling regulations.

**Article 25. Water Resource Management Plans.** Water resource management planning by basin shall be prepared by ANA pursuant to provisions in Article 22 of the Law and approved by the National Water Resources Council (CNRH).

**Article 26. Economic Assessment of Water Resources.** ANA shall conduct annual economic assessments to define criteria to establish water user fees, excluding drinking water users. The criteria shall take into consideration the source, water quality, availability and end use, among others.

Similarly, every five years criteria shall be established for payment of environmental water services. Commercial use of water resources may not affect water collection for human consumption.

**Article 27. Flood Zones.** Proposals to declare zones at high risk of flooding shall take into account INETER AND SINAPRED criteria. These proposals shall be approved by the President's Office or the organization on which it delegates authority for approval. Natural and legal persons located in these zones must carry out protection activities deemed necessary within the timeframe established in each case.

Consistently with the scale of works, the respective municipality and/or Ministry of Transportation and Infrastructure shall intervene with funds of their own, if required.

**Article 28. Substitute Functions.** In the absence of a basin organization in a particular area, ANA shall provisionally and temporarily carry out the technical and operational functions assigned to basin organizations until these are set up. ANA may also delegate in them functions for which it is responsible pursuant to the Law or its enabling regulations.

## **Chapter VI Basin Organizations**

**Article 29.** The jurisdiction of each basin organization shall be consistent with the natural boundaries of each basin and with the geographic limits already defined by INETER.

The number of basin organizations set up shall depend on ANA's human and financial resources.

**Article 30. Regulations.** Pursuant to provisions in Article 26 paragraph d) of the Law, ANA shall propose basin management regulations, which must be approved by the CNRH in a period not to exceed sixty days after the establishment of ANA.

These regulations shall define ways in which these organizations shall operate, their organizational structure, management of resources, and other issues required for these organizations to perform well.

**Article 31. Technical Functions.** In basins where basin organizations have been set up and are operating, these shall be responsible for drawing up water resource management plan for their respective basin. These plans must be approved by ANA in accordance with the available budget.

ANA's decisions may be appealed pursuant to the terms of Chapter XXIV of these regulations.

**Article 32. Functions of the Basin Organization.** The following functions are assigned to the board of directors of a basin organization without detriment to the special regulations that shall be dictated pursuant to provisions in Article 33 of the Law:

- a. Hear and solve administrative processes when violations to the Law have been committed, pursuant to the procedure established in these regulations.
- b. Coordinate with municipalities the granting of rights of water use and exploitation, as well as protection and preservation of water resources, including surface and groundwater, pursuant to technical and legal provisions issued for this purpose by the competent authorities.
- c. Organize and direct the works and mechanisms for participation and outreach required to incorporate local proposals to the process of drawing up the National Water Resources Plan and to management planning by basin, pursuant to the technical provisions issued in this respect by the competent authorities.
- d. Oversee strict compliance with this Law, its regulatory provisions and water regulations, as well as with the planning tools for the respective basin within its jurisdiction,
- e. Promote and organize basin committees and all other forms of organization of users, local authorities and groups in civil society established pursuant to provisions in the Law.
- f. Endowed with administrative and legal authority, manage, oversee, preserve and conserve water and all

other public resources in the respective area as referred to in the Law and pursuant to guidelines issued by the National Water Authority for these purposes.

- g. Contribute to the administration and operation of the National Water Rights Registry Office.
- h. Contribute to the protection and conservation of water reserves in the respective area, as well as to the implementation of approved integrated water resource management plans.
- i. Oversee, within its territorial jurisdiction and in accordance with the guidelines issued by the National Water Authority for these purposes, that water resource users and individuals responsible for sewer discharges into publicly-owned receiving water bodies comply with their responsibilities as established in their respective permits, concessions or licenses, and all other applicable legal provisions.
- j. Participate in the development and operation of the National Water Resource Information System.
- k. Promote efficient use and conservation of water resources in all stages of the water cycle.
- l. Promote and, if required, contract scientific research and technology development projects related to water resources, as well as the training of human resources.
- m. Prepare the annual budget for the basin organization and submit it for approval by the National Water Authority.
- n. Formulate and keep updated the water balance in the region.
- o. Manage the Regional Water Resource Information System in basins within its jurisdiction.
- p. All other duties assigned by the National Water Authority.

**Article 33. Requirements for the Position of Director.** Pursuant to the provisions in Article 34 of the Law, the requirements for the position of Director of the Basin Organization shall be as follows:

- a. Be a Nicaraguan citizen.
- b. Older than 25 years of age.
- c. Reside in the basin area.
- d. Professional with expertise in water resource management.
- e. Person of high moral standing and integrity

The call for and selection of candidates to fill the position of director of a basin organization, as with all other positions, shall be carried out in accordance with provisions in the Civil Service and Administrative Career Law and its enabling regulations, as well as with provisions in Law 620 and these enabling regulations.

**Article 34. Measurement of Extracted or Used Water.** ANA or the respective basin organizations shall establish mechanisms to determine the volume of water used for consumption or by virtue or concessions, permits, and licenses granted.

ANA shall be in charge of setting up and implementing these measurement mechanisms and may request help from the National Police.

## **Chapter VII Basin Committees**

**Article 35. Makeup and nature.** Basin committees shall be made up of civil society representatives designated by the Citizens Power Councils (CPC) pursuant to the provisions in Article 35 of the Law.

**Article 36. Basin Committees.** Basin organizations shall promote the creation of basin committees, in addition to as many sub-basin and/or micro-basin committees as may be necessary in a basin, depending on spatial dimensions, quantity of water resources or diversity of water uses. This is intended to ensure adequate citizen participation.

Micro-basin committees shall have as a framework for their activities and programs the plans and strategies of their respective sub-basin committees, which in turn shall frame their own activities and programs within the context of the plans and strategies of their respective basin committees. These committees shall be made up of eight members selected as follows:

- a) Three representatives of the various water uses in the basin.
- b) Three representatives elected among members of the Citizen Power Councils (CPC).
- c) A representative of the board of directors of the basin organization, preferably selected among municipal representatives in this board.
- d) Another member representing the respective Autonomous Regional Council shall be added in the Autonomous Regions.

**Article 37. Operating Criteria.** The internal governance of basin committees shall take into account at least the following elements:

- After making up a basin committee, the members shall propose its internal structure and democratically elect a chairman, a secretary and a financial officer among them.
- The position of chairman of the basin committee shall be held for a one-year period on a rotational basis. Thus, a representative of high moral standing and character shall be elected based on gender equality.
- Basin committee representatives shall be elected by simple majority among its members.
- Basin committees shall hold ordinary meetings every two months and extraordinary meetings when the committee chairman calls for a meeting or at the request of the basin organization, or by a simple majority vote of all its members.
- A minute shall be taken at every meeting and entered in a minute book by each committee.
- Once a committee has been set up, it shall work with the respective basin organization.

**Article 38. Active Promotion.** ANA shall establish the mechanisms for basin organizations to promote the creation of basin committees and their respective approval by the CNRH.

To ensure citizen participation, in each basin there may be as many basin committees as the experts determine that is adequate based on geographic extent, the water characteristics of the zone and use of water resources.

**Article 39. Jurisdiction.** The basin committees shall:

- a. Hear and provide inputs to the National Water Resources Plan and the Basin Water Resources Plan, as well as to their updates, evaluate the implementation of these plans in their respective areas, and propose the needed commitments to ensure that goals are achieved.
- b. Encourage municipal authorities to participate in formulation, approval, monitoring, update, and evaluation of basin or aquifer programs pursuant to the law.
- c. Promote the setting up of work commissions of different kinds to inform analysis and, where appropriate, put forward solutions and recommendations to address specific issues related to water resource management, development of hydraulic infrastructure and the respective services, as well as promotion of rational use of water and preservation of water quality.
- d. Support needed efforts to obtain technical, financial, material and technological resources to enable the implementation of expected activities described in the respective basin water plan.
- e. Hear and comment on management reports submitted by the respective basin organizations to account for achievement of objectives and development of tools provided for in the National Water Law and these regulations.
- f. Hear and express opinion on agreements and contracts to finance basin organizations and implement the activities in the Water Resource Plan of the respective basin.
- g. Promote a discussion of issues related to water resources and link the work of participating entities and users. And,
- h. Participate and intervene in all other cases provided for in the law, its enabling regulations and complementary provisions.

**Article 40. Irrigation Districts and Units.** Irrigation districts and units shall be defined in each basin, in accordance with efficiency criteria and in harmony with the interests of the various municipalities involved, without affecting third parties to the extent possible.

These general guidelines and requirements shall be included in a technical and specific decision on the matter that is to be approved by ANA in a period not to exceed sixty days after its foundation. These must be approved and regulated by the National Water Resources Council (CNRH).

## **Chapter VIII National Water Rights Registry Office**

**Article 41. Establishment and Regulation.** The National Water Rights Registry Office shall be established as provided for in the Law. It shall be attached to ANA and special regulations shall be approved by the executive branch to determine its scope, functions and more effective way of operating.

Pursuant to provisions in Article 26 paragraph k), ANA is to formulate special regulations in a period not to exceed three months as of the date of its foundation to submit to the executive branch after approval of the National Water Resources Council (CNRH).

Pursuant to provisions in Article 37 of the National Water Law, the Registry shall be financially and administratively dependent on ANA. Thus, ANA's executive director shall appoint a Water Rights Registrar who shall be ranked as general director within ANA's organic structure.

## **Chapter IX Water Use**

**Article 42. Definitions.** Pursuant to Article 12 of the law, the following terms shall be understood as follows:

Use or exploitation: Any utilization, capture or extraction of national water resources, including surface and groundwater.

Consumptive Use: Use that may cause a change in water volume and/or quality in surface or groundwater.

Non-consumptive use: Use that does not cause any significant change in water volume and/or quality in surface or groundwater.

Use for human consumption: Considered as a human right in Nicaragua. Thus, drinking water supply services provided by ENACAL, municipally-owned enterprises or CAPs shall be exempt from any charges or fees.

For the purposes of enforcement of the Law and its enabling regulations, bottled water shall not be considered as water for human consumption.

**Article 43. Concessions and Licenses.** ANA or the basin organizations, where they exist, shall be in charge of the process of application for concessions and licenses, taking into account the approval criteria provided for in the Law.

Further, when ANA and the mayor's offices or Autonomous Regions enter into agreements, certain competences may be transferred provided that these are related to water supply or capture within the limits established in paragraph c) of Article 41 and Article 43 of the Law.

**Article 44. Operation of Aqueducts for Drinking Water Distribution.** Drinking water systems built by private economic agents shall be transferred to the state through ENACAL or municipal enterprises managing this type of service. A deed of donation of all aqueduct components shall be executed.

INAA may exceptionally and provisionally grant operation licenses to developers whose applications for water connection feasibility are rejected by the respective public service institution providing drinking water and sanitary sewer services due to their lack of capacity to manage and operate the new systems. Private drinking water and sanitary sewer services must comply with the technical specifications and supervision established by INAA in coordination with the Nicaraguan Aqueduct and Sewer Company (ENACAL). An essential requirement to grant operation licenses to provide drinking water services is to submit the deed of donation on behalf of the state.

A license to operate these systems shall be in force for a period not to exceed five years although it may be renewed, depending in whether or not the parties involved are interested.”

**Article 45. Concession Agreement.** It shall consist of at least the following elements:

- a) Name of the concession holder
- b) Source
- c) Exact geographic location of the concession
- d) Exact boundaries of the concession area
- e) Use
- f) Volume to be used
- g) Expiration date
- h) Intake and discharge points

Other information that ANA may consider necessary shall be included.

**Article 46. Requirements in Protected Areas.** The process to grant a concession, license or permit to use or exploit available national water resources in the National System of Protected Areas (SINAP in Spanish) shall comply with the pertinent environmental provisions regulating it, as well as with sector management provisions and the respective Protected Area Management Plan.

**Article 47. Special Regulations Governing Application for Water Use Concessions, Permits, and Licenses.** ANA shall draw up special regulations to govern the application and granting of licenses, concessions or permits to use or exploit national water resources, including surface and groundwater. These must be ready in a period not to exceed six months.

## **Chapter X Multiple-use or Strategic Water Concession Agreements**

**Article 48. Multiple Water Use.** As regards application for multiple-use or strategic water concessions, ANA shall prepare a template with technical criteria to evaluate which applications understand and comply with provisions in Article 46, the last paragraph of the law.

Should this be the case, ANA shall send the application and relevant documentation to the National Water Resources Council (CNRH) for prior approval in a period not to exceed thirty business days after the reception date together with a preliminary technical analysis.

The National Water Resources Council (CNRH) in accordance with the commission’s internal regulations shall submit any request for technical advice to its Technical Committee, in order to address criteria from sectors that might result affected, or a decrease in water for human consumption and drinking water services, downstream users, and other existing uses and permits for sewer discharges, among others. The opinion of basin authorities and committees shall be taken into account in places where a project is implemented.

This Committee shall submit to the CNRH for signature a positive or negative technical decision regarding the application. Once the decision is signed, it shall be delivered to ANA to be sent to the National

Assembly for the required formalities.

**Article 49. Coordination with Authorities of Autonomous Regions.** When a concession is located in the Autonomous Regions of the Atlantic Coast of Nicaragua, upon receiving the technical decision from the CNRH, ANA shall in addition request an assessment from the respective Regional Councils and municipal governments. The Regional Councils shall issue their opinion in a period not to exceed thirty business days.

ANA and the basin authorities shall hear the decision of the municipalities involved, as the case may be, in a period not to exceed thirty business days.

After completion of the required formalities, ANA shall draw up a contract, where appropriate, with the applicant following the normal procedure.

**Article 50. Criteria for Setting Up the Time Frame.** For the purpose of enforcing Article 48, whereby ANA shall define the time frame for concessions and assignments, the following criteria shall be taken into account:

1. Use and exploitation of water for human consumption
2. Food security
3. Environmental sustainability of water resources

For these purposes, ANA shall establish the coordination needed with the respective sector institutions.

## **Chapter XI**

### **Application for and Extension of Concessions and Permits**

**Article 51. Environmental Impact Permit.** When required by the pertinent legislation, the Environmental Evaluation System shall be applied according to the established category.

**Article 52. Additional Requirements.** In addition to the requirements provided for in Article 49 of the Law, applicants shall complement the following information or documentation:

- a. Should the applicant be a natural person: full name, the general questions raised by law, personal identification card, and whether the person acts in his or her own name or on behalf of other persons and their personal data, as the case may be, in which case proof must be submitted.

Should the applicant be a legal person: company name and registered office, full name of the legal representative, as well as certificate of incorporation and articles of incorporation duly registered with the respective Commercial Registry and power of attorney, as well as identity card of the legal representative..

- b. Geographic location expressed in UTM coordinates of the place where water is intended to be used, with attached location map and, where applicable, a blueprint of the land to be used for the various works and facilities.
- c. Technical documentation supporting the application with information on the required consumption volume and initial use of water, as well as quantity and quality of the water to be used.

- d. When applicable, the environmental permit together with the respective environmental impact study issued by the competent environmental authority pursuant to the procedures established for these purposes.
- d. Domicile at which the competent authority shall hear notifications from the applicant or its representative.
- f. Clear and categorical acceptance that the applicant or applicants, their representatives or successors, shall submit to the jurisdiction of the country's competent administrative and legal authorities.

**Article 53. Emerging Plans.** Should natural or man-made events cause inflows and reach levels below those granted in a concession, the holder of the concession must draw up an agreed-upon emerging plan for water use. The minimum requirements to be included in this plan shall be provided by ANA to the interested parties.

**Article 54. Supporting Studies.** This plan shall be submitted to ANA, as duty bearer regarding compliance, and be accompanied by supporting studies. These studies must consider potential shortages and ways to address such a situation.

**Article 55. Substitution.** Should the holder of a concession fail to draw up such a plan, ANA or the basin organization shall do it at the holder's expense. This study is to be sent to the holder of the concession for analysis, and his observations must be submitted in a period not to exceed sixty calendar days.

Should a conflict of interests arise, ANA shall prepare a mandatory plan based on its best judgment. This plan shall be registered with the National Water Rights Registry Office (RNDA).

Should the parties fail to reach an agreement between them with regards to valuation of expenses, a technical assessment shall be conducted by the specialized institution.

**Article 56. Shared Information.** To help downstream concession holders make projections, upstream users shall make available to them all hydrological information they possess together with their various exploitation plans.

**Article 57. Wastewater Discharge Regulations.** For the purposes of application of Article 50 of the Law, MARENA in coordination with MAGFOR, MINSA and ANA shall draw up mandatory technical environmental regulations related to wastewater discharges in a period no to exceed two years. These regulations include the stockpiling, use or application of agrochemicals or dangerous toxic products and other substances that may contaminate the soil, subsoil and national water bodies, based on the regulating legislation in force.

**Article 58. Monitoring of Compliance to Grant Extensions.** For the purposes of implementation of Article 54 of the Law, effective compliance shall be determined by monitoring and following up observance of the terms and conditions under which concession agreement, license or permit was granted.

The respective basin organization and committee shall be in charge of the monitoring and follow-up system referred to in the previous paragraph.

## **Chapter XII Suspension of Concession Agreements or Permits**

**Article 59. Cause for suspension of agreement.** Cause for suspension of concession agreements, licenses or permits, in addition to provisions in Article 55 of the Law, include violation of all other provisions referred to in the National Water Law, these enabling regulations, special regulations that may be dictated, and the provisions emanating from environmental and criminal legislation.

**Article 60. Previous Ruling from MARENA.** When dealing with the violation of provisions established in the environmental legislation, ANA must receive a favourable technical decision from MARENA in order to lift the suspension of the right to water use.

**Article 61. Unsuitable Indemnifications.** The state shall under no circumstances accept to pay indemnification for works completed when licenses, permits, or concessions of the right to water use have been suspended, provided that their holders have incurred in the causes for suspension established in Article 55 of the Law and Article 64 of these enabling regulations.

## **Chapter XIII Rights and Obligations of Holders**

**Article 62. Additional Rights of Concession Holders.** In addition to the rights provided for in Article 59 of the Law, holders of the right to use water shall have the following rights:

- a. To exert the rights granted by concession agreements, licenses or permits.
- b. To receive indemnification due to declaration of public use of private property in the cases established in the Law.
- c. To request administrative corrections or copy of agreements.
- d. To extend their concessions provided that these comply with the requirements established in these enabling regulations and fulfil the responsibilities arising from concessions, licenses and permits, particularly as regards environmental protection regulations.
- e. Apply for easements following the established procedures.
- f. Concession holders have the right to fully or partially relinquish the concession by notifying ANA or the basin authorities, as the case may be, of his intention in writing. A certificate of compliance with concession holder responsibilities shall be issued when applicable. In case of non-compliance, the concession holder shall be notified and a reasonable time to comply with unfulfilled responsibilities shall be determined by the respective technical authority.

**Article 63. Responsibilities of Concession Holders.** In addition to the responsibilities established in Article 60 of Law 620 and in the chapter related to water in the Law on Environment and Natural Resources (Law 217), concession, license and permit holders shall:

- a. Comply with the responsibilities established in the concession agreement, license or permit, as applicable, and ensure authorized use of the volume of flow.
- b. Submit quarterly activity reports to the Water Authority using the template issued by ANA for this purpose in a period not to exceed thirty calendar days.

A copy of these reports shall be sent to the respective authorities.

- c. Submit a water quality analysis as required by ANA pursuant to the Capri Standard.
- d. Submit, prior to the start of activities, and when required, a public deed certifying the pertinent easement between the applicant and the property owner, as the case may be.
- e. Adjust to water flow limits established by ANA in case of drastic decrease of the average natural flow.
- f. Install flow meters to measure the volume of flow in all water spots and keep a log book.
- g. Carry out cleaning and abandonment activities according to the specifications in the concession agreement, license or permit.
- h. Preferably use biological and natural products in agricultural activities, as applicable, in order to prevent soil contamination and a decline in water quality.
- i. Comply with efficient water use requirements and recycle wastewater pursuant to environmental technical regulations and specific conditions issued by MARENA for these purposes.

**Article 64. Technical Foundations.** For the purpose of Article 60, paragraph a) of the Law, any person who intends to construct works for extraction and use that may cause a deviation of the waters from their natural course into channels or dams, changes in the water current system or quality must, at the time of applying for a concession, license or permit from the competent authority, attach the project and program to implement the intended works, and show that these will not endanger the water flow or the rights of downstream third parties.

The competent authority shall decide whether an application for works and projects is accepted or rejected in a period not to exceed thirty calendar days. It shall notify the interested parties of the changes that are needed to prevent negative effects on the water current system from endangering the safety of people and assets, alter the quality of water, or the rights of third parties. The technical institution in this sector shall determine the term for implementing these changes.

The competent authority shall indicate in the concession agreement, license or permit the estimated term for applicants to conduct studies, formulate final projects, start and complete works.

The procedure referred to in this article shall apply to works implemented to dredge, dry out and, in general, change the hydraulic system of channels, interconnected reservoirs, lakes, lagoons and other water deposits in the country.

**Article 65. Economic Value of Water.** All water use concessions, licenses or permits, with the exception of the specific uses provided for in the Law, involve payment of fees. ANA shall determine these fees for use of national water resources when permits, licenses and concessions are involved. As regards fees for wastewater discharges into water bodies, these shall be laid down by MARENA. The fees to be paid for concessions granted shall be submitted to the National Assembly by ANA.

## **Chapter XIV Use of Water for Human Consumption**

**Article 66. Determination of Water Supply Source.** Development plans of public drinking water supply service providers and the sector plan must specify potential drinking water sources or future supply sources in order to establish their priority for human consumption beforehand based on pertinent studies, as well as set up the appropriate protection measures. These plans must be consistent with provisions in the National

Water Resources Plan.

**Article 67. Need for Planning.** Public institutions that make up the public drinking water and sewer sector must give priority to the drawing up of a sector plan in harmony with the National Water Resources Plan in a period not to exceed one year, subsequent to approval of the National Water Resources Plan.

This sector plan must reflect demand for these services for a period of no less than twenty five years so that ANA may ensure and give priority to provision of sufficient water resources for human consumption, identifying the supply sources required.

**Article 68. Complementary Regulations.** After ANA has been established, it shall draw up the special regulations referred to in Article 69 of the Law in a period not to exceed one year.

**Article 69. Requirements to Obtain a License.** As regards transitory or temporary operation licenses granted by INAA to provide drinking water services, a prior requirement shall be to present the water use license issued by ANA.

In areas where there is no drinking water or sewer service coverage by the state agency ENACAL, or where it has no investment plans or water supply services are managed by the respective municipality or municipal enterprise, drinking water and sanitation sector regulations issued by INAA, as a regulatory entity and in coordination with ENACAL, shall apply.

**Article 70. Use of Drinking Water for Human Consumption.** In accordance to provisions in Article 42 of the Law, public entities in charge of water for human consumption shall not pay any extraction fee. The foregoing does not exempt them from the duty of recording and reporting extraction volumes to ANA for the purpose of controlling water availability.

Provisions in Article 5 of the Law regarding non-suspension of services to the institutions mentioned in it do not exempt these from paying preferential fees.

The benefits granted in the aforementioned Article 5 of the Law are only applicable to the public sector.

## **Chapter XV**

### **Use of Water for Agriculture and Livestock**

**Article 71. Permits for Non-industrial Use in Agriculture and Livestock.** Owners of farms of up to 70 hectares shall only require water use permit from mayor's offices. These permits shall be submitted to ANA for inclusion in the National Water Rights Registry Office.

Owners of farms of no less than 70 hectares shall be granted permit or concession by ANA or the respective basin organization. Similarly, farmers or cattle ranchers shall require permit from ANA, regardless of the extension of farms when production is intended for marketing.

Agrochemicals (pesticides) banned or unregistered are not to be used in water bodies under concession pursuant to the Basic Law for Regulation and Control of Pesticides and of Toxic, Dangerous and Similar Substances (Law 274).

**Article 72. Clean Technology.** MAGFOR, in coordination with INTA, shall promote technology research and transfer for use of biological and natural products in agriculture and other clean production practices in order to prevent soil pollution and its adverse effects on the quality of water resources.

Use of environmental technologies and efficiency shall be part of criteria to grant financial assistance through the National Water Fund.

**Article 73. Special Irrigation Regulations.** ANA shall draw up and promote approval of special water use regulations for agricultural and agribusiness irrigation, including in particular provisions on fertigation or irrigation with treated non-pollutant wastewater in collaboration with MAGFOR and other public institutions linked to the Nicaraguan agriculture sector.

**Article 74. Environmental Standards.** ANA, based on MARENA's technical criteria and in coordination with the pertinent institution, shall establish environmental standards and required procedures to reuse wastewater for agricultural irrigation, recreation, aquaculture, and aquifer recharge, among others.

## **Chapter XVI**

### **Use of National Waters for Electrical Power Generation**

**Article 75. State Priority.** In order to ensure state priority in obtaining water use licenses to generate electricity, the Ministry of Energy and Mines shall send ANA applications to store water to generate hydroelectric power from projects of interest to it or shall request bid applications. The aforementioned Water Authority shall proceed to their registration with the National Water Rights Registry Office.

**Article 76. Storage Period.** The period in force for the right to store water referred to in the previous article shall not exceed five years and may be renewed. Upon expiration of that period if the Ministry of Energy and Mines has not developed a project or awarded the bid, ANA may cancel the registration and consider new water use applications from public or private institutions.

The Ministry of Energy and Mines may request ANA to cancel the right to store water granted in the Water Use License.

**Article 77.** Hydroelectric Power Plants referred to in Article 81 of the Law, the authorization of which requires a special and specific law for each project, are plants with installed capacity of over 30 megawatts or reservoirs extending over an area of more than 25 Km<sup>2</sup> at maximum operating level.

**Article 78. Licenses for Water Exploitation.** Licenses for water exploitation to generate electricity is the administrative means by which ANA grants to natural or legal, public or private persons the right to access water in liquid or steam form for use in generating electricity. Depending on the needs of the applicant, a license may be in force for a period that is not to exceed thirty years, although it may be renewable.

Should a legal or natural, national or foreign, private or public person obtain a power generation license from MEM for a hydroelectric project through bidding or competitive tender processes, it must fulfil all the requirements to obtain a water use license. To submit a water use license application to ANA, it must prove that a power generation license application has been filed with the Ministry of Energy and Mines for a hydroelectric project for which license or concession is sought when geothermal generation is involved.

**Article 79. Special Regulations.** Everything related to applications for water use license to generate electricity shall be subject to special regulations that are to be issued in a period not to exceed one year after ANA's establishment. For these purposes, it shall set up coordination mechanisms with the Ministry of Energy and Mines, as well as with the pertinent state institutions.

**Article 80. Coordination with the Ministry of Energy and Mines.** In the case of hydroelectric power, MEM shall send ANA an application to store water containing the following information: name of project, annual demand, identification of basin, location of the site to store water to generate hydraulic energy in UTM coordinates and power capacity to be installed.

**Article 81. Emerging Plan.** Should hydroelectric power be used by more than one authorized user and inflows were to reach levels below those that were authorized due to man-made natural events, the parties directly affected must draw up an agreed-upon emerging plan for water use. The minimum requirements to be included in this plan shall be provided by ANA to the interested parties.

This plan shall be submitted to ANA, as a duty bearer for compliance with it, together with supporting studies. These studies shall consider potential shortages and ways to address the situation.

Should the affected parties fail to draw up such a plan, ANA shall contract an independent consultant to prepare it at the license holder's cost. Such study shall be sent for analysis to the interested parties who must issue their opinion in a period not to exceed thirty business days.

Were a conflict of interest to arise between users and should there be lack of consensus around the emerging plan, ANA shall draw up a compulsory plan to the best of its ability. This plan must be registered with the Registry of Water Use Licenses.

**Article 82. Shared Information.** When a hydroelectric power plant is located upstream, it shall provide hydrologic information and exploitation plans to downstream users.

## **Chapter XVII Additional Uses and Custody of Other Water Resources**

**Article 83. Other Uses.** Use or exploitation of surface or groundwater for other uses, such as water transportation, use of water bodies for recreation, mining or medicinal purposes shall be subject to special regulations based on environmental sustainability criteria for management of water resources issued by MARENA.

**Article 84. Protection of Minimum Water Flow.** Pursuant to provisions in Article 83 of the Law, MARENA shall lay down rules and regulations based on technical criteria for defining minimum water flow and setting up management mechanisms to maintain ecological balance and sustain basin biodiversity.

**Article 85. Protection of Water Resources.** National Water Resources are public assets and as such ANA shall be their custodian jointly and in coordination with all other institutions tasked with responsibilities related to natural resources and more specifically to water resources.

## **Chapter XVIII General Water Protection Provisions**

**Article 86. Technical Criteria for Discharge Permits.** For the purpose of implementing Articles 99 and 102 of the Law, the following criteria shall be taken into account:

- a. Effluent limits to establish to the extent possible the discharge of pollutants into a water body.
- b. Waste water limits based on performance standards taking into consideration the best available technology (BAT) as well as previously classified sources of origin.

- c. Effluent limits based on quality standards for receiving water bodies.

After water sources are classified MARENA shall, within a period not to exceed two years, draw up technical quality regulations for discharge into natural water bodies with technical support from ANA.

**Article 87. Required Studies.** All water sources, including surface and groundwater, must be subject to hydrological and hydrogeological studies, as well as to water quality analysis in compliance with relevant quality regulations issued by the competent authorities.

## **Chapter XIX**

### **Special Regulations for Private Use of Groundwater**

**Article 88. Well Drilling.** In addition to the requirements established in the Law, the parties interested in well drilling must submit a letter of application to ANA with the following minimum information:

- a) General project characteristics
- b) Hydrogeological study according to the template developed by ANA
- c) Radius of influence of the well to be drilled
- d) Location map
- e) Physical, chemical and bacteriological analysis of the nearest well.
- f) Technical specifications for well construction, such as diameter and depth, among others.

ANA shall draw up an application evaluation matrix for permit to drill with the required technical criteria set forth depending on project complexity.

**Article 89. Prevention of Adverse Effects.** In addition to the provisions of the above article, evaluation of applications for permits to drill shall include consideration of aquifer exploitation capacity according to water balance and the potential effects on surface water bodies and adjoining aquifers due to changes in hydraulic gradient or induced recharge.

**Article 90. Priorities.** Publicly-owned enterprises shall have top priority and preference in the use of groundwater and any other type of water resources for the purpose of providing drinking water services to rural populations and communities.

**Article 91. Obligations.** The holder of the right to access groundwater shall have the following responsibilities

- a. Within a period of 30 days after completion of a well, a report is to be delivered to ANA with technical information resulting from a pumping test, lithology, water analysis, well diameter, type of pipes and length of blind casing, slotted screen or perforated pipe, including a graphic profile of final well design, and name of the drilling company to verify information and registration.
- e. At least once a year submit a monthly extraction control record, with data regarding dynamic and static levels.
- c. Comply with the requirements set forth in the agreement, particularly as regards factors that may have an effect on specific water quality components over the time frame set forth.

**Article 92. Inventory.** ANA shall take inventory of all existing wells in the country during its first year of existence and set up the mechanisms to properly measure the extraction volume. This is intended to charge adequate fees for water volumes used individually by well owners.

ANA, based on the definition of national water resources established in Article 12 of the Law may request owners of existing wells to estimate their current monthly extraction volumes. Owners of these wells shall provide the information required by ANA in a period not to exceed thirty calendar days.

## **Chapter XX General Provisions on Investment in Hydraulic Infrastructure**

**Article 93. Environmental Measures.** For the purposes of implementation of Article 119 of the Law, environmental measures should be applied as required, and the environmental and sector legislation in force should be complied with in general.

**Article 94. Corrective Action.** Corrective action shall be applied to construction of works, especially in the following cases:

- a. When works pose imminent hazard or risk to human settlements.
- b. Affect the urban or rural infrastructure.
- c. There is vulnerability to natural or man-made threats.
- d. Have an impact on land and water ecosystems.
- e. Hydrometeorological conditions exceed the initial hydraulic design capacity of the works,
- f. Epidemic outbreaks and threats to human health.

## **Chapter XXI Share of Private and Public Investment in Hydraulic Works**

**Article 95. Contracting of Public Works.** For the purposes of Article 120 of the Law, contracting of public works and services shall be governed by provisions in the Law on Public Procurement (Law 323) as amended and its enabling regulations.

**Article 96. Compliance with public procurement regulations and other procedures.** In order for ANA to enter into contracts with natural or legal persons for hydraulic works intended to benefit social development pursuant to the terms of Article 121 of the Law, procedures shall be required to grant and legalize public work contracts under the following terms:

- a. Users of hydraulic infrastructure who are organized and represented by a highly regarded person may submit bids and participate in the respective tenders.
- c. Interested third parties shall also be invited to participate in the respective bidding process to be launched.
- c. All interested parties who prove that they are financially solvent, technically, administratively and financially able to perform pursuant to Law 323, as well as comply with the requirements set forth in the terms and conditions issued by ANA.

- d. The terms and conditions shall define criteria for granting the works or services to the selected offeror, as well as the timeline, regulation and termination of the respective contract.
- e. Together with the granting of works to provide hydraulic infrastructure and services, concessions, permits and licenses may be granted to users of water resources after fulfilment of all the requirements established in the Law;
- f. Concessions shall be granted under a single concession agreement and shall be linked to a single tender, pursuant to the terms of the invitation to tender put out by ANA.
- g. Users referred to in this article shall have the right to preference on equal terms.
- h. ANA, based on a comparative analysis of bids received, shall issue a duly founded and justified decision that shall be made known to all participating offerors.
- i. After signing an award decision, ANA shall contract the works or services, as applicable.
- j. Works, services and/or concessions shall not be awarded when the bids received fail to comply with the terms and conditions of the tender. In this case, the tender shall be declared void and a new bidding process shall start.

## **Chapter XXII Sanctions**

**Article 97. Start of process.** The competent authority may start the process of application of sanctions for the commission of violations *sua sponte* or when a complaint has been filed.

**Article 98. Procedure.** When the competent authority finds by default or complaint that a violation has been committed pursuant to provisions in the Law, it shall proceed as follows:

- a. The basin organization, upon being informed of the commission of a violation, shall undertake in situ visual inspections as required to determine whether a violation has been committed or not pursuant to Article 126 of the Law. Inspectors duly accredited by ANA shall conduct these inspections and may be accompanied and advised by technicians and experts in the field to determine the facts.
- b. Should a violation be committed, inspection results shall provide evidence to determine the implementation of sanctions established in the Law. Copy of the inspection minute shall be delivered to anyone present at the inspection site. However, in case of refusal to accept it, notice shall be posted in a visible place on the premises. The technical team of the basin organization or where necessary ANA shall be accompanied by the National Police and Basin Committee staff.
- c. Should the violation be confirmed, the basin organization shall undertake an administrative process and notify accordingly the alleged violator, granting him a period of three business days after notification to state his position.
- d. As a precautionary measure, the basin organization may indicate to the alleged violator the suspension of activities prohibited during the process, as established in the Law.
- e. After the three-day period referred to in paragraph c), the basin organization shall decree the start of a twelve business day discovery period. On its own initiative or at the request of the interested parties, a new site inspection may be conducted.

- f. The facts and omissions recorded in the inspection minute shall be deemed accepted if the alleged violator does not submit any documents or evidence that contradicts the facts or omissions recorded in the inspection minute during the time frame referred to in the previous paragraph.
- g. The basin organization may extend by half the ordinary term and only once the discovery period set forth in paragraph e) of this article.
- h. After the discovery period is over, the alleged violator has been heard and the evidence he submitted has been received and admitted, or if he does not exert this right within the term granted under paragraphs c) and e) of this article, the basin organization shall in within six business days dictate the pertinent administrative decision duly justified and reasoned, and if applicable the corrective measures recommended within a specific time frame without detriment to the application of additional measures decided by other public entities.
- i. Violation expenses shall be paid by the violator.

**Article 99. Preventive Measures.** In this process, the basin organization may decide to apply preventive measures to a user, determining which actions are to be taken and the time frame to comply with these.

**Article 100. Where to lodge complaints.** Formal complaints may be lodged with the basin organizations, municipal governments and/or territorial and regional authorities from the Autonomous Regions of the Atlantic Coast of Nicaragua. Mayor's offices shall refer these complaints to the basin organizations within a period of three business days in order to proceed with subsequent formalities, as provided for in these enabling regulations. In the case of territorial and regional authorities in the Autonomous Regions of the Atlantic Coast of Nicaragua, complaints are to be referred in a period not to exceed ten business days.

**Article 101. Minor Violations.** ANA shall issue a reprimand for a first violation considered minor to the grantee or entity granted a water use permit or to any other person who despite not being the permit holder may be causing minor damage to any water body.

Should the admonishment fail to be complied with, the violation shall be considered serious.

### **Chapter XXIII Conflicts Arising among Local Basin Organizations**

**Article 102. Competent Authority.** ANA shall be the mediation and appeal body in all conflicts that may arise among basin organizations and between these and users.

**Article 103. Appeal for Review.** A natural or legal person affected by the decisions or actions of a basin organization may file a writ of review before the organization itself within 8 calendar days after notification of a proceeding or decision counting as of the date of the notification being contested in order to petition to revoke its decision.

The basin organization shall determine whether to revoke or not its decision in a period of 10 business days. The decision issued, silence or any other case may be appealed before the National Water Authority.

**Article 104. Appeal.** A first appeal shall be filed with the basin organization within five calendar days after notification of the proceeding or decision counting as of the date of the notification being contested or of the date on which the basin organization should have issued its decision.

**Article 105. Admission of Appeal.** The basin organization shall admit the appeal and in a period of fifteen calendar days after the reception date, shall submit it to ANA together with a report on the case drawn up in its capacity as basin organization.

At the time of receiving the appeal, the basin organization shall notify the appellant that it has a period of 15 calendar days to submit a written assignment of errors to ANA.

**Article 106. Finding of Facts.** After receiving the report and written assignment of errors, ANA shall, when deemed appropriate and in a period of 8 business days, summon the basin authority, the affected person and every natural or legal person involved, who may make use of the means of evidence provided for in the common legislation to base their alleged right. The term established in this paragraph may be extended for an equal amount of time at the request of a party or by ANA's decision.

**Article 107. Final Decision.** After determining whether the case has substantial basis to proceed or dismiss the case as non-substantiated, as referred to in the previous article, ANA shall in any event make a decision in a period not to exceed 30 business days. ANA's decision shall exhaust administrative procedures.

### **Chapter XXIV Transitory Provisions**

**Article 108. Rules on Water Quality Control.** Existing regulations on water quality issued by MINSAs, MARENA and any other competent institution shall remain in force as long as the established authorities and pursuant to the procedures provided for in this Law do not decide otherwise.

**Article 109. Water Resources Policy and Plan.** While the new water resources policy and plan, as well as the national and sector strategy are approved, provisions in Decree 107-2001 establishing the National Water Resources Policy, published in *La Gaceta*, Official Parliamentary Record, No. 233 of 7 December, 2001 as amended shall continue in force so long as they do not contradict the Law or these enabling regulations.

## Chapter XXV Final Provisions

**Article 110. Refuse Disposal Areas.** For the purposes of implementation of Article 146 of the Law concerning refuse disposal areas, the distance provided for in the Law and technical regulations and procedures issued by MARENA must be complied with.

**Article 111. Aquifer Recharge Areas.** For the purposes of Article 147 of the Law, ANA shall technically define the aquifer recharge areas. After completion of the relevant studies, these shall be submitted to the National Water Resources Council for approval.

Once these recharge areas are defined, natural or legal persons with properties within the designated “recharge” areas who reforest or preserve the forest cover in at least 25% of their properties may make sustainable use of the water resources captured and shall have preference in the use of resources from the National Water Fund to build hydraulic infrastructure works.

**Article 112. Terms provided in the Law and in these enabling regulations.** For logistical purposes, it shall be understood that all periods and terms established for ANA’s tasks shall start counting upon delivery of the first budget allocation.

**Article 113. National Water Rights Registry Office.** Pursuant to provisions in Article 37 of the National Water Law, the Registry shall have financial and administrative autonomy from ANA. Thus, ANA’s Executive Director shall appoint the “Water Rights Registrar,” who shall have the Rank of Director within ANA’s organic structure.

**Article 114. The National Drinking Water and Sewer Commission (CONAPAS from its Spanish acronym).** The National Water Authority (ANA) shall be successor without interruption of the National Drinking Water and Sewer Commission (CONAPAS), created by Executive Decree 51-98 published in *La Gaceta*, Official Parliamentary Record, No. 138 of 24 July, 1998 and reform Decrees 33-2002 and 75-2003 published in *La Gaceta*, Official Parliamentary Record, No. 60 of 3 April of the year 2002 and 220 of 19 November, 2003, respectively. Therefore, ANA inherits all of CONAPAS current rights and responsibilities.

Similarly, the line item allocated to CONAPAS in the national budget shall be reallocated to the National Water Authority as of the signing of this decree, without detriment to an allocation increase if required by ANA’s responsibilities.

The functions of CONAPAS shall be performed by ANA’s Drinking Water and Sanitation Division.

Without detriment to the foregoing, the Nicaraguan Aqueduct and Sewer Company (ENACAL) shall be a member of the National Water Resources Council instead of the National Drinking Water and Sewer Commission (CONAPAS).

**Article 115. Internal Regulations of the National Water Resources Council (CNRH from its Spanish acronym).** For purposes of Article 21 of the Law, the CNRH shall draw up its internal regulations in a period of sixty (60) days after its creation. The internal regulations shall regulate the work of the Advisory Technical Committee and of any other supporting entity that may be decided to create.

**Article 116. Meetings of the CNRH.** The National Water Resources Council (CNRH) shall have at least four ordinary meetings per year and extraordinary meetings at any time when convened in the way established in its internal regulations, without detriment to any extraordinary meetings called by the Chairman of the Council.

The CNRH shall approve its internal regulations and those of its Advisory Technical Committee in a period of sixty days after the entry into force of these enabling regulations.

**Article 117. Accreditation before SICA (from its Spanish acronym).** The National Water Authority (ANA), the country's leading water regulatory agency, is to be accredited before the General Secretariat of the Central American Integration System (SICA).

**Article 118. Repeals:** Executive Decree 51-98 creating the National Drinking Water and Sewer System Commission published in *La Gaceta*, Official Parliamentary Record, No. 138 of 24 July 1998 and reform Decrees 33-2002 and 75-2003 published in *La Gaceta*, Official Parliamentary Record, No. 60 of 13 April of the year 2002 and *La Gaceta*, Official Parliamentary Record, No. 220 of 19 November 2003, respectively.

Executive Decree 106-2007, enabling regulations of the National Water Law published in *La Gaceta*, Official Parliamentary Record, No. 214 on 7 November of the year two thousand seven is repealed.

Executive Decree 44-2008 of Reforms and Additions to Decree 106-2007 Enabling Regulations of Law 620 published in *La Gaceta*, Official Parliamentary Record, No. 173 of 8 September of the year two thousand eight are repealed as is everything that opposes these regulations.

**Article 119.** This decree shall enter into force as of its publication in *La Gaceta*, Official Parliamentary Record.

Issued in the city of Managua,  
Presidential House, on the fourth day of the month of August  
of the year two thousand and ten

**Daniel Ortega Saavedra,**  
President of the Republic of Nicaragua.

**Juana Argeñal Sandoval,**  
Minister of Environment and Natural  
Resources



