

EXTRAORDINARY _ REGISTERED No. S,-2771

- The Baluchistan Gazette

% _ PUBLISHED BY AUTHORITY

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No. 20 QUETTA, WEDNESDAY. MARCH 22, 1978.

GOVERNMENT OF BALUCHISTAN. A

_ LAW DEPARTMENT.

NOTIFICATION.

Dated Quetta, the 22nd March, : 1978. Vv

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

BALUCHISTAN ORDINANCE NO. IX QF 1978.

THE BALUCHISTAN GROUND WATER RIGHTS ADMINISTRATION
ORDINANCE, 1978.

ORDINANCE

; to provide for the AN t of Ground

Water Rights in Baluchistan,

Printed by the Manager Government Printing & ames Department Baluchistan Quetta.

Price Re 1/- G.P. (Q) 531-450-4- 78,

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Preamble.

Short title
extent and

commence.

ment.

Definitions.

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WHEREAS it is necessary 'to provide for a law to regulate the use of Ground Water. and to administer the rights of various persons therein,

AND WHEREAS, the Governor is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the proclamation of the fifth day of July, 1977 read with the Law (Continuance in Force) Order 1977 (CMLA

ORDER NO.

1 of 1977) and in exercise of all powers

enabling him in that behalf, the Governor of Baluchistan is pleased to make and promulgate the following

Ordinance:—

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1. (1) This Ordinance may be called the Baluchistan Ground Water Rights Administration Ordinance, 1978. ;

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

(3). It shall come into force at once.

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

(a)

(b)

(c)

“PROVINCIAL WATER BOARD” means a body consisting of such members as may be appointed by the Government to administer the ground water rights and: to lay down policies for conservation and development of ground water resources.

“DISTRICT WATER COMMITTEE”

means a body consisting of: such official and non-official members of the District as may be notified by the Government for carrying out the function.” | mentioned in this Ordinance. _

“BASIN” means the-surface area within a given water-shed. i

(d) “ACQUIFER” means a preamble geolo-

(e)

gical formation that stores and transmits water.

“BASE RUN-OFF” means sustained or dry weather flow. In most streams base

run-off is composed largely of subsurface run-off.

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

(g) "ABANDONED WELL" means any well whose use has been permanently discontinued. Any well shall be deemed abandoned which is in such a

state of disrepair of obtaining ground water is impractical.

Establishment * 3. (1) There shall be a Provincial Water Board & functions of . consisting of:—
Provincial ~ , : ‘

Water Board.

(a) Additional Chief Secretary (Dev)/
Commissioner, P&D Government: of
Baluchistan.

(b) Member, Board of Revenue, Baluchistan. -

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

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

P (2) The Government may appointed any ,
Officer of the. Irrigation Department as 1
Secretary of the Board". a

\ ou . (3) The tenure of the office of non-official

members in the Board will be terminated
: after three years.

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

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

whenever necessary.

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(6) The Provincial Water Board will:—

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

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

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

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

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

- Water Basins;

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

(g) The Board will arrange to determine the existing withdrawal of ground water

- through tube wells/open surface wells/

Persian wells/karezes or any other means;

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

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

provincial Water Board.

(j) The water Board will also lay down distances between wells/springs and karezes within which the District Water Committees shall be allowed to issue permits; and

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

Establishment 4. . (1) There shall be a water committee in

of Water Com- each District to be constituted by the mittee. Government.

il "(8) The Committee shall consist of De puty Commissioner,

Executive Engineer of Water Supply Division, Director/Project"

> Enginee:--Quetta' Development Authority, - (io respect. of Quetta eM " Pyistrict) Extra Assistant Director Agriculture 'and one acn-officilis « y 4 member to be nominated by the Government. Executive Enginecr, Water Supply Division of the Irrigation Department, will be the

Secretary Of the Committee." ee we ae TOL Ue GoTimninwe:"

(b) The Committee shall work under the

"direct. supervision and over-all control

oo . of the: Provincial Water Board for the

4 . ": purpose of carrying out the objectives" 'of this Ordinance. ;

(c) No person will be allowed to extract

: ground water within designated ground

water basins, without the permission of

, , the. District Water Committee.

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

'(e) Fhe. Committee will invite objections in 'respect of the above application from "sivarious persons having any interest in

_ the ground water either in the vicinity

ti at of proposed place of mining of ground

iF "wvater or in the basin as a whole.

"(f) The Committee will hear all such objec-

- tions and will give due opportunity to

all such interested persons to' produce

"wevidence in respect of their conten-

"tion. After bearing the parties it will

'5 @ither grant permission to the applicant

«-toumine the ground water subject to

_ such conditions as may be_ prescribed

¢ ashe, pA by. it or it may reject the application.

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(g)

(h)

– (i)

(j)

~ (k)

(1)

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

The Committee will have the power to
Stop the extraction of ground | water

‘by any unauthorised person.

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

: mm

The Committee may also take cognizance of any dispute pertaining to any tube wells/surface wells/karezes ‘n- ding before any Revenue Office: s.

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

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

(m) While issuing permit the Committee

will ensure that the extraction of water by a permit holder does not cause depletion of perennial stream or any other . perennial. source of water.

(n) The decision of the District Weer

(e)

Committee on an application submitted
to it for extraction of ground water

_ Will be governed by the decision of.

the majority of the members.

_Any person aggrieved of any order of

the District Water Committee "may
file an appeal before the Commissioner |
of the Division within a period of 30
days. a :

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“ Functions. of
* Water District
Committee.

Offences and
penalties.

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The provincial Water Board shall have
the power to call for the record of any
case relating to the Water rights pending

' either before the District Water Committee

or the Commissioner, to examine and

' Satisfy itself as to the regularity, pro-

(1)

(a)

(b)

(c).

prietary and legality of these proceedings. It may set aside any of the order
and quash the proceedings if it considers that any material irregularity has
occurred so as to occasion a miscarriage
to justice.

The District Water Committees shall be
responsible:—

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

To issue water permits to various water
users; and

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

(1) Any person contravening any of the

provisions of this Ordinance shall be punished with imprisonment of either, description for a term which may extend

-. to one year or with fine or both:

(2)

(3)

(4)

The offence under the Ordinance shall be bailable.

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

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

Rule making.

STATEMENT OF OBJECTS AND REASONS.

8

7. The Government may make rules to carry out the-purpose of this Ordinance.

21.3.1978. Mr. Justice Mir Khuda Bakhsh Marri,
om Governor Baluchistan.

—

Fakhruddin H. Shaikh,
Law Secretary.

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There is no law in Baluchistan regulating the use of water of tube wells/open surface wells. w<:hin the vicinity of Karezes. In some areas of Baluchistan there was a Riway that no weil should be allowed to be dug within. the distance of 250 yards of the first well of karez in case of soft lands and 500 yards of the stony lands. There are certain areas in Baluchistan where most of the cultivators depend on the Karezes for their livelihood. Hydreligical conditions in Baluchistan

_are not uniform through out the province like Indus

Plain. The ground water reserviors also very from place to place. It is, therefore, not advisable to provide a uniform policy forthe entire Baluchistan for regula-ting the use of ground water: Areas having ground water resources are to be indentified and declared as designated Ground Water Basins for which a law should be framed with aview to ensuring the maximum utiliza-tion of ground water resources. Hencethis Ordinance.