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COMMENTS & RESPONSES TO THE “WATER RESOURCES MANAGEMENT AND REGULATION ACT, 202[]”

For the project
Climate-Resilient Water Sector in Grenada
(G-CREWS)

Date: 31 August 2022

“Water Resources Management and Regulation Act, 202[]”

Background information

The project “Climate-Resilient Water Sector in Grenada – G-CREWS” supports the Grenadian Government in improving its Water Resources Management. An important instrument in this context is the establishment of a Water Resources Management Unit (WRMU).

The G-CREWS project is jointly financed by the Green Climate Fund (GCF) and the German Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (BMU) under its International Climate Initiative (IKI), and the Government of Grenada. Over 6 years (2019-2025), the Government of Grenada, the Grenada Development Bank and the National Water and Sewerage Authority (NAWASA) in partnership with the German Development Corporation (GIZ) will implement the project’s five components. The overall envisioned impact of the project is a ***better water supply services, especially in times of drought and after extreme weather events.***

Under the project’s component 1 “Climate-Resilient Water Governance” the Water Resources Management Unit shall be established and empowered. The establishment of the Unit is in line with Grenada’s “National Water Policy (2020)”, the “National Climate Change Adaptation Plan (2017)” and the “Grenada Integrated Water Resources Management Plan (2019)”.

The WRMU will be responsible for managing Grenada’s water resources by:

- ensuring that the management of water resources are environmentally sustainable, economically efficient and equitably allocated for use
- improving the reliability of water availability
- making the national economy more resilient to climate change through well-established rules for the use of water
- improving water resources management which can contribute significantly to increased production and productivity within economic sectors.

The **“Water Resources Management and Regulation Act, 202[]”** will be the legal framework for the WRMU to operate. It is structured in six chapters.

1. Introduction
2. Water Resources Management And Administration
3. Water Quantity And Water Quality Management
4. Abstraction of Water
5. Water And Waste Control Areas And Permits
6. Appeals

The detailed final draft version of the Act can be found under the following link: <https://climatefinance.gov.gd/embedded-pdf/water-resources-management-and-regulation-bill/>

Comments and answers on the draft version of the “Water Resources Management and Regulation Act, 2021”

No.	Reference to clause	Comment/ Question	Response
1.	No specific reference	this bill proposes that the of water Resources be regulated as a good for sale.	There is no provision in the Bill which states this. On the contrary, the Bill establishes an institutional framework to provide for the sustainable management, conservation, controlled allocation, development, use and regulation of the water resources, as stated in the long title of the Bill. It adopts the principles elements of the Water Policy of Grenada, which is to, provide for a separation of the functions of the management of the water resources and the management and provisions of water services, both of which are currently carried out by NAWASA. It then seeks to regulate, in detail, the abstraction of water for use, thereby building and improving on what currently pertains in existing legislation.
2.	No specific reference	I shocked to see that water is being treated as a good for sale and not a resource.	As no specific reference has been provided for review, it is unclear how this opinion was derived. Reference is nevertheless drawn to the Clause 4 (Statement of Policy) whereby it is declared to be the policy of the Government to ensure the orderly and co-ordinated development of the use of the State’s water resources and the conservation and protection of the water resources of the State for the benefit of present and future generations. Following, the entire scheme of the Bill provides for the proper administration and management of the water resources. See also Clause 5 which provides for the fundamental principles that ought to guide the interpretation and application of the provisions of the Bill. The Bill then goes on further in Clause 7 to establish the Water Recourses Management and Regulation Unit with sufficient independence and autonomy to effectively carry out its functions. The functions of the Unit are provided for under clause 10 of the Bill, which includes the promotion and adoption of a dynamic, gender sensitive, integrated, participatory and multi-dimensional

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			<p>approach to the management of water resources, including human, land environmental and socio-economic considerations.</p>
3.	No specific reference	<p>Nothing in the bill suggests management of the resource and I can see the heavy hand if nawasa claiming that no water will be private but I will like to remind nawasa that while the state owns the resources that the people make decisions for the state not nawasa.</p>	<p>This is incorrect. The Bill by virtue of Clause 12, vests the property in, and the right to, the use and flow of all water, at any time, in the State (which is defined to mean Grenada, Carriacou and Petite Martinique), except only in so far as private rights have been established under abstraction licences and permits granted in accordance with the provisions of the Bill. Neither the management nor the right to, the use and flow of all water will vest in NAWASA. This reflects a fundamental shift in the policy of the Government as currently, pursuant to section 11 of the NAWASA Act, the right of use to everybody of water is currently vested in NAWASA. Pursuant to the new policy direction, NAWASA will have a right to take water for their functions, subject however to the provisions of the Bill. See the provisions relating to the repeal and replacement of section 11 of the NAWASA Act under the NAWASA Amendment Bill, which provides as follows-</p> <p>“(1) Subject to subsection (2) and section 11 of the Water Resources Management and Regulation Act, all existing rights of the Authority to use, abstract, manage and control the flow of water are hereby saved upon the terms of their grant or other lawful authority under which they are held.</p> <p>(2) Upon the date of commencement of this Act and subject to the provisions of the Water Resources Management and Regulation Act, the Unit shall enter into a service agreement with the Authority, for the use or control of any body of water by the Authority in the executing of its functions under this Act.</p> <p>(3) Any issues or disputes which arise between the Unit and the Authority, in relation to any terms of the service agreement, shall be referred to the Commission and the Commission shall seek to resolve same in accordance with the powers conferred on it under the Public Utilities Regulatory Commission Act.”.</p>

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			<p>This reflects a paradigm shift in the current policy and is keeping with international best practices and international obligations of Grenada, Carriacou and Petite Martinique.</p>
4.	No specific reference	<p>I don't see any of the real work of a water Resources Management authority in the bill only climate change nonsense. Let me clear I am professional doing work in climate change adaptation.</p>	<p>This observation is not accurate. First of all, the Bill was drafted pursuant to the provisions of the National Water Policy of Grenada. (See page 12 of the National Water Policy.) Second, Clause 10 of the Bill sets out the functions of the Unit which include, <i>inter alia</i>, advising the Minister on matters of policy relating to the management of the water resources, identifying and protecting potential sources of water, conserving, protecting and preserving the water resources, taking into account climate change and the challenges posed thereby, planning for and ensuring the sustainable and rational utilization and management of water resources based on the needs of the public and priorities within the framework of national economic development policies, the provision of access to water resources of acceptable quantity and quality, preparing of master plans, protecting and controlling the quality and quantity of water resources and advising on water related emergencies. In addition to the foregoing, the Bill provides for the protection of gathering grounds, (Clause 14), the declaration of water management areas (Clause 19) and regulates the abstraction of water. These functions reflect, in addition to the Water Policy, international best practices which have been mirrored in precedent legislation. (See for example, sections 6, 7 and 8 of the Water Resources Management Act of Zambia, Sections 4 and 14 of the National Integrated Water Resources Act of Belize, Sections 3 and 7 of the Water Resources Act of Namibia, Sections 4, 5 and 16 of the Water Resources Management Act of Tanzania and sections 3, 4, 6, 7, 8 and 9 of the Water and Sewerage Act of Saint Lucia). It is also to be noted that it is the clear policy initiative of the Government to develop a climate resilient water sector. One of the mandates of this Project, was</p>

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			to conduct a thorough review of the relevant policies, plans and other documents related to the management of the State's water resources. These included; the National Water Policy and the National Climate Change Adaptation Plan (NAP).
5.	<p>2. Interpretation</p> <p>„abstract “means the process by which water in its natural environment may be artificially removed through a manmade structure or through the process of changing the flow of the water from its usual course to another course;</p>	This definition could be replaced with the term "Appurtenant Undertaking": meaning undertakings also involving the use of waters and deposit of waste into waters. In this way, alterations in the chemical, physical, and biological constituents of waters will also be captured.	The term “abstract” seeks to define the process of taking water from any natural source for various uses and is the term used in the Bill. What is the rationale for change, especially in light of Part V of the Bill which provides for the granting of permits for the uses specified in the proposed definition? In any event, this is a policy decision that must be taken by the instructing Ministry but I will advise that I see no need for a change, in light of the fact that the deposit of waste etc, is dealt with pursuant to a permit system under Part V of the Bill as aforementioned.
6.	“abstraction licence” “abstraction licence” means an abstraction licence granted pursuant to section 32;	This definition could be limited to just "Licence". Further, shouldn't there be different types of licences based on some threshold?	The response above is also applicable to this comment.
7.	Footnote ¹ <i>The Consultant has removed the need to provide for a regulatory regime for the delivery of water supply and sewerage services, as the policy decision has been taken, as per the most recent drafting instructions set out in the Report and Matrix submitted, for NAWASA to continue to be the sole supplier of potable water and sewerage services. which refers to “An Act...”</i>	The regulation should not exclude NAWASA as NAWASA is just a user as any other entity and should be applying for a licence just withdraw water for their respective treatment plan and/or deposit waste into water. Given that NAWASA is the main user of water in Grenada and its objective is to withdraw as much water a possible, how is excluding NAWASA from the regulations going to protect our water resources? What is the point of	NAWASA also needs to apply for an abstraction license. The footnote refers to the fact that NAWASA shall remain the sole supplier of potable water and sewerage service as per current setting. [This comment is accurate, in addition by virtue of the repeal and replacement of Clause 11 of the NAWASA Act, highlighted above, it is provided that NAWASA is to enter into a service agreement with the Unit for the control of any body of water by the Authority for the purpose of execution of its functions. The contents of said agreement will be dictated by policy and may include fees . In addition, NAWASA is not excluded from any obligation to protect the water resources in the carrying out of its function. The amendment to Section 7 of the NAWASA Act provides that NAWASA must carry out its functions to

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		<p>having regulations to protect water resources that exclude the main user of water? Further, excluding NAWASA from the regulations could present potential conflict in terms of enforcement and management water resources, especially in the downstream environment.</p>	<p>supply water and sewerage services, having due regard to provisions of the Water Resources, Management and Regulation Act.</p>
8.	<p>“abstraction licensee” means a person who holds a valid abstraction licence granted pursuant to this Act;</p>	<p>This definition could be limited to just "Licensee"</p>	<p>The purpose of the term is to define that the purpose of the licence is for abstraction? In any event, if the term “ licence” or “licensee” is used, it will have to be defined in the context of its use in the Bill, which is for abstraction.</p>
9.	<p>“allocation” means the quantity of water set aside for a specific purpose or that for which an abstraction licensee or permit holder is entitled to take or use for a particular purpose, as specified in the abstraction licence or permit;</p>	<p>The definition of Licence, which should include licence types would make this definition irrelevant.</p>	<p>See comments above. I do not agree that the use of the term “licence” will make this definition irrelevant. Words and terms are defined in an Interpretation Clause to provide clarity of its use in the Bill to the reader. Said term is used in Clause 5 of the Bill and cannot be replaced with the word “licence “or “licensee”</p>
10.	<p>“applicant” means a person who makes an application for an abstraction licence or a permit under this Act;</p>	<p>This should be amended to reflect the comments above.</p>	<p>The comments above refer.</p>
11.	<p>“aquifer” means a geological structure or formation or an artificial landfill permeated or capable of being permeated permanently or intermittently with water;</p>	<p>This definition seems a bit odd, especially the "artificial landfill" component of it?</p>	<p>This is a technical issue and as such the technical experts in the instructing Ministry need to address this. What I can advise is that this seems to be a standard definition of the term as used in other precedent legislation. The comment therefore needs to go further and explain what is odd about the term so that the technical experts in the</p>

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			ministry may address it. The phrase however seems to take on its ordinary meaning.
12.	“dispose” includes transfer, destroy, sell, abandon or dismantle;	The abandon or dismantle components of this could be problematic in terms of enforcement	This term is used in clause 22 of the Bill. It has nothing to do with enforcement. The use of the word “abandon” is clear in this context.
13.	“effluent” means waste water or fluid of domestic, agricultural or industrial trade or other origin, treated or untreated and discharged directly or indirectly into a water source;	his definition may need to be broaden to include gaseous and solid waste since such categories of waste could also have an impact on water resources.	This is a policy issue which needs to be determined by the technical experts in the instructing Ministry. If these terms are added, they will need to be defined.
14.	“environmental flow” means the water provided within a water resource to maintain ecosystems and their benefits, where there are competing users and where flows are regulated by means of waterworks or management constraints;	This definition seems confusing and may need to tweaked.	More information is needed from the writer as to the reason why the definition needs tweaking. Environmental flows, also known as instream flows or instream flow needs, are a measure of the amount and quality of water flowing in a freshwater stream or river over time. This measure is based on how well the overall water flow supports and sustains a freshwater ecosystem and the life (including humans) that depends on it.
15.	“pollution” in relation to water means any direct or indirect alteration of the physical, thermal, chemical or biological properties of water so as to make it (a) less fit for any biological purpose for which it is or may reasonably be expected to be used; or (b) harmful or potentially harmful to –	This is an all-encompassing definition so why it is not reflected in the relevant definitions above?	Clarity is required In relation to this comment. The term is defined to offer guidance regarding the manner in which it is used in Clause 22 of the Bill.

No.	Reference to clause	Comment/ Question	Response
	(i) the welfare, health and safety of human beings; (ii) any aquatic or non-aquatic life or property or the environment;		
16.	“water” means water in its natural state, including (a) water flowing or situated upon the surface of any land; (b) water flowing or contained in any natural course for water or any lake or spring, whether or not it has been altered or artificially improved; (c) estuarine or coastal water; (d) groundwater; (e) rainwater; and	It is unclear whether the definition of water include just freshwater?	One could make that assumption based on the fact that the definition speaks to water contained by waterworks and the manner in which “waterworks” is defined in the NAWASA Act. Therefore, the technical experts in the instructing Ministry need to advise as to whether there is an intention for the Bill to apply to treated water. This may have been an overlap from the original policy when the Bill also provided for the regulation of water supply. It is agreed that clarity is therefore sought in this regard. In relation to the manner in which the term is used in the Bill, it may be necessary to have the definition extend beyond freshwater.
17.	(f) water contained by waterworks acquired, constructed, improved or operated for the purposes of providing a water supply service;	This definition needs to be more specific in that a waterworks is more than a withdrawal point and regulation's jurisdiction cannot in principle fully be applied beyond the withdrawal point.	
18.	“water resource” includes “watercourse” includes all rivers, streams, ditches, gullies, culverts, dykes and passages through which water flows, whether on the surface or underground, except water mains and sewers;	This definition seems to suggest that the whole island is a water course . Is this the intent of the definition?	A watercourse is any topographic feature on, or over which water flows at least periodically. The word is used in clause 42 (2) and seeks to provide for protection of all watercourses, in regulating the discharge of waste. This is a positive policy decision.

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19.	<p>3. Objects of Act</p> <p>(2) In order to achieve the objective, set out in subsection (1), suitable institutions, with appropriate stakes and gender representation shall be established.</p>	<p>What does gender has to do with this? One would think that "stakes" covered that already?</p> <p>Maybe short people, midget, religion and whatever else should be added too?</p>	<p>Please refer to the following, which is taken from Grenada National water Policy, page 9 under the heading "Gender Equality and Water"-</p> <p>Further, the Global Water Partnership's Gender Strategy (GWP, 2014) in addressing the role of women in participatory water governance, states: 'Gender roles do not only determine how women and men are affected by the way water resources are developed and managed; gender roles also determine how and what women can contribute to achieving universal access and to managing the resource sustainably, both in their individual capacity and as a Major Group in society.'</p> <p>Grenada's gender policy environment, in respect of the GEPAP 2014-2024, has been mentioned above."</p> <p>See the policy plan below-</p> <p>Gender Equality Policy and Action Plan 2014-2024 (GEPAP) (GoG, 2014) – the overall goal of which is to promote gender equality, equity, social justice and sustainable development in Grenada. Under the key national development area 'climate change, natural disasters and natural resource management', the GEPAP indicates that: 'Despite the fact that many aspects of the economy all have gender dimensions, e.g., water management, waste management, land management, renewable energy, clean transportation, and 'green' buildings, discussions on gender equality are relatively absent from policy-making, planning and development programmes on these issues.'</p> <p>This is found on pages 4 and 5 of the National Water Policy. If the legislation is to reflect the policy, which accords with international best practices, appropriate gender representation must be addressed. This provision seeks to provide for this.</p>

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20.	<p>5. Fundamental Principles governing the management of water resources</p> <p>(1) In addition to the Statement of Policy specified under section 4, the provisions of this Act shall be interpreted and be reasonably and fairly applied in a manner that is consistent with and promotes the following fundamental principle</p> <p>(c) the environment is a water user and shall enjoy second priority of allocation use to the human need;</p>	<p>This principle seems counter to the what this regulation is attempting to promote in that the environment is responsible for producing the water in the first place?</p>	<p>In all of the jurisdictions that have established these principles in legislation, human need takes precedence over the environment. However, this paragraph is not to be read in a vacuum. See paragraphs (a), (e), (g), (i); and j of said provision.</p>
21.	<p>(d) there shall be equitable access to water by every person, in support of a healthy and productive life;</p>	<p>How can this principle be guaranteed when a several external factors naturally runs counter to this?</p>	<p>This is a policy question. Nothing In this provision however provides for guarantees. The chapeau to this clause reads as follows-</p> <p>“ In addition to the Statement of Policy specified under section 4, the provisions of this Act shall be interpreted and be reasonably and fairly applied in a manner that is consistent with and promotes the following principles. The instructing Ministry may wish to consider the following re-wording of the subclause to read as follows, in light of the concern raised-</p> <p>“ best efforts shall be used to ensure that all persons have access to an adequate supply of water, in support of a healthy and productive life.”</p>
22.	<p>(f) there shall be no private ownership of water and no authorisation for its use shall be in perpetuity;</p>	<p>How does the regulation address existing sources used for bottled water and historical uncertainties governing water rights in Grenada in the context of this principle?</p>	<p>There has never been private ownership of water. There may, however, be a legal right to its use. Prior to this Bill, the control of every body of water was vested in NAWASA. A person always had and will continue to have by the right to have legal rights over water that has been legally acquired and stored by them, whether by licence, permit or otherwise.</p>

No.	Reference to clause	Comment/ Question	Response
23.	(h) there shall be equity among genders in accessing water resources and, in particular, women shall be empowered and fully participate in issues and decisions relating to the sustainable development of water resources and in the use of water;	What is the purpose of this principle? This has not place in this sort of regulations. This is also redundant with "Principle d"	My earlier comments, in relation to the query reading the incorporation of gender representation in the Bill refers. The provision is not redundant to paragraph (h); it merely seeks to reinforce the policy of the government as highlighted in its Gender Equality and Policy Action Plan.
24.	(i) the water resources of the State shall be managed and controlled sustainably, beneficially, reasonably and equitably for the needs of the present and future generations; and	Redundant with "Principle g" <i>(g) the State shall be the trustee of the country's water resources and shall ensure that water is allocated equitably, and managed and controlled in a sustainable and equitable manner, in the public interest, while promoting economic, environmental and social values;</i>	I agree with this comment. Paragraph (g) is in fact wider in application and should remain. Paragraph (i) can be deleted.
25.	(j) the management and utilization of water resources shall take into account climate change adaptation.	Redundant with "Principle G"	I think climate change adaptation is fundamental and although it may be linked to environmental values, the issue is sufficiently important to stand on its own. This is however not a legal issue and as a result, I will yield to the technocrats.
26.	7. Establishment of Unit 2) The Unit shall be under the portfolio of the ministry responsible for utilities and the Director shall, subject to the provisions of this Act, be the principal advisor to the Government on all matters pertaining to the management of water resources.	This unit should be under the ministry of environment for it to be effective.	This is a policy decision. There is also a new administration and this may be subject to change. The instructing Ministry must therefore advise in this regard.

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27.	<p>9. Commission to have regulatory oversight of the Unit.</p> <p>The Commission is hereby declared to have regulatory oversight of the Unit and, in that regard, shall</p>	<p>This should be under the Ministry of Environment as the Public Service Commission is not equipped to handle this. Section 9 will create an administrative road-block for the Unit.</p>	<p>Please note that “Commission” is defined in Clause 2 of the Bill to mean the Public Utilities Regulatory Commission ; . (PURC) not the Public Service Commission.</p>
28.	<p>10. Functions of the Unit</p> <p>(1) The primary function of the Unit shall be to promote and adopt a dynamic, gender-sensitive, integrated, interactive, participatory and multi-dimensional approach to the management of water resources, which includes human, land, environmental and socio-economic considerations.</p>	<p>What does this "gender-sensitive concept" has nothing to do with water resource management?</p>	<p>Please refer to my earlier comments in relation to this issue.</p>
29.	<p>(6) Where -</p> <p>(a) the Unit reasonably suspects that an abstraction licensee or a permit holder is in breach of any of the provisions of this Act, any Regulations made hereunder, or an abstraction licence or a permit held by an abstraction licensee or permit holder;</p>	<p>This approach is without foundation; procedurally, how can this be justified?</p>	<p>I do not agree that the approach provided for in the law is without foundation. The term “reasonable suspicion’ has a specific meaning in law. It is an objectively justifiable suspicion that is based on facts and circumstances, which have come to the knowledge of the Unit, in this case. It is also used in determining the legality of a decision. The legal standard used to determine reasonable suspicion is also grounded in case law.</p>
30.	<p>the Unit may conduct such investigation as it considers necessary in relation to the abstraction licensee</p>	<p>This seems vague?</p>	<p>The provision may be a bit overreaching due to the fact that issues relating to verification of income would have been considered prior to the granting of a licence. If it is agreed by the instructing Ministry, this provision could be deleted.</p>

No.	Reference to clause	Comment/ Question	Response
	<p>or permit holder and may do any of the following –</p> <p>(D) require the verification of income and all other matters pertinent to an abstraction licence or permit;</p>		
31.	<p>12. State rights in water</p> <p>(2) The right to water may not be acquired by prescription.</p>	This should be in the definition	Nothing is being defined in this provision. The term “prescription” takes on its ordinary meaning in law and as such requires no definition.
32.	<p>PART III</p> <p>WATER QUANTITY AND WATER QUALITY MANAGEMENT</p>	This should not just apply to sewage but to waste deposit that has the potential to impact water.	Waste controls and the permits relating thereto are detailed in Part V of the Bill.
33.	<p>14. Gathering grounds</p> <p>(7) All areas which were declared as catchment areas under the National Water and Sewerage Authority Act shall continue to be catchment areas under the management of the Unit, subject to the provisions of this Act.</p>	<p>If this act it going to recognize protected areas under the National Water and Sewerage Authority Act, which agency will take precedence if conflicting issues arise?</p> <p>Please see the comments immediately above</p>	This is a policy issue. Note however, this Act does not speak to NAWASA in relation to this issue. The Unit as defined in clause 2 of the Bill is the implementing body. Note also that not all protected forests or protected reserves are to be declared gathering grounds, only those areas of land on which water is collected for the purpose of waterworks.
34.	<p>18. Ambient standards, water resource quality and monitoring and pollution control</p> <p>The Unit shall, in collaboration with the appropriate authority -</p> <p>(a) recommend to the Bureau of Standards, ambient water quality standards and ensure that the standards are maintained; and</p>	This should probably refer to criteria or objectives rather than standards? What is the role of the Bureau of standards in this?	This is a policy issue for the technical experts in the instructing Ministry. I however do not think that the terms “criteria” or “objectives” are appropriate in this case.

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35.	<p>19. Declaration of water management area</p> <p>(2) The Minister shall not declare any area as a water management area without giving the owner of any land within the proposed water management area, the opportunity to make representations regarding the need for the water management area, the proposed boundaries of the area or the land use, limitations and prohibitions proposed for the area.</p>	Other stakeholders including the public should be consulted as well	This is a policy issue. However, participation in this process by relevant stakeholders can only be advantageous. If this is agreed, a provision can be added to state that the Unit must consult with the public before making a recommendation to the Minister.
36.	<p>24. Water-related emergencies</p>	Why is significantly diminished quality not considered as an emergency as well?	Wouldn't the words "contamination of a water resource" cover this?
37.	<p>(1) Where the Commission acting on the advice of the Unit, is satisfied that -</p> <p>(b) the flow of water or the level of water in any water storage works in an area has fallen or is likely to fall below the level specified in an abstraction licence;</p>	This item suggest that the regulations could go out side of its provisions.	Further clarity is needed to understand this comment.
38.	<p>28. Application for abstraction licence</p>	Why does this section not include consultation and engagement with affected communities?	This is a policy question. I have however not seen this type of consultation in any of the legislative precedents that I have examined.
39.	<p>(2) An application under subsection (1) shall include -</p>	Contact information for the Applicant should be included.	Agreed, this can be included.

No.	Reference to clause	Comment/ Question	Response
40.	(k) an environmental impact analysis of the proposed abstraction of water on the environment and the existing water users and water resources; and	This needs to include estrangement plans to prevent or minimize impacts	I am not sure what is meant by estrangement plans.
41.	32. Grant and form of abstraction licence (1) An abstraction licence shall be granted on payment of the prescribed abstraction licence fee to the Unit and be in the prescribed form and shall specify	Does this fee include an application fee and a water use fee or both?	No. The prescribed application fee is provided for in 28 (1). This fee refers to the fee to be paid on the granting of an abstraction licence.
42.	10. Functions of the Unit	Noted there was no mention of the Unit being involved in development projects particularly in assisting with ESIA (e.g., for hotels). The Unit may offer unique perspective as it relates to the identification of water related risks, source vulnerability as it relates to potable water demands, etc.	This is a policy issue that may be worthy of consideration for inclusion.
43.	14. Gathering grounds	The state already has control of the watershed, under the National Water and Sewage Authority Act, given the mountainous terrain of the island could this lead to possibly overreach by the state	All the functions to deal with the management of water resources are being removed from NAWASA in light of the policy decision taken by the government to separate the regulation and management of water resources from the management and supply of water and sewerage services. As a result of this, it is proposed to repeal Part VII of the NAWASA Act, which deals with this issue.

No.	Reference to clause	Comment/ Question	Response
		with infinite claims to private property	
44.	<p>22. Pollution of water resources</p> <p>(1) A person who discharges or disposes of –</p> <p>(a) any organic or inorganic matter, including water containing such matter into a water resource, whether directly or indirectly or through drainage or seepage, so as to cause pollution of the water resource; or</p> <p>(b) any effluent or waste water, which has been produced by, or results from, the use of water for any purpose, into a water resource, whether directly or indirectly or through drainage or seepage;</p> <p>commits an offence and shall be liable on summary conviction before a Magistrate to a fine not exceeding [] or to imprisonment for a term not exceeding [].</p>	<p>(1) Section (a) & (b) are extremely vague.</p> <p>Loosely interpreted household wastewater can be determined be pollution (although there is no communal wastewater treatment facility) and persons can be defined for the discharge of their household wastewater without having alternatives for discharge.</p> <p>This definition relies heavily on the discretion of the inspector/ unit member.</p> <p>Suggestion: Specify effluent type, that is untreated or treated; Limit to industrial, commercial (apartment complexes should be covered), agricultural specifically disregarding household usage.</p>	<p>This is a policy issue that needs to be considered and determined by the technical experts in the instructing Ministry.</p>
45.	<p>23.Steps to control or prevent water pollution</p> <p>(1) Where the Unit, after consultation with the appropriate authority, is satisfied that the activities of any person may lead or give rise to, the</p>	<p>(1) Section (b) & (e) address testing and monitoring but the specific reference standard for conformity is not stated.</p>	<p>This is a technical issue that needs to be addressed by the technical experts in the instructing Ministry.</p> <p>The comment above refers.</p>

No.	Reference to clause	Comment/ Question	Response
	<p>pollution of a water resource, the Director may, by notice in writing, order the person to take such measures, within a specified period as may be directed in the circumstances, including all or any of the following -</p> <p>(b) the installation of devices to test and monitor the quality and quantity of gases, liquids or solids in any water, effluent or wastewater;</p> <p>(e) the testing or monitoring of any water, effluent or wastewater and the submission to the Unit, of the results of such testing and monitoring;</p>	<p>Would this be GDS 79:2006 or will there be a new standard?</p> <p>Suggestion: Will be tested to ensure conformity referenced in [] national standard.</p>	
	<p>26. Requirement for abstraction licence</p>	<p>(1) We'd like clarification on whether this applies to the harvesting of rainwater on commercial/ manufacturing sites for reuse at the facilities (e.g., washing of vehicles) and if it would apply to existing structures.</p>	<p>No, it does not.</p>
<p>46.</p>		<p>Subsistence Farming mentioned and defined on pages 8 and 10 – <i>I suggest a certain acreage amount be attached to it.</i> It's definition is too broad as there are some</p>	<p>This term is used in the context of the definition of “domestic use” which speaks to usage for a residence and subsistence gathering in connection with a household. The specification of acreage will therefore lead to confusion in this regard, especially since the definition clearly excludes use for commercial purposes.</p>
<p>47.</p>	<p>Spelling error</p>	<p>Petite Martinique</p>	<p>Noted.</p>
<p>48.</p>	<p>4. Statement of Policy</p>	<p>Instead of the word - promote a national policy. Can the minister <i>“recommend a national</i></p>	<p>Policy is developed by Ministries and are based on decisions taken by the Minister, subject to the approval of the Cabinet. In this case, the word “promote” is the correct term to be used.</p>

No.	Reference to clause	Comment/ Question	Response
	<p>(2) The Minister shall, in keeping with the policy requirements under subsection</p> <p>(1) –</p> <p>(a) promote a national policy for the provision of water in the State and ensure the effective execution of that policy by the entities responsible thereof;</p>	<p><i>policy / encourage / call for a national policy for the provision.....”</i></p>	
49.	<p>13. Preparation of Master Plan</p> <p>(6) If the Commission is satisfied with the draft Master Plan, the Commission shall –</p> <p>(c) cause a notice to be published in at least one newspaper in weekly circulation in the State stating that the approved Master Plan is available to the general public for inspection at the Unit, on payment of the prescribed fee.</p>	<p>Publication in at least one newspaper in weekly circulation. I suggest the number of times be included – <i>“at least one newspaper in 3 consecutive weekly circulation”</i></p>	<p>This is a policy decision. If agreed, the words “for three consecutive weeks” can be added after the word “circulation”.</p>
50.	<p>22. Pollution of water resources</p> <p>(1) A person who discharges or disposes of –</p> <p>(b) any effluent or waste water, which has been produced by, or results from, the use of water for any purpose, into a water resource, whether directly or indirectly or through drainage or seepage;</p>	<p>summary conviction...not exceeding <i>XCD \$20,000.00</i> or to imprisonment for a term not exceeding <i>one (1) year</i>.</p>	<p>The fine or imprisonment is a cabinet decision. Determination of fines is a matter of policy and the instructing Ministry must be guided by the provisions of the interpretation Act and the current penalties on the statute books, in providing guidance to the Cabinet.</p>

No.	Reference to clause	Comment/ Question	Response
	commits an offence and shall be liable on summary conviction before a Magistrate to a fine not exceeding [] or to imprisonment for a term not exceeding [].		
51.	(3) In addition to any penalty imposed under subsection (1), the court may order a person convicted to – (c) pay compensation for any damage caused.	replace damage with “ <i>damages</i> ”. FYI - Damages are awarded by the court	The term “damage” is the correct term used in both instances. The provision cannot be drafted to say that the court will award damages and leave it to inference. What the provision has done is to provide a context for the compensation.
52.	23. Steps to control or prevent water pollution (3) In addition to the penalty imposed under subsection (2), the court may order the person concerned to – (c) pay compensation for any damage caused.	replace damage with “ <i>damages</i> ”.	The comment above refers.
53.	(4) A person who is aggrieved by a requirement to take any measures under subsection (1) may appeal to the [Minister] [Commission], within thirty days of the directive of the Unit.	remove minister. The appeal should be made to the commission [PURC] as they are the ones who have regulatory oversight of the unit. Thereafter if the grievance is not resolved or dealt with it can either be submitted to the Grievance Redress Mechanism or Appeals Tribunal or sent to the Minister.	It is a decision by the Cabinet if the appeal will be made to the [Minister] or the [Commission]. This is a policy decision.
54.	24. Water-related emergencies	<i>a fine not exceeding XCD\$20,000.00 or to imprisonment</i>	The fine or imprisonment is a Cabinet decision.

No.	Reference to clause	Comment/ Question	Response
	(4) A person who contravenes a provision of an Order made pursuant to sub-section (2) (b), (c) or (d) commits an offence and shall on summary conviction before a Magistrate be liable to a fine not exceeding [] or to imprisonment for a term not exceeding [].	<i>for a term not exceeding two (2) years</i>	See earlier comment made in relation to the settling of fines.
55.	28. Application for abstraction licence	<i>suggestion is to have the expiration of the licence for a period of 3 years at least, with a possible discounted renewal fee. 1 year is too much of a limited time. Similar sentiments are shared for Section 44 – Permit as of right</i>	I believe this comment ought to refer to clause 27 of the Bill. I don't agree with the extension of this period to three years. This is not in keeping with best practice as seen in other legislation. A period of one year ought to be sufficient to allow a licensee to comply with the requirements for licencing under the Bill. This is however a policy decision.
56.	29. Recommendation by Unit (2) The Unit may, within fourteen days of the receipt of an application, request additional information from the applicant for the purpose of considering the application. (3) Where the Unit makes a request for information pursuant to subsection (2), the applicant shall submit that information within fourteen days of the request or within a further period of time granted and specified in writing by the Unit.	Are we referring to business days or regular days. <i>I suggest Including "business" days</i>	Section 51 of the Interpretation Act speaks to "excluded day", which is defined as Sundays and Bank holidays. Said days are only excluded if the period of time for computation does not exceed six days. There is therefore no need for such inclusion

No.	Reference to clause	Comment/ Question	Response
57.	32. Grant and form of abstraction licence (6) The charges to determined pursuant to subsection (5) shall also be guided by public consultation with the relevant stakeholders.	Clause 6 – ?? when is this consultation carded for, after the set up of the unit. <i>I suggest a timeframe be given</i>	This need not be included in the legislation. Please also note Clause 1 (2) of the Bill, which provides for different days to be appointed by the Minister in respect of different Parts or provisions of the Act.
58.	34. Validity of abstraction licence Subject to sections 27 and 37 an abstraction licence shall be valid for the period specified therein.	a time frame should be placed. <i>Suggestion to that of clause 28 only for the people who were abstracting water prior to the setting up of the unit/bill. Others should have their licence for one year+</i>	The comment above in relation this issue refers.
59.	37. Review, amendment, suspension and revocation of abstraction licence (6) The Unit shall, upon receipt of a notice referred to in subsection (3), cause an inspection to be carried out, within fifteen days of the receipt of the notice and, if, upon inspection, the Unit is satisfied that the breach has been remedied, the Unit shall withdraw the notice of suspension.	what happens if the applicant did not fully satisfy the requirements of the inspection. <i>Is there another timeframe by which the unit can perform another inspection.</i>	The abstraction licence should be suspended. The abstraction licensee will have been given time, by virtue of subclause (3) to remedy the breach.
60.	(9) An abstraction licensee who fails to return an abstraction licence that has been revoked under this section, to the Unit, commits an offence and shall on summary conviction before a Magistrate, be liable to a fine not	<i>a fine not exceeding XCD \$10,000.00 or to imprisonment for a term not exceeding one (1) year</i>	The fine or imprisonment is a Cabinet decision. The comment above in relation to penalties refers.

No.	Reference to clause	Comment/ Question	Response
	exceeding [] or to imprisonment for a term not exceeding [].		
61.	41. Water Control Area (1) Where on the advice of the Unit, the Commission is satisfied that the regulating of water use or classes of use of water in any area is necessary in the public interest, the Commission shall, by order published in the Gazette and at least one newspaper in weekly circulation in the State, declare the area as a water control area.	I suggest the number of times be included – <i>“at least one newspaper in 3 consecutive weekly circulation”</i>	This was dealt with earlier and a proposal for amendment was made.
62.	43. Requirement for permit (2) A person who contravenes subsection (1) commits an offence and shall on summary conviction before a Magistrate be liable a fine not exceeding [] or to imprisonment for a term not exceeding [].	a fine not exceeding <i>XCD \$20,000.00</i> or to imprisonment for a term not exceeding <i>one (1) year.</i>	The fine or imprisonment is a Cabinet decision. The comment in relation to penalties made earlier, refers.
63.	9. Commission to have regulatory oversight of the Unit (e) provide advice to the Director on matters related to the management of water resources; and	Paragraph (e) can be deleted. Given what is written in Paragraph (b) and Paragraph (f), Paragraph (e) is redundant in my opinion.	It is agreed that paragraph (e) can be deleted in light of paragraph (b).
64.	14 Gathering grounds (6) All areas which were declared to be protected areas under the National Water and Sewerage	Subsections (6) and (7): Why can't areas which were declared to be protected areas or catchment areas under the NAWASA Act be	It is the policy that NAWASA will no longer be responsible for the management of water resources and will only have responsibility for the management of water supply and sewerage services. As a result, the responsibility for the declaration and protection of defined areas

No.	Reference to clause	Comment/ Question	Response
	<p>Authority Act, shall continue to be protected areas under the management of the Unit, subject to the provisions of this Act.</p> <p>(7) All areas which were declared as catchment areas under the National Water and Sewerage Authority Act shall continue to be catchment areas under the management of the Unit, subject to the provisions of this Act.</p>	<p>simply declared gathering grounds under this Act under the management of the Unit?</p>	<p>around gathering grounds now rests with the Unit, which was established for the management of water resources. As a consequence, the NAWASA Act was amended to provide for this. If there is now a shift in policy, guidance and further instructions will need to be given.</p>
65.	<p>23. Steps to control or prevent water pollution</p> <p>(1) Where the Unit, after consultation with the appropriate authority, is satisfied that the activities of any person may lead or give rise to, the pollution of a water resource, the Director may, by notice in writing, order the person to take such measures, within a specified period as may be directed in the circumstances, including all or any of the following</p> <p>(e) the testing or monitoring of any water, effluent or wastewater and the submission to the Unit, of the results of such testing and monitoring;</p>	<p>Subsection 1, Paragraph (e): I think that the Unit should independently conduct the testing or monitoring.</p>	<p>This is a policy decision and must be dealt with by the technocrats in the instructing ministry.</p>

No.	Reference to clause	Comment/ Question	Response
66.	<p>32. Grant and form of abstraction licence</p> <p>(6) The charges to determined pursuant to subsection (5) shall also be guided by public consultation with the relevant stakeholders.</p>	<p>Subsection (6): Insert the word “be” before the word “determined” .</p>	<p>Noted and agreed.</p>
67.	<p>35. Breaches by abstraction licensee</p> <p>(ii) requesting the abstraction licensee to compensate the Government or any person aggrieved for any foreseeable damages caused by the breach within a specific time period; or</p>	<p>Paragraph (a) (ii): Delete the word “or” after “period;” .</p>	<p>The use of “or” is correct and ought not to be deleted. However, The words commencing from “ the Unit” in paragraph (b) to the end of the provision must be pushed back to margin so that it refers to both paragraphs (a) and (b) and not be read solely as part of paragraph (b).</p>
68.	<p>37. Review, amendment, suspension and revocation of abstraction licence</p> <p>(c) the abstraction licensee notifies the Unit, in writing that the abstraction licensee intends to cease operations for which an abstraction licensed has been granted, for the period stated in the notice</p>	<p>Subsection (2), Paragraph (c): “...for which an abstraction licensed has been...” Replace the word “licensed” with the word “licence” .</p>	<p>Noted and agreed.</p>
69.	<p>37. Review, amendment, suspension and revocation of abstraction licence</p> <p>(6) The Unit shall, upon receipt of a notice referred to in subsection (3),</p>	<p>Subsection (6): “The Unit shall, upon receipt...in subsection (3)...” This should read “The Unit shall, upon receipt...in subsection (5)...” .</p>	<p>Noted and agreed.</p>

No.	Reference to clause	Comment/ Question	Response
70.	41. Water Control Area	I think that Section 41 should be combined with Sections 19, 20 and 21 and we either use the term Water Management Area or Water Control Area. I don't see any significant difference between what Section 41 on the one hand and Sections 19-21 on the other hand are seeking to achieve.	Water control Areas and waste control areas are dealt with in the same part as they fall under the permit regime. See clause 43 of the Bill and for reference to a precedent legislation, see sections 23, 24 and 25 of the Water and Sewerage Act of Saint Lucia which adopts the same scheme as the Bill.
71.	41. Application for permit (1) Subject to subsection (2), a person may in the prescribed form apply to the Minister, through the Unit, for a permit to – (a) abstract or use water in a water control area; or	Subsection (1) (a): Shouldn't an application for a permit be just for the use of the water resource, for example in the case of a company providing river tubing services? If a person wants to abstract then the person should apply for an abstraction licence in accordance with Section 28.	This is a technical issue to be considered by the technical experts in the instructing ministry. It is to be noted however, that the same requirement exists in the St. Lucia legislation. See section of the Water and Sewerage Act of Saint Lucia.
72.	48. No recommendation or notice for permit (1) If no recommendation is made by the Unit within the period specified in section 46 (5), or if no notification is given by the Minister to the applicant within the 14-day period specified in section 46 (3), the applicant shall have the right to make a case before the Unit and the Unit shall hear the case,	Section 48, Subsection (1): “...within the 14 day period specified in section 46 (3),...” This should read “...within the 14 day period specified in section 47 (1),...” .	Agreed and noted.

No.	Reference to clause	Comment/ Question	Response
	following an application made by the applicant		