

WATER AND WATER RESOURCES LAW.

LAO P.D.R.

UNOFFICIAL TRANSLATION

BY

ADB TA 1764-LAO (SRIDP).

Unofficial translation by ADB TA 1764-LAO.

Lao Peoples Democratic Republic.

Peace, Independence, Democracy, Unity, Prosperity.

No 106.

Presidential Statement

concerning the Use of Water and Water Resource Law.

Based on the Constitution of Lao PDR, item No 1 of article 53 under Group V;

Based on the resolutions of the Ninth Regular Parliament Meeting concerning the endorsement of the Water and Water Resource Law Act as per letter No 005 dated October 11, 1996;

Based on the proposal made by permanent Representatives of Parliament as per letter No 08 dated October 16, 1996;

The President of Lao Peoples Democratic Republic has issued as:

Article 1 - To announce the adoption of the Water and Water Resource Law.

Article 2 - This statement is effective from the date shown below.

Nouhak PHOUMSAVANH.
The President.

Vientiane, November 2, 1996.

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Lao Peoples Democratic Republic.

Peace, Independence, Democracy, Unity, Prosperity.

Parliament House

No 05.

Endorsement of the Parliament of the Water and Water Resource Law.

Based on Article No 40, item 2 of the Constitution and based on Article No 2, item 2 of the Constitution Law of the Lao Peoples Democratic Republic.

Based on the proposal made by HE Kham Ouane BOUPHA, Minister, Ministry of Justice, Lao Peoples Democratic Republic;

After a long and in-depth study of the proposed Law, the Ninth Regular Meeting of the 111 Parliamentarians in the afternoon session of October 11, 1996,

AGREED

Article 1 - To unanimously endorse the Water and Water Resources Law.

Article 2 - The endorsement is to be effective from the date set out below.

Samane VINHAKET.
Parliamentary Chairman.

Vientiane, October 11, 1996.

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WATER AND WATER RESOURCE LAW.

GROUP I - GENERAL PROVISIONS.

Article 1 - The Role of the Water and Water Resources Law.

The Water and Water Resources Law provides Principles, Regulations and Measures governing the Management, Exploitation, Development and Use of Water and Water Resources within Lao PDR; with the aim to protect and sustain Water Resources and Water particularly with regard to the assurance of water in sufficient quantity and of sufficient quality to satisfy the national needs in terms of domestic, agricultural, industrial uses and the uses of other sectors in such manner as to protect the Natural Environment.

Article 2 - Water and Water Resource.

For the purpose of this Act, Water is defined as the natural liquid substance which is the basic element of Water Resources. Water Resources are natural resources, living and non-living, which are in the water and include aquatic weeds, sand, gravel, fish, minerals, etc.

Article 3 - Water Sources and Basins.

A Water Source occurs when water is collected or stored, or where there is a natural movement, either permanent or temporary. Water Sources may be on the ground surface, underground or in the atmosphere.

Surface Water is a water source on the ground surface in a continuous line or at a specific location, such as rivers, streams, swamps, reservoirs or ponds.

Underground Water is the water source located under the ground in strata, in layers, in bulk or mixed with the soil.

Atmospheric Water is the water source located in the atmosphere as cloud, rain snow, fog, etc.

A River Basin is the land and forest from the upstream reach of the river to the effluent of that river where all rain water falling within its boundary will tend to flow towards the effluent of the river, as a water resource system.

Article 4 - Ownership of Water Resource and Water.

Water Resources and Water are the property of the people of Lao PDR as a whole. The Government acts on behalf of the people to manage and to evenly and equitably share the uses of the water. Individuals and organisations will have the right to use the water for specific purposes only when authorisation is given by the concerned authority, except for use of a minor nature, as indicated in this Law hereafter.

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Article 5 - Promotion, Development and Protection of Water and Water Resources.

The Government promotes the Exploitation, Use, Preservation and Protection of Water and Water Resources and the control of related harmful effects.

Article 6 - Basic Principles in Water and Water Resource Management and Use.

Water and Water Resource management and use must follow the principals of national planning, and the planing cycle, as set out in Article 22 of this Law.

Article 7 - Duty to Preserve Water and Water Resource.

In order to preserve and to use Water and Water Resources in the most effective way, individuals, organisations and communities have a responsibility to strictly obey the Water and Water Resources management and use Regulations.

GROUP II - WATER RESOURCE AND RIVER BASINS SURVEY, REGISTRATION AND CLASSIFICATION.

Article 8 - Survey and Registration.

The Ministry of Agriculture and Forestry is directly responsible for the survey and inventory of Water Resources and River Basins, nation wide, in collaboration with relevant agencies and local authorities.

Article 9 - Water Resources Classification.

To assist National Planning in Lao PDR, Water Resources are to be classified as follows:

- (i). Drinking Water and Domestic Water Sources are sources of water to be specifically reserved for human consumption and use.
- (ii). Reserved Water Sources are sources of water reserved for natural wild life and other living creatures, including activities related to environmental protection.
- (iii). Water Sources for Irrigation are sources of water for Agriculture, Forestry and Livestock production.
- (iv). Water Sources for Hydropower are sources of water for hydropower production.
- (v). Water Sources for Industry are sources of water for industrial use.
- (vi). Water Sources for Water Communication are sources of water for water transport and navigation.
- (viii). Water Resources for Recreation are sources of water for recreation.
- (ix). Water Resources for Health and Hygiene are sources of water for health and hygiene.

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Article 10 - Types of River Basins.

River Basins are classified into three types:

- (i). Main River Basin, is the Basin of the Mekong River, within Lao territory.
- (ii). Tributary River Basin is the Basin of the Tributary River of the Mekong, or other river in Lao territory.
- (iii). Small Basins are the Basins of Water Resources that flow into Mekong tributaries and other rivers.

The organisation stated under Article 8 of this Law is responsible for classifying and defining boundaries of these River Basins.

Article 11 - Water Resource and River Basin Planning.

The planning of Water Resources and River basins must be based on surveys undertaken and data collected. This is to ensure that water and water resources are managed in the most effective way and in accordance with priorities and targets.

Article 12 - Water Resource and Water Distribution.

The Government will determine the distribution of Water and Water Resources in order that they will be equitably and sustainably shared and that targets may be met.

GROUP III - USES OF WATER AND WATER RESOURCES.

Article 13 - Purpose of the Utilisation of Water and Water Resources.

Water and Water Resources may be legally used for different purposes such as: family domestic use; irrigation; fishery; agricultural production; livestock; hydropower; industrial production; navigation; sport; recreation; cultural; medicinal; etc.

For Hydropower and Irrigation, there will be specific Regulations for Uses.

Water Resources may also be available for multi-purpose use as appropriate.

The use of underground water must be reserved for drinking purposes and its use for medium and large scale activities must receive prior authorisation by the responsible organisation.

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Article 14 - The Right to the use of Water and Water Resources.

Individuals, communities and organisations have the Right to use Water and Water Resources for family domestic or business purposes.

The Right to use Water and Water Resources are classified into Small Scale Right to Use, Medium Scale Right to Use and Large Scale Right to Use.

The Rights to use Water and water Resources must be in accordance with National Water Resource Planning.

Article 15 - Small Scale Use.

The following purposes are considered Small Scale Use:

- * family domestic use and community requirement, cultural use and sport.
- * fishing, fisheries and for other water life.
- * soil, sand gravel, aquatic weeds which are situated in, or nearby the Water Resource.
- * basic agriculture, forestry and livestock production needs of the family.

The above Small Scale Use will always be permitted except where there are restrictions by concerned Ministries or Local Authorities.

Article 16 - Medium Scale Use.

The following purposes are considered Medium Scale Use:

- * small weir or dam across, or to change the direction of flow of, a stream; a rock wall, dyke to be used as a roadway or reservoir for irrigation or hydropower generation, livestock or fisheries.
- * extraction of sand, gravel, soil, minerals, trees or aquatic weeds which are situated in or near the water resource and which will create minor harmful effects to the existing natural environment.
- * small scale pump installations to pump water for agricultural use other than for production for family consumption.
- * tourism, sport and culture.

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Article 17 - Large Scale Use.

The following purposes are considered Large Scale Use:

- * medium and large scale reservoirs for irrigation, domestic water supply and hydropower generation.
- * installation of structures, industrial plant, workshops, other large equipment within the Water Resource zone; or across or nearby a Water Resource.
- * the use of a high quantity of water for industrial production or processing.

Article 18 - Operational Systems for Use of Water.

Small Scale Users need not seek permission for use. The Medium Scale User and Large Scale User must seek and receive permission and the use of the resource must be registered. In the case of Large Scale Use, a feasibility study including an environmental impact study, sociological study and overall plan must be submitted with adequate solutions to any defined problems before the use of the resource is allowed.

Article 19 - Water and Water Resource Management.

Management of Water and Water Resources will be centrally controlled as follows:

Permits for Large Scale Use will be issued by the Government. Permits for Medium Scale Use may be issued by the ministry concerned, except where the use is considered important, then it must be issued by the Government.

Management, monitoring and control of Water and Water Resources use are the responsibility of concerned sectoral agencies and local authorities.

GROUP IV - WATER RESOURCE DEVELOPMENT AND MANAGEMENT.

Article 20 - Water Resource Development Schemes.

Water Resource Development Schemes are those related to construction, exploitation, installation, improvement, extension, rehabilitation of catchment, ponds, underground works, ditches, dikes or pipe works, storage of water on the surface, underground or in the atmosphere for any purpose as stated in Article 13 of this Law, including flood, drought and erosion protection schemes.

Article 21 - Water Resource Development Activities.

Except in the case of Small Scale Use, individuals or organisations may not initiate any development works unless Right to Use has been authorised by the concerned organisations.

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Article 22 - Principles in Water Resource Development Management.

Principles to be adopted are as follows:

- (i). development must be in accordance with the National Social, Economic and Environmental Master Plan; Sector Development Plans and the Implementation Plan of each National Program.
- (ii). development must ensure the preservation of Water and Water Resources, Nature, the Environment and Scenic Beauty of the countryside.
- (iii). development must be undertaken in such way as to provide protection from the harmful effects of water.
- (iv). development must be controlled by the relevant organisation responsible for Water and Water Resources.

Article 23 - Management of Water Resource Development Schemes.

Government organisations responsible for Water and Water Resource Management will issue regulations concerning water resource development. Individuals and organisations undertaking Water Resource Development Activities must properly maintain work in good order and safe condition. Individuals and organisations benefitting from any Water Resource Development must contribute to the operation and maintenance of these schemes.

Article 24 - Funds for Watershed and Water Resource Protection.

Developers of Water Resources must contribute funds for Watershed and Water Resource protection.

Article 25 - Promotion of Watershed and Water Resource Protection for Hydropower Development.

The Government will encourage the use of water sources for large, medium and small scale Hydropower Generation wherever suitable. Water sources must be used to their full potential, and where possible, hydropower development should be planned to provide other benefits. Planning should be comprehensive, covering the whole river basin. Hydropower projects must be developed with due concern for environmental protection, flood protection, water supply, irrigation, navigation, fisheries and others.

Article 26 - Encouragement of Reservoir Development for Agricultural Purposes.

The Government encourages the development of reservoirs for Agriculture, Forestry and Livestock production. Local authorities have the responsibility to promote and support these activities through the provision of credit facilities, exemption of taxes, etc.

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Article 27 - Change of Direction of Flow.

In medium scale Water Resources Development, the change of direction of flow must only follow the approval of Government. For large scale Water Resources Development, change of direction of flow must also be approved by the National Parliament.

Article 28 - Human Resettlement.

If Water Resources Development requires Human Resettlement, the developer or project must make adequate arrangements and funding for such resettlement.

GROUP V - WATER AND WATER RESOURCE PROTECTION.

Article 29 - Water and Water Resource Protection.

Individuals and organisations are required to protect Water and Water Resources from drying up or becoming spoilt or polluted. Water and Water Resources must be used in the most economical way and in such way as not to adversely effect the environment or scenic beauty of the countryside. Furthermore, forest and land resources within the watershed must be protected in accordance with Water Resource, Forest and Land Allocation Plans. In order to preserve the water resource, the Government will reserve areas and determine protection procedures for all water resources.

Article 30 - Water and Water Resource Protected Zones.

The Government will determine Water and Water Resources Protected Zones to ensure adequate supplies of water of sufficient quality to serve the drinking and domestic needs of people in both urban and rural areas. Protected Zones shall be delineated with boundary fencing. No development including building, agriculture, industry, extraction of rock, sand or minerals nor cemeteries will be allowed within the Protected Zone. The discharge of wastewater and the dumping of garbage, chemicals, mine tailings or any harmful material will not be allowed within the Protected Zone.

In the event that the quality and quantity of water available for human consumption is threatened, the Government will extend the area of the Protected Zone and add additional protective measures.

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Article 31 - Restrictions.

In order to protect Water and Water Resources in the most effective manner, individuals and organisations are not allowed to undertake the following activities adjacent to Water Resources:

- * exploit, use or destroy Water or Water Resources.
- * cut trees.
- * excavate, clear or undertake land levelling which will create erosion.
- * dump materials which will adversely effect, or pollute, the Water Resource.

Except where authorised, it is not permitted to undertake the following activities adjacent to Water Resources:

- * to construct any building.
- * to extract sand, gravel or rock.
- * to excavate drainage lines, modify or change public swampy areas and ponds including the property of individuals where such change may adversely effect the public.
- * to obstruct the flow of water in natural water sources or navigational ways.
- * to change the direction of flow, construct dikes, install gates or excavate medium or large drains.

As well as the above restrictions the Government must promote Tree Planting and Reforestation in Protected Zones.

Article 32 - Water Quality Standards.

The Government will control the standard of Waste Water to be discharged to water resources and elsewhere.

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GROUP VI - RIGHT OF WAY.

Article 33 - Right of Way.

Water must be allowed to follow its natural course.

Article 34 - Natural Right of Way.

Land owners must allow the natural flow of water to proceed downstream, unhindered. If the natural flow of water is obstructed, the land owner creating the obstruction will be responsible for all resultant loss to upstream or downstream land owners who are adversely effected by the obstruction.

Article 35 - Legal Right of Way.

Individuals or organisations having obtained a permit to develop a Water Resource shall have the right to convey all types of water, including waste water, by pipe or trench through land owned by other individuals or organisations provided there is no harm or loss to these other land owner(s). Where harm or loss does occur, the developer will compensate the other land owner(s).

Article 36 - Rights of Land Owners.

Where water passes through, or adjacent to, the land of another owner, that owner shall have the right to the use of the water. That land owner shall also contribute to the cost of construction, and operations and maintenance.

Article 37 - Government Rights.

Government organisations managing Water and Water Resources have the right to instal equipment, construct structures or reticulate electricity, necessary for water distribution or control of water quality, on, or across, the land of another land owner. The other land owner(s) will be duly compensated for any loss or harm done.

Article 38 - Resolution of Disputes.

Disputes will be resolved by the mediation of Local Authorities. If agreement, at this level cannot be reached, the dispute will be referred to the Court.

GROUP VII HARMFUL EFFECTS, CONTROL AND PROTECTION OF WATER.

Article 39 - Harmful Effects of Water.

Harmful effects of water includes flood damage, damage by rising and falling river levels, saline intrusion, waste water pollution, lack of water, sedimentation and erosion

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Article 40 - Flood Protection.

Relevant authorities at all levels must take a lead role and use effective measures to control flooding and protect from subsequent damage in accordance with the overall National Plan. During flash floods or any emergency, local authorities will make decisions necessary to reduce the damage and loss.

To control and protect against floods, all levels of all authorities have the right to requisition materials, labour and Government budget, and the mobilisation of organisations and individuals. Once the flood situation has passed, all equipment will be returned to the owners and payment will be duly made to compensate for any loss or damage.

All elements of government authorities and the community must cooperate in the control of flooding and prevention and reduction of subsequent damage.

Article 41 - Erosion and Protection.

Relevant Government agencies at all levels are responsible, and must take all practical measures, for the control and protection of erosion by water. Activities such as construction work; logging; mining of minerals; extraction of sand or gravel; and speeding boats, that are likely to cause erosion, are prohibited.

Additionally, in order to effectively control erosion, all relevant Government agencies at all levels must have plans for erosion protection structures and must initiate tree planting programs and take other suitable measures along river banks.

Article 42 - Waste Water Protection.

Waste Water is previously used water which may be reused after treatment. Polluted Water is Waste Water containing dirty or contaminated substances which cause the water to be a danger to the environment. All individuals and organisations must observe the regulations concerning the control of polluted water.

Activities likely to damage Water Resources, the environment or quality of human life are prohibited. The discharge of water or dumping of waste into a water source is prohibited if such discharge or dumping will lower the quality of the water source.

Waste water from industries, factories, abattoirs and hospitals must be treated prior to discharge to water sources.

The public has a responsibility to report prohibited discharge or dumping of waste water, or other waste, to relevant Government agencies.

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Article 43 - Monitoring and Checking.

In order to protect Water and Water Resources and the Environment, avoiding adverse effects and loss of life or property relevant Government agencies must regularly monitor and check the following:

- * Standard, quality and quantity of water as determined.
- * Proper use of Water and Water Resources in accordance with defined types and operational systems.
- * That development is executed in accordance with National Socio-Economic and Environmental planning and to the Water Resource Allocation Plan.
- * That regulations and other provisions under the Water Law are followed.

Additionally, a Foundation for Water and Water Resources Protection should be established.

GROUP VIII INTERNATIONAL COOPERATION ON THE USES, MANAGEMENT AND DEVELOPMENT OF WATER AND WATER RESOURCES.

Article 44 - Development and Management of International Water and Water Resources.

Exploitation, use, management, protection and sustainable development of international Water and Water Resources must be in accordance with International Laws or agreements among countries. The uses and preservation of international water sources and water resources must respect each others equality, independence, authority and integrity.

Article 45 - Dispute Resolution for International Water and Water Resources.

Disputes relating to the exploitation, use, management and protection of international Water and Water Resources between Lao PDR and neighboring countries will be resolved by the Government of Lao PDR and the government of the respective country on the basis of friendship, using diplomatic avenues according to international agreement.

GROUP IX INCENTIVES AND PENALTIES.

Article 46 - Incentives for Individuals and Organisations upholding the Water Law.

Individuals and organisations successfully protecting, developing, exploiting, using and preserving Water and Water Resources within the Water Law and protecting the Environment with the most effective results and in accordance with the National Economic Plan, the Water Sources Allocation Plan and the Preservation and Protection of the Environment Plan, will be awarded with felicitations and other incentives to be determined by the Government from time to time.

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Article 47 - Penalties.

Individuals or organisations offending, under the provision of this Water Law will be educated, fined and imprisoned according to the seriousness of the case. In case individuals or organisations are found to be guilty, under criminal law, all equipment and vehicles used in the offence will be seized by the Government and construction work will be demolished and removed.

GROUP X FINAL PROVISIONS.

Article 48 - Responsible Organisations.

The Government of Lao PDR is authorised to issue detailed regulations related to this Water Law in order to make it effective.

Article 49 - Effectiveness.

This Water Law will become effective ninety days after the official Presidential announcement and previous regulations and provisions in conflict with this Water Law are canceled from that date.

Vientiane, 11 October, 1996.
National Parliament Chairman.

Samane VINHAKET.