



MALTA RESOURCES AUTHORITY

Decision of the Authority of the 18 December 2015 on closures of groundwater sources

Background

During the groundwater metering process, a number of users have indicated that their groundwater source had been blocked and been so recorded in the Authority's records. Some of these users have supported their claim with a statement by an architect. In a few cases, the site of the borehole was built upon or tarmacked over.

The definition of 'blocked' by the users in this context is rather vague. It may mean that the borehole wall is collapsed, that dumped material (eg stuck pumps) prevent access through to the water level, or that the borehole has been concreted over and sealed.

Dangers of abandoned boreholes

- An unsealed borehole that's no longer in use leaves groundwater directly open to contaminants such as farm chemicals, fuels and waste water tanks. This often can have knock-on effects it opens up pathways / conduits for contaminant water movement in some cases from perched aquifers to mean sea level aquifer.
- Abandoned boreholes can also contribute to the loss and wastage of water. This negatively impacts aquifer yield and water pressure, effecting water usage for other users in the area.
- Large diameter boreholes or wells (spejjer) can also be potential risk to small children and livestock.

The current specifications used by the Authority are to fill 4m above water level with a permeable material and the rest of the borehole or well backfilled with low permeability material (concrete) that will prevent significant vertical or horizontal movement of groundwater through or along the borehole.

Legal position

Regulation 15 of the Groundwater abstraction (metering) regulations issued by LN 241 of 2010 of the 27 April 2010 states:

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15. (1) When the user of a groundwater source intends to close, seal and decommission a groundwater source, he shall submit an application in writing to the Authority for its approval in the form and manner as the Authority may require and together with this application there shall be paid an application fee as established in the Schedule:

Provided that no works to close, seal and decommission a groundwater source shall be carried out until the approval for such works is obtained in writing from the Authority.

(2) Any person who carries out any such works referred to in sub-regulation (1) or causes such works to be carried out, without the prior approval of the Authority, shall be guilty of an offence and shall, on conviction be liable to:

(a) imprisonment for not more than eighteen months, or to a fine (multa) of not less than ten thousand euro and not more than fifty thousand euro; or

(b) to a fine (multa) of not more than one thousand three hundred euro for each day during which the offence persists.

(3) Any works carried out in terms of sub-regulation (1) shall be carried out at the expense of the user and shall be carried out under the supervision of the Corporation or its contractor:

Provided that the user shall not be relieved of his liability for the payment of any annual metering fee due, until the date of closure, sealing and decommissioning of such groundwater source.

(4) The costs incurred by the Authority and, or the Corporation associated with the supervision of the sealing and decommissioning of groundwater sources shall be recovered from the user of the source to be sealed and decommissioned.

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Decision

Given that borehole sealing or blocking is generally irreversible, the following administrative process shall apply.

- A. For boreholes sealing accepted on or before the 18 December 2015¹ and recorded as blocked by the MRA in good faith on the basis of a statement by an architect confirming the status of the borehole, no further action shall be taken. Where a statement by the architect is absent, position B will be adopted.
- B. The MRA will accept, as a way forward:
 1. For boreholes blocked before 27 April 2010, a certificate by a *perit* that the borehole was permanently blocked before the 27 April 2010 (ie before the Groundwater abstraction (metering) regulations were published). The certificate should:
 - i. describe the method that was used to close the borehole in so far as possible; and
 - ii. confirm that the borehole cannot be re-activated using hand-held tools (such as jackhammers).
 2. For boreholes blocked on or after the 27 April 2010, and for boreholes that have been blocked before the 27 April 2010 and which can be reactivated using hand-held tools:
 - a. If the borehole is not permanently sealed and is still (partially) accessible, an application to seal and decommission the groundwater source would be required.

¹ Date of this decision

Following approval, the borehole would then be sealed using our method statement in so far as possible.

- b. If the borehole is not accessible any longer, we will proceed to either:
 - i. Impose an administrative fine of €500²; or
 - ii. Failing acceptance of the applicant to pay the administrative fine, report the applicant to the police for action to be taken in line with Regulation 15(2).
- c. No penalties are due when the sources blocked due to expropriation.
3. The procedure as specified in the Regulations applies in all cases where the borehole is not yet sealed. The recovery of additional costs described in Regulation 15(4) apply in all cases.

As approved by the Malta Resources Authority on 18 December 2015

² In line with Article 31 of the Malta Resources Act (Cap. 423)