



▲ *The sea area identified for sea encroachment must have its specific location, area, boundaries, coordinates in accordance with legislations on survey and mapping*

Handling the difference between settled costs of sea encroachment and costs of sea encroachment that have been included in total development costs when identifying specific land prices in case of applying the residual method (hereinafter referred to as the difference) is as follows:

- In case settled costs of sea encroachment are smaller than costs of sea encroachment included in total development costs, the investor must pay the difference;

- In case settled costs of sea encroachment are greater than costs of sea encroachment included in total development costs, the difference will be included in costs of the sea encroachment investment project or investment project with sea encroachment items.

ISSUANCE OF CERTIFICATES OF LAND USE RIGHTS, OWNERSHIP OF HOUSES AND OTHER ASSETS ATTACHED TO LAND

For land areas that are not part of the sea encroachment area, after the investor has fulfilled financial obligations on land, a Certificate of land use rights, ownership of houses and other assets attached to land will be issued.

For land areas formed from sea encroachment activities, the investor of the sea encroachment investment project or the investment project with sea encroachment items has completed financial obligations on land and received a notice of acceptance results of completed sea encroachment according to provisions of Article 8 of this Decree, a Certificate of land use rights, ownership of houses and other assets attached to land will be issued to the investor ■

1. INTRODUCTION

Dead river is a concept that refers to rivers that are heavily polluted and unable to clean themselves, greatly affecting the lives of the community and socio-economic development in the river basin. Currently, three river basins have heavily polluted water environment including: Cau river, Nhue - Day river system, Dong Nai river. If there are no timely pollution treatment measures, in the future, water sources of these rivers cannot be used for production and daily life.

Causes of pollution are the failure to control waste from socio-economic development activities; not doing a good job of wastewater treatment; failure to separate rainwater and domestic wastewater in urban areas; population growth that leads to many consequences causing water pollution. People in riverside areas dump waste directly into the river, clogging the flow and declining river water quality to the point of being unusable. Therefore, improving, restoring, and reviving dead rivers is an urgent need of the community along these dead rivers in particular and of the country in general.

In Ha Noi, a number of projects have been and are being implemented to contribute to improving pollution such as drainage projects to improve the environment in phase 1 and phase 2, including: Renovation of the inner-city drainage system, renovation of the embankments and technical infrastructure along To Lich, Kim Nguu, Lu, Set rivers; renovation and dredging of inner-city lakes; wastewater treatment plants invested and put into operation: Kim Lien, Truc Bach, Bay Mau, Yen So. Although the goal of reviving “dead rivers” including To Lich, Nhue, Day, Tich, Kim Nguu, Lu, Set rivers has been of interest to Ha Noi many years ago through renovation schemes and measures to prevent pollution. However, the pollution level in 7 rivers is slowly improved, affecting the lives of people in the capital city. Currently, the State’s resources to restore “dead rivers” are limited, therefore socialization and mobilization of organizations and individuals to participate in restoring “dead rivers” is necessary and feasible. Recognizing this, the Law on Water Resources (LWR) 2023 stipulates that “organizations and individuals are encouraged to participate in restoring degraded, depleted, and polluted water sources”.



New points in the Law on Water Resources 2023: Encouraging organizations and individuals to participate in restoring “Dead rivers”

Associate Professor. Dr. BÙI CÔNG QUANG, Dr. ĐÀO TRỌNG TÚ
Vietnam National Commission on Irrigation & Drainage

2. PROVISIONS ON SOCIALIZATION OF WATER SOURCE PROTECTION AND DEVELOPMENT

2.1. Provisions on socialization activities in the Law on Water Resources (LWR) 2023

Article 4 of the LWR 2023 clearly states that the State encourages organizations, individuals to participate in baseline survey activities; protect, develop water resources; restore degraded, depleted and polluted water sources; prevent, combat and overcome harmful effects caused by water. Organizations, individuals participating in restoring degraded, depleted, and polluted water sources will enjoy incentives and support according to the provisions of this Law and other relevant legislations (Point e, Clause 1, Article 35 of the LWR 2023).

In addition, the Law also encourages financial institutions to develop green credits, green bonds and financial products to support water resource restoration activities. According to Clause 4, Article 74 of the LWR, organizations, individuals participating in implementing projects with water resource restoration activities are entitled to the following incentives: Incentives, support, tax exemptions and reductions, and fees for water resource exploitation rights; guaranteed by the State to receive investment results; prioritized participation in providing public services ordered by the State; participation in bidding to receive contracts, projects using domestic and foreign capital sources in accordance with operational functions and tasks; organizations, individuals implementing projects in the form of public-private partnerships (PPPs) are guaranteed investment in the form of PPPs.

2.2. Provisions on socialization activities in a number of other legal documents

Currently, socialization is encouraged in many fields. It can be considered an inevitable trend for development and protection of natural resources. Resolution No. 39-NQ/TW dated 15 January 2019 of the Politburo on improving the efficiency of management, exploitation, use and promotion of the economy's resources also clearly identified the importance of diversifying resources and promoting socialization: "...diversify forms of resource mobilization and use; promote socialization and strongly attract non-state investment resources; apply market principles in managing, exploiting and using resources for development; amend, supplement and improve legislations, mechanisms and policies to maximum open up, unlock and improve the efficiency of using existing resources, in accordance with the socialist-

oriented market economy". Accordingly, institutional and policy renovation towards socialization of the water sector is necessary and essential, making an important contribution to the management, protection and development of water resources through mobilizing capital and resources of organizations and individuals, reducing the burden on the State budget and ensuring that water resource policies are implemented effectively and synchronously. Regulate socialization policies to create a legal corridor for organizations, individuals participating in the above activities; develop transparent and clear policies, create favourable and attractive mechanisms and conditions to encourage investors to participate.

According to the Law on Natural Disaster Prevention and Control 2013, amended and supplemented in 2020, Article 5, the State's policy in natural disaster prevention and control stipulates: Encourage organizations, households, individuals to be proactive to implement measures to prevent and control natural disasters; encourage organizations, individuals to invest in construction, research and apply scientific, technological advances in natural disaster prevention and control activities. The State protects the legitimate rights and interests of organizations, individuals participating in natural disaster prevention and control; provides incentives and encourages insurance enterprises to conduct natural disaster risk insurance business; supports enterprises participating in investment in production, business in areas frequently affected by natural disasters according to the provisions of legislations on investment, enterprises and natural disaster prevention and control; supports for corporate income tax exemption and reduction policy for contributions to natural disaster prevention and control.

The Law No. 64/2020/QH14, investment in the form of PPPs stipulates: Investment in the form of PPPs is a form of investment implemented on the basis of time-limited cooperation between the State and private



▲ *To Lich river in Ha Noi*

investors through the signing and implementation of PPP project contracts with the aim to attract private investors to participate in PPP projects. Investment fields, scale and classification of PPP projects are: Irrigation; clean water supply; drainage and wastewater treatment; waste treatment. A PPP project is a collection of proposals related to investment to provide public products and services through the implementation of one or more of the following activities: Constructing, operating, trading infrastructure works and systems; renovating, upgrading, expanding, modernizing, operating, trading existing infrastructure works and systems; operating, trading existing infrastructure works and systems.

The main characteristics of these special partnerships are: (1) common interests between the public and private sectors; (2) reasonable risk allocation; (3) financial sustainability of the project; (4) reduction of the costs of infrastructure projects; (5) better conditions to access capital markets; (6) ensuring early termination of State capital, based on opportunistic criteria, or convenience level; (7) prohibition or limitation of the use of State power. Possible forms of PPPs are: DCM (design-construct-maintain), DCMO (design-construct-maintain-operate), BOO (build-own-operate), BOOT (build-own-operate-transfer), DBFO (design-build-finance-operate). Countries, depending on their actual conditions, apply one or several forms of PPPs.

In particular, the Law on Investment 2020, regarding the form of PPPs, stipulates State policies in irrigation activities (Article 4) such as: Provide tax incentives for organizations and individuals managing and exploiting irrigation works providing public irrigation

products and services according to tax legislations; support organizations and individuals to invest in new construction, repair and upgrade small irrigation systems and in-field irrigation systems, advanced and water-saving irrigation systems, advanced and modern irrigation and drainage systems, wastewater treatment systems for reuse; support organizations and individuals providing irrigation products and services in the case of preventing, combating and overcoming the consequences of drought, water shortage, saltwater intrusion, desertification, floods, waterlogging, etc.

3. INADEQUACIES IN SOCIALIZATION POLICIES RELATED TO WATER RESOURCES

Obviously, through the process of implementing the LWR, the system of legal documents on water resources and related policies shows that it is basically consistent with socio-economic development practices of the country, creating a strong change in the society, raising awareness, responsibility and action of ministries, sectors, localities, organizations, individuals and people on water resource protection. However, in the actual implementation process, some shortcomings and limitations have been revealed such as: There are no specific regulations to implement socialization



policies in fields relating to water resources and environmental protection, irrigation, natural disaster prevention and control. Laws only generally support and prioritize socialization activities, but specifically how to support and prioritize is still unclear. Of course, Laws only provide general and directional information, but there is no Decree or Circular guiding the implementation of these activities. Mobilizing funds from the private sector for construction and upgrading of irrigation works, natural disaster prevention and control, wastewater treatment... still faces many difficulties because there is no attractive financial mechanism. On the other hand, due to not approaching water resource management to serve multiple goals, investment from the State budget is still limited.

Although socialization in the field of water resources has been mentioned in the LWR 2023, basically activities related to water resources are still mainly assigned to state management agencies and use funding from the state budget. Articles 26 and 27 of the Law stipulate that the responsibility for restoring depleted and polluted water sources is belonging to the Ministry of Natural Resources and Environment and the People's Committees of the provinces. However, currently, there is a lack of monitoring information, data on the quantity and quality of water sources, and baseline survey data for state management of water resources and support for decision-making, degradation, depletion, and pollution of rivers are emerging problems that need to be resolved soon and thoroughly...

4. SOLUTIONS TO EFFECTIVELY IMPLEMENT SOCIALIZATION OF THE WATER SECTOR

Firstly, to ensure meeting the requirements for sustainable management, exploitation, use and protection of water resources in the face of the actual conditions of the country's limited resources today and in the next 10 years, especially with the outstanding development of digital technology platforms in the world, it is necessary to have the participation of organizations and individuals with economic resources, human resources, infrastructure, new technology that can meet increasing requirements in water resource governance.

Secondly, it is necessary to clarify a number of concepts related to socialization in water resource management and exploitation, environmental protection, natural disaster prevention and control... in the LWR, Law on Irrigation, Law on Environmental Protection; it is necessary to specifically stipulate what socialization resources include. Socialization content needs to be integrated into activities of water resource management and exploitation, environmental protection, natural disaster prevention and control... Socialization content is not new, many other sectors have applied it successfully such as the Education, Health... therefore, it is necessary to learn and gain experience in implementing socialization activities from these sectors.

Thirdly, when implementing socialization activities in fields related to water resources, environmental protection, natural disaster prevention and control, forest protection... it is necessary to carry out full and transparent accounting.

Fourthly, applying socialization activities requires creativity and learning from international experiences, for example socialization of water environmental protection abroad through the "River contract". River contract is an effective measure to restore, improve and conserve a river through signing contracts between state administrative agencies, water service providers, companies, and associations or other relevant organizations. An important point to emphasize is that the preparatory phase of the river contract involves the collection of all necessary technical information as well as the carrying out of studies, analysis and diagnosis of river basin conditions and problems that may occur.

Water resources provide important resources for humanity, both in terms of life benefits and water environmental value. It has very different characteristics from other natural resources: Water is necessary for life; water obeys hydraulic laws; water is very vulnerable. Therefore, exploiting, using effectively, protecting and developing natural resources is not the same as normal resources. Thus, implementing socialization policies for exploitation, use, protection and development of water resources must pay attention to these characteristics and must be under the management of the State; must comply with the State's water resource development master plans and plans. In particular, all socialization activities in the water sector need to meet the needs of socio-economic development but must be consistent with the socio-economic development master plans and plans of the region and the whole country.

With the change in policy mechanisms on socialization and financing of water resources in the LWR 2023, we hope to mobilize social resources to "join hands" to protect water resources in both quantity and quality, restore "dead rivers", ensure fairness in water exploitation and use for all sectors; improve the level of national water resource security, environmental protection, river ecosystems and cultural values associated with water of the Vietnamese people ■