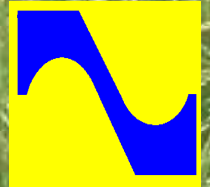


# Related Water Resources Law in Indonesia (brief view)

Under twinning program  
Between JWA and PJT  
August 10, 2005



**JASA TIRTA I & II  
PUBLIC CORPORATION**





# Basic Law

## 1945 Constitution

Water, as a natural resources, shall be controlled by the State and shall be used for the maximum welfare of the people

# Related Water Resources Law

- Law No. 22 of 1999 on Regional Government
- Law No. 23 of 1997 on Environment Management
- Law No. 25 of 1999 on Financial Balance between Central and Local Government
- Law No. 19 of 2003 on State Own Company
- Law No. 7 of 2004 on Water Resources (replaced Law No. 11 of 1974 on Irrigation)

# Related Water Resources Regulation

- Government Regulation No. 6 Of 1981 on Contribution for the Cost of Operation and Maintenance of Water Resources Development Infrastructure
- Government Regulation No. 22 of 1982 on Water Management
- Government Regulation No. 35 of 1991 on River
- Government Regulation No. 93 of 1998 on Perum Jasa Tirta I
- Government Regulation No. 94 of 1998 on Perum Jasa Tirta II
- Government Regulation No. 35 of 2000 on Government finance and province authority as regional autonomous
- Government Regulation No. 77 of 2001 on Irrigation
- Government Regulation No. 82 of 2001 on Water Quality Management and Water Pollution Control



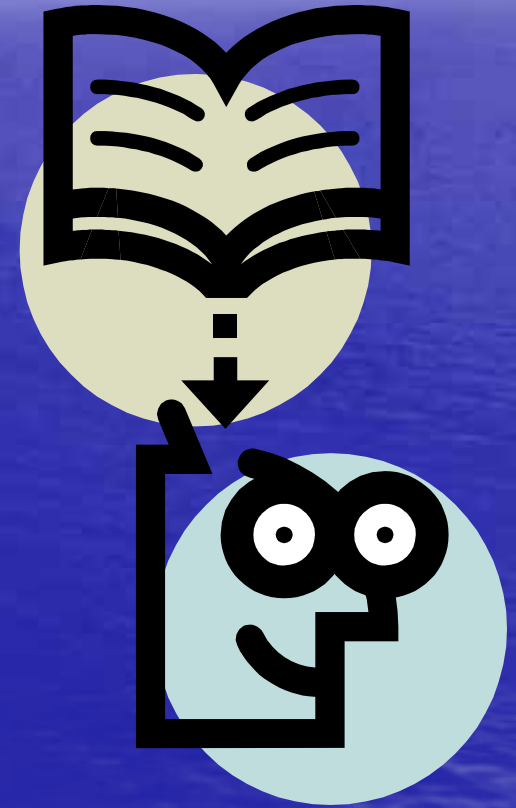
# 1997 - 1998

- Indonesia has undergone an economic and social crisis resulting in political change
- Led to radical reforms in many sector, including the water resources sector



# 1997 - 1998

- Government has conducted de-regulation policy
- One of important de-regulation was concerning of regional administration and fiscal equalization between the central and regional government and redefines the role of government
- Government issued Law No. 22/1999 and Law No. 25/1999



# Law No. 22 of 1999 on Local Government

- The Regional Authority covers authority in all areas of government, except authority in the field of foreign policy, defense and security judiciary, monetary and fiscal matters, religious matters and as well as authority in other fields
- The authority of Province as Autonomous Region shall cover the authority in the field of administration which has cross-regency/city nature
- The authority of Regency/City as Autonomous Region shall cover the authority in the field of administration which has within-regency/city nature

# Debate of Law No. 7 of 2004 on Water Resources

- On February 19<sup>th</sup>, 2004, House of Representative legalized Draft of Water Resources Law
- On March 18<sup>th</sup>, 2004, Government issued Law No. 7 on Water Resources
- On July, 2004, several NGO and people representative requested Constitution Court to conduct judicial review for Law No. 7, addresses issues:
  - Water used right and beneficiary participation
  - Cost recovery, regional authority over basin
  - etc





# Debate of Law No. 7 of 2004 on Water Resources

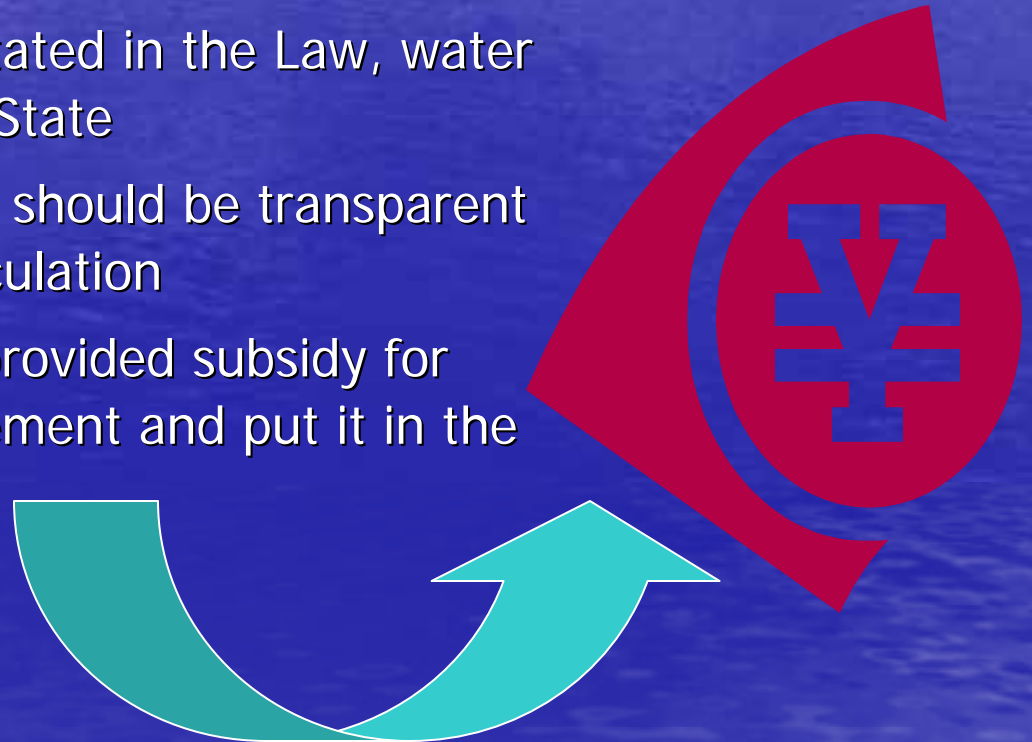
- During November, 2004 – June, 2005, Constitution Court started their activities to make discussion and listened several water resources expert opinion (both Indonesian and foreigner)



- On July 19<sup>th</sup>, 2005, Constitution Court decided to refuse NGO request (with 2 member had dissenting opinion)

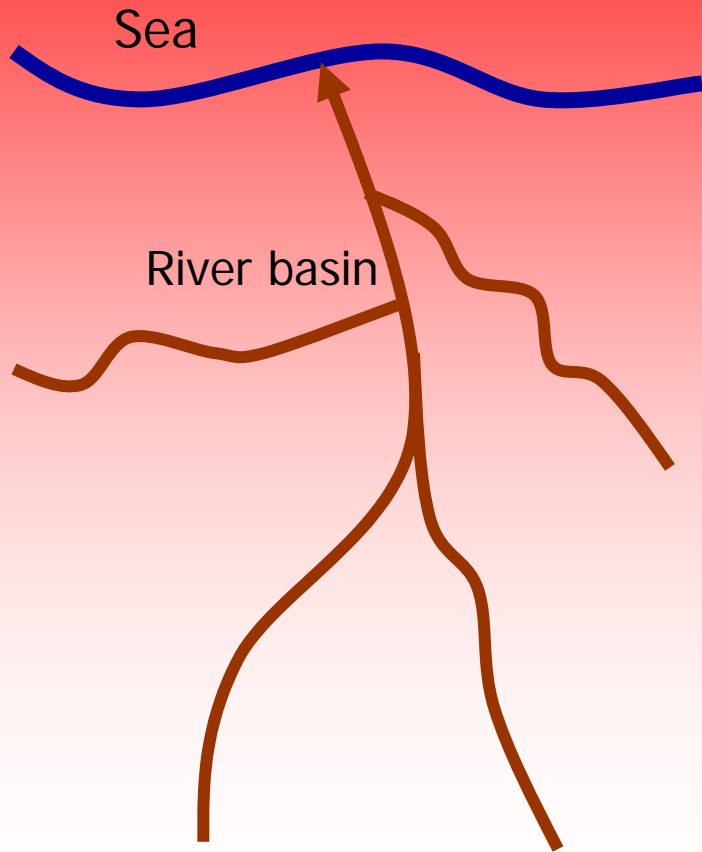
# Debate of Law No. 7 of 2004 on Water Resources

- Opinion of Constitution Court
  - Law No. 7 of 2004 is accordance with 1945 Constitution especially for water use right
  - Despite of private role stated in the Law, water still under controlled by State
  - Management service fee should be transparent and based on actual calculation
  - Government should be provided subsidy for water resources management and put it in the annual budget

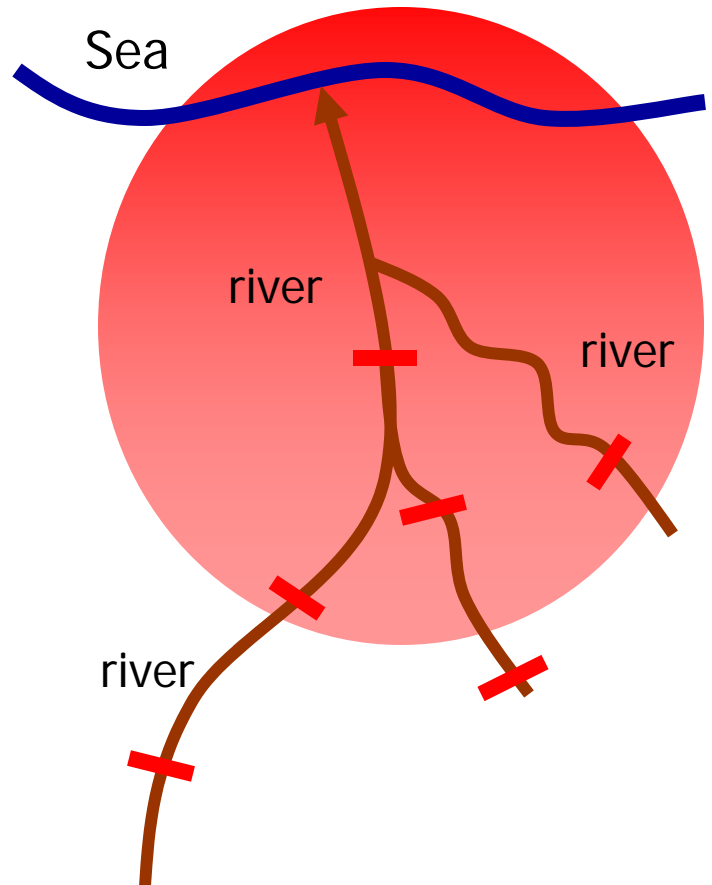




# PJT



# JWA



# Law No. 7 of 2004 on Water Resources

Covered water resources management in a complete and comprehensive manner that consist of water use right, institutional aspects (including distribution of responsibility and authority, coordination, public consultation and involvement), water utilization, water resources conservation, planning, management of irrigation system, water resources information system and financing



# Law No. 7 of 2004 on Water Resources

## Content

- Water resources are a blessing of the One and Only God
- Water resources shall have social, economic and environmental functions and shall be implemented and realized in a balanced manner
- Water resources are controlled by the State
- The State's control is undertaken by the Governments while recognizing and respecting the traditional communities such as the *ulayat* (traditional) right of the local, traditional community and any other similar rights



# Law No. 7 of 2004 on Water Resources

## Content

- Water Resources management covered planning, implementing, monitoring and evaluating of conservation, utilization and water destructive control
- Water Use Right is the right to obtain and use or utilization water an amount (quota) of water
  - users are not required to have permits: to fulfill the basic daily needs of individuals and the people's agriculture activities located within an irrigation system
  - users required to have permits: individual or corporate body who utilization water for outside activities that mentioned above



# Law No. 7 of 2004 on Water Resources Content

- Basic daily needs of individuals and the people's agriculture activities have first priority of water supply
- Water resources utilization shall be considered social function and environmentally sustainability and conducted by water resources state own company (central or regional or both by cooperation)
- Water allocation shall be arranged and determined by Government for the water users
- The volume of allocation determined in this respect is not conclusive and must be in compliance with the volume stated in the permit



# Law No. 7 of 2004 on Water Resources Content

- Water resources development, as part of water resources utilization, purposed for increase water resources function to fulfill raw water needs of household, agriculture, industry, tourism, defense, mining, power, water transportation and others
- Water resources development conducted after
  - Public consultation
  - Survey, investigation and planning process
  - Technical, environment and economical feasibility



# Law No. 7 of 2004 on Water Resources

## Content

- Water resources information system
  - Covered technical condition and social, economic and culture condition
  - Provided and managed by related water resources institution
  - Can be access by all stakeholders
- Empowerment and Controlling
  - Empowerment can be form education & training, research & development and as counterpart
  - Controlling conducted by government with public involvement



# Law No. 7 of 2004 on Water Resources

## Content

- Financing

- Kind of financing covered of information system, planning, construction, operation & maintenance, monitoring, evaluating and public empowerment
- Source from government budget, private budget and revenue from management water service fee
- All water users have to pay management water service fee, except for basic daily needs and agriculture
- The amount of fee based on rational calculation, users economical capability and used volume



# Law No. 7 of 2004 on Water Resources

## Content

- For public service purposed, government (central or regional) can give subsidy of management water service fee for public corporation
- Public Role covered right, responsibilities and role of the public
- Coordination
  - By Water Resources Council (National, Provincial, River Basin, City/Municipality level)



# Law No. 7 of 2004 on Water Resources Management of irrigation system

- Not required to have permit and to pay management water service fee
- Has a first priority of water supply
- Government has authorize and responsibility for irrigation system development of primary and secondary level, in the other side for tertiary level conducted by farmer water user association
- Government has responsibility for financing of irrigation system construction, operation and maintenance of primary and secondary level, in the other side for tertiary level conducted by farmer water user association



# Law No. 7 of 2004 on Water Resources Implementation

- Supported regulation under discussion and process, such as Government Regulation, Presidential Decree, Ministry Regulation etc
- In order to implement water resources law effectively, the supported regulation which will be issued should be clear, integrated and synchronized each others





# Water Sector Activities and responsibilities

Water sector activities and responsibilities	MPW			MoA			MoF			MoME			MoE			MoH		
	Pr	Us	Ot	Pr	Us	Ot	Pr	Us	Ot	Pr	Us	Ot	Pr	Us	Ot	Pr	Us	Ot
Overall water resources and quality management and administration of surface water policy coordination	√	√																
Overall management and guidance of irrigation	√				√	√												
Management of upper watershed area							√		√									
Water use management, power generation and groundwater management											√	√						
Water use management for industry and industrial waste water pollution abatement													√					
Water quality standard management for various water uses																		√

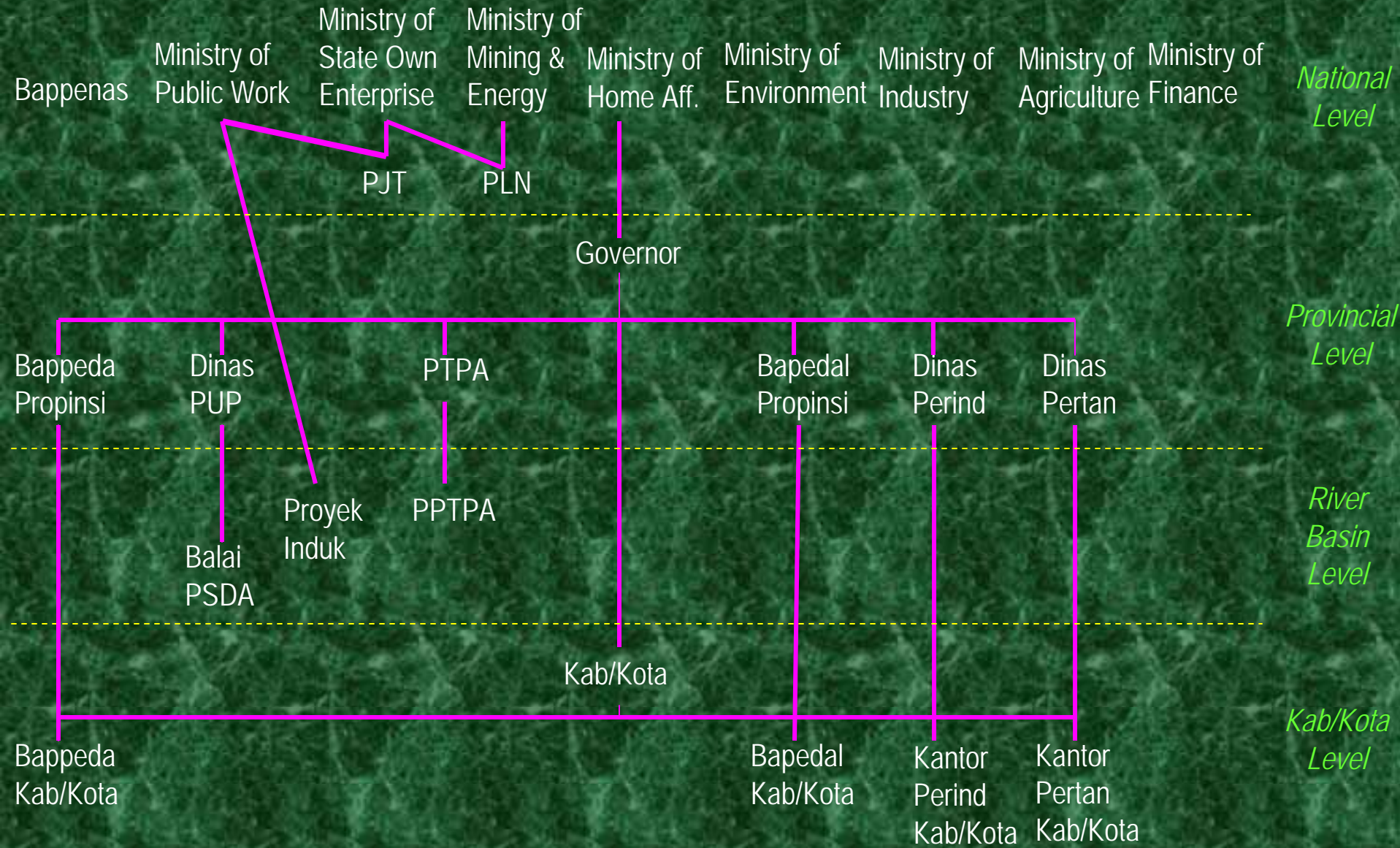
Provider (Pr) = Water resources provider for concerned use

User (Us) = Water resources for related purposes

Other (Ot) = Administration/management supervision



# Outline of related Water Sector Agencies





# Conclusion

- Water, as a natural resources, shall be controlled by the State and shall be used for the maximum welfare of the people
- Government formulated the basis of water resources reform including policy, legal, organizational and financing aspects
- Water Resources Law covered water use right, institutional aspects (including distribution of responsibility and authority, coordination, public consultation and involvement), water utilization, water resources conservation, planning, management of irrigation system, water resources information system and financing
- Water resources for basic daily needs and irrigation have first priority
- In order to implement water resources law effectively, the supported regulation which will be issued should be clear, integrated and synchronized each others



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