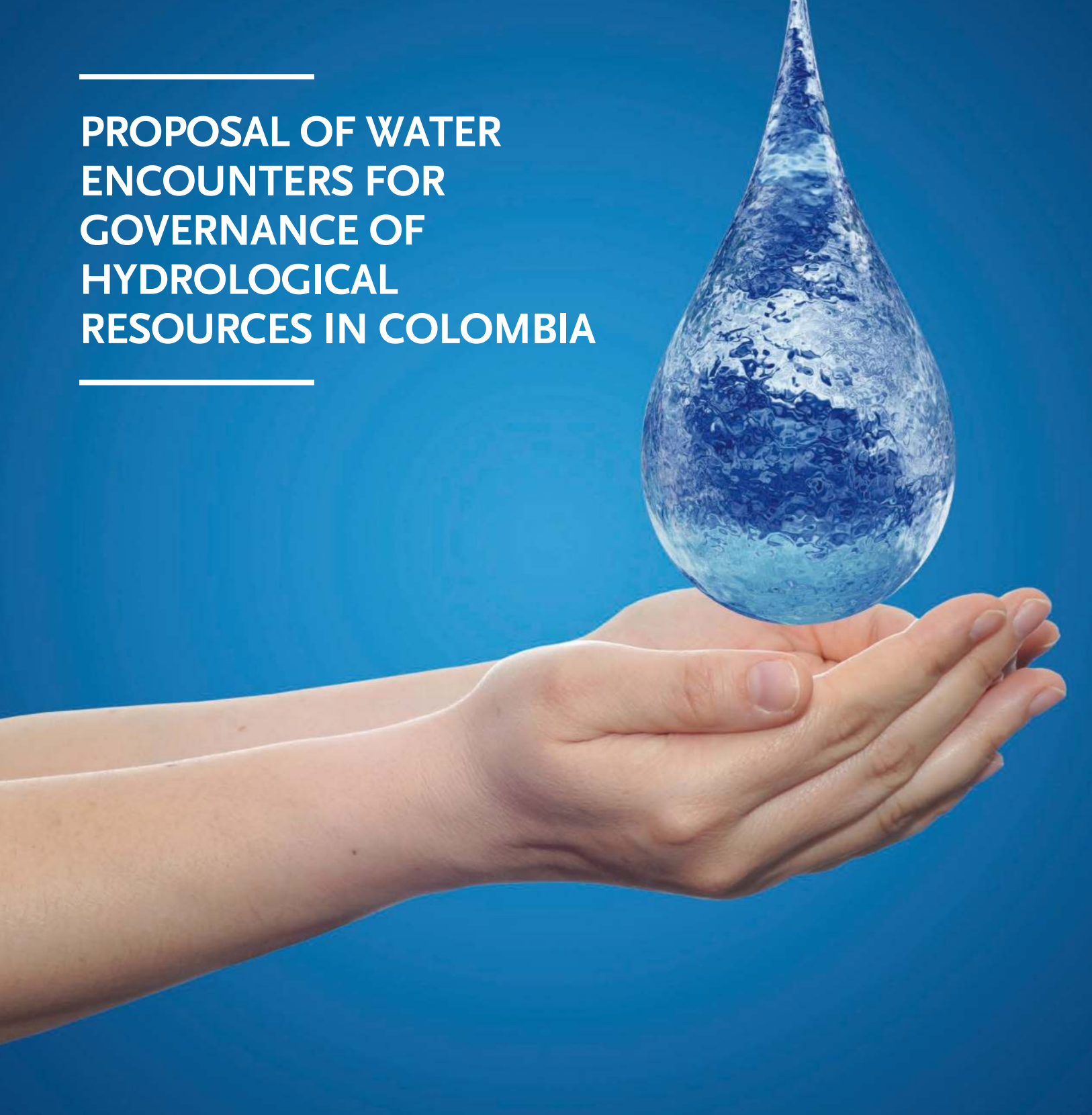


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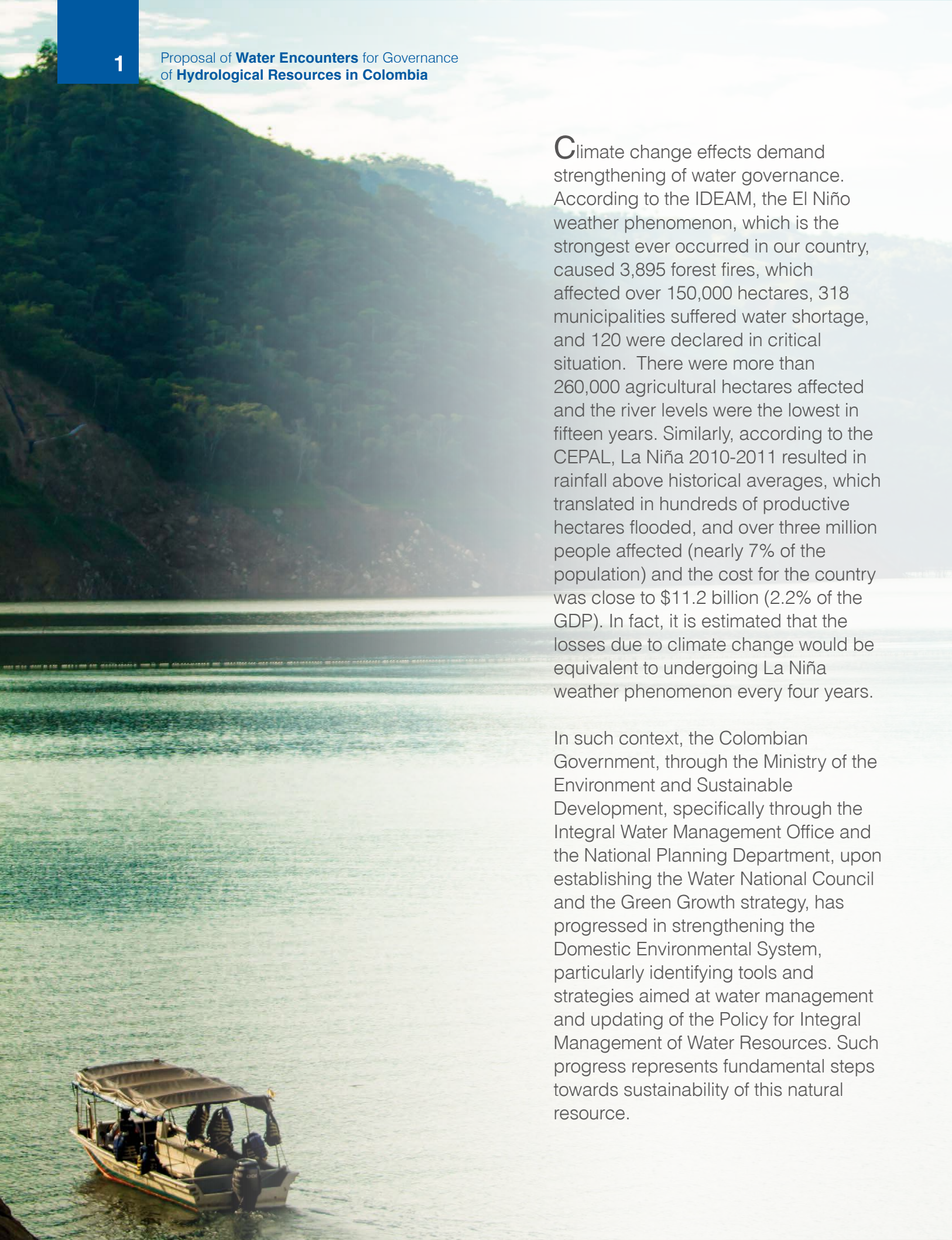
**PROPOSAL OF WATER  
ENCOUNTERS FOR  
GOVERNANCE OF  
HYDROLOGICAL  
RESOURCES IN COLOMBIA**

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## **Thanks**

We wish to express our sincere gratefulness to organizations such as WWF, El Espectador, People & Earth and to Angela Cadena, the expert who contributed her thoughts and knowledge to make possible this publication that we are now sharing with you.



Climate change effects demand strengthening of water governance. According to the IDEAM, the El Niño weather phenomenon, which is the strongest ever occurred in our country, caused 3,895 forest fires, which affected over 150,000 hectares, 318 municipalities suffered water shortage, and 120 were declared in critical situation. There were more than 260,000 agricultural hectares affected and the river levels were the lowest in fifteen years. Similarly, according to the CEPAL, La Niña 2010-2011 resulted in rainfall above historical averages, which translated in hundreds of productive hectares flooded, and over three million people affected (nearly 7% of the population) and the cost for the country was close to \$11.2 billion (2.2% of the GDP). In fact, it is estimated that the losses due to climate change would be equivalent to undergoing La Niña weather phenomenon every four years.

In such context, the Colombian Government, through the Ministry of the Environment and Sustainable Development, specifically through the Integral Water Management Office and the National Planning Department, upon establishing the Water National Council and the Green Growth strategy, has progressed in strengthening the Domestic Environmental System, particularly identifying tools and strategies aimed at water management and updating of the Policy for Integral Management of Water Resources. Such progress represents fundamental steps towards sustainability of this natural resource.

Nonetheless, significant challenges still persist and, therefore, within the framework of Water Encounters, ISAGEN, together with *El Espectador*, WWF and People & Earth, has promoted for over three years meetings aimed at visualizing water issues in Colombia and the importance of their governance. Together with the academia, researchers, decision makers, politicians, public officials, businessmen, authorities and base communities, recommendations and proposals have been presented to strengthen Water Resource Governance with the intent of improving its management, conservation and care, thus securing it for current and future generations.

The proposal for Water Resource Governance is based on four fundamental items: i) strengthening the National Water Counsel - *Consejo Nacional del Agua* (CNA); ii) strengthening the Technical Secretariat of the National Water Council; iii) updating the National Water Policy; and iv) creating/strengthening a Water Resource Information and Knowledge System.

The proposal has been supported by expert Angela Cadena and discussions have been arranged with various actors for its review and coordination with different domestic activities such

as the creation of the National Water Council and the Green Growth Mission defined under the National Development Plan. The mission, led by the National Planning Department, is aimed at conducting diagnosis and prospective studies and identifying policy options to incorporate a green development approach in the planning of the country's development. The foregoing is aimed at promoting economic competitiveness, protecting and ensuring sustainable use of natural capital and ecosystemic services, added to promoting resilient growth as regards disasters and climate change, to secure well-being and social inclusion.

Based on the mission's workshops, one of the core themes discussed has been the role of water performance within the framework of this agenda. Governance of Water Resource is considered fundamental for upholding and securing the sustainable use of the Nation's natural capital, improving environmental quality, consolidating a comprehensive environmental policy, strengthening environmental institutions and securing that people, economy and nature needs are properly met.

## 1. Strengthening of the Water National Council

The National Water Council, pursuant to the law, must include the head of the National Planning Department, and the Ministers of Environment and Sustainable Development; Mines and Energy; Agriculture and Rural Development; Housing, City and Territory; Health and Social Protection. It is proposed that two additional members be included: **the Transport Ministry and the Council's Technical Secretariat**. Also, it is suggested that the National Environmental Licensing Authority should be invited.

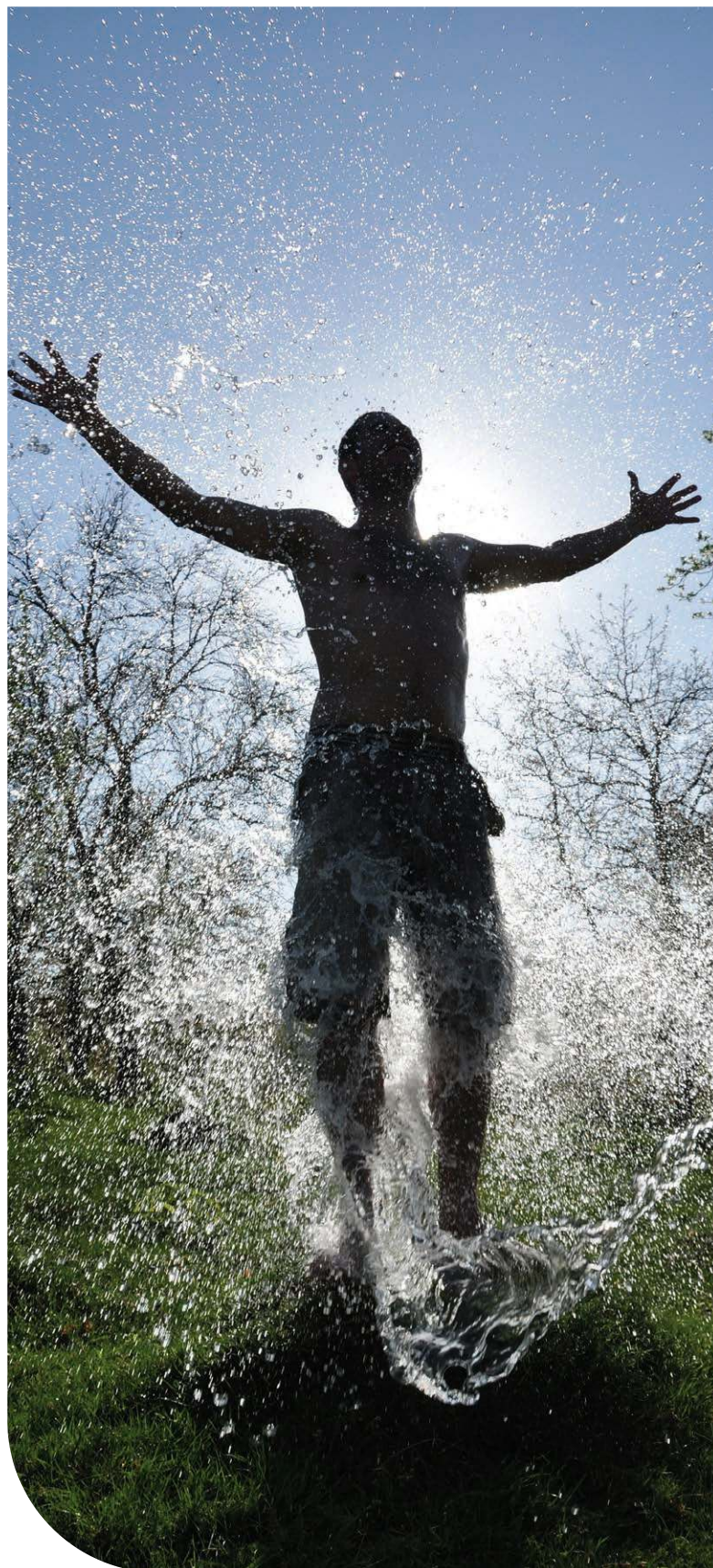
The role of the ministries in the Council is decisive for managing water supply and demand. Agriculture, cattle grazing, energy, sailing, tourism, transport, roads, hydrocarbon and mining are industries that demand water

and the State is responsible for establishing policies for its promotion, development, regulation and usage. The presence of the aforementioned ministry representatives will contribute to match demand with available supply and will also help to properly manage water demand and foresee potential conflicts due to the use of this resource, securing and maintaining ecological flow and water for biodiversity. Above all, it will secure its sustainability, applying guidelines of the Integral Hydrological Resource Management Policy and taking into account the "Water Availability", which will be defined technically and the Council's Technical Secretariat, in coordination with the IDEAM, which is responsible for leading the generation of knowledge and information.

Hence, within the framework of establishment of the Council, it is proposed to create the **Water Council Technical Secretariat** to lead and coordinate a **comprehensive management of hydrological resources**, as the technical state body that will enable the Council to have all the technical and scientific knowledge required to set priorities, manage resources, regulate and take the right decisions from an environmental, social and territorial perspective.

It is also suggested, according to the agenda, to invite the **National Environmental Licensing Authority**, considering that its nature and decisions may affect the natural or artificial environment, and its role in enforcing and monitoring licenses, concessions, and permits granted, including those related to water.

Involvement of the aforementioned members in the Council would translate into a coordinated work in the four dimensions involved in water governance: economic, territorial, environmental and social. Likewise, the intent is for an effective, coordinated implementation of the National Hydrological Plan, which is part of the Domestic Policy for Integral Management of Water Resources.



### Some responsibilities of the National Water Council would include:

- **Planning** in the medium and long run water resources for sustainable use based on supply and demand.
- **Coordination and agreement, inter-institutional and inter-sectorial**, for sustainable use of water resources in accordance with climate change challenges, risk management, environmental management of macro-basins, and green growth.
- **Evaluation and tracking of information related to water resources** to enable and efficient execution of plans related to sustainable water use. This includes defining needs for information, knowledge management, and studies/modeling for decision-making in the various territories and macro-basins.
- **Defining and identifying financing sources** for projects and programs related to comprehensive management of water resources, including guidelines for payment of ecosystemic services aimed at appropriation of resources by various entities and sectors involved in developing an integral water management.
- **Multi-level harmonization of water planning policies and instruments** leading to identify common goals of resource supply, demand and quality, which meet sectorial and sustainability needs for ecosystemic goods and services.
- **Prioritize and coordinate the implementation of National guidelines and actions** within the framework of integral water resource management among various economic sectors and ensure coordination for development of plans, programs and projects that promote water conservation, sustainability and quality, water efficient use and savings, water regulations, ecosystemic management, and management of risks associated to water resources.
- **Issue recommendations within the framework of the Domestic Policy for Integral Management of Water Resources**, aimed at preventing and managing resolution of socio-environmental and economic conflicts derived from enforcement of different mechanisms and instruments, policies, sectorial plans and programs, and water resource management.
- **Establish guidelines** so that the sectorial agendas include guidelines to promote enhancement of capabilities for sustainable use of water resources.





## 2. Support updating of the Domestic Policy for Integral Management of Water Resources

The Ministry of Environment and Sustainable Development proposed the Domestic Policy for Integral Management of Water Resources, which is intended to ensure sustainability through an efficient and coordinated management of territorial planning and use, added to conservation of ecosystems.

This policy, currently being updated, is for a 12-year horizon (2010-2022) and is intended, in the medium and long run, to consider water as a factor for economic development and

social well-being. Its implementation enables the development of Water Governance understood as decision-making in each territory for the use and care of the resource as each territory must coordinate national, regional and local interests. To achieve the foregoing, it is essential to have an equitable, inclusive involvement of the Council's Technical Secretariat, public and private entities, departments, municipalities and environmental corporations, and particularly, the communities and inhabitants thereof.



The concurrence of the State, through the Technical Secretariat of the National Water Council and the ministries that are part of the Council as "demand managers", whether directly or through institutions or attached entities, is fundamental, as well as that of the population. The correlation of information on needs and resource availability, vision of the territories, their location and culture, will enable the identification of viable economic activities, organizing them and reaching sustainability agreements based on the policies set for Integral Management of Water Resources, which are beneficial not only for the territory, but for the whole country.

The proposal, therefore, consists in strengthening - based on the updating of the Domestic Policy on Water Resources and the framework for creation of the National Water Council - the coordination activity for regional and local processes through councils that include representatives from various sectors:

- **Regional Macro-basins Environmental Councils:** chaired by a regional representative and made up of regional group representatives (40%), national (20%), users, NGOs, farmers and industry representatives (40%), coordinated by the **Council's Technical Secretariat** and with permanent presence of the ANLA. Its function is to coordinate the preparation and implementation of strategic plans for macro-basins, and proposing the Domestic Water Policy Action Plan.
- **Basin Councils:** possibility to debate basin planning issues, within the process of building and implementing the plan for Planning and Management of Hydrographic Basins, coordinated by the Regional Autonomous Corporations and with permanent presence of the **Council's Technical Secretariat**.
- **Departmental and Municipal Water Councils:** chaired by the Governor and the Mayor respectively, in a coordinated manner. As there is no coincidence between the political divisions of the territories with the natural (physical) division of the basins, it is necessary to consider the possibility of establishing these councils with interaction mechanisms with the Basin Council, with the presence of regional autonomous corporations in their jurisdiction, **to have an ecosystemic view** or hydrological region based on the reality of hydrological resources in the departments and municipalities and establish development plans related to agriculture, potable water, housing, transport, energy, health, biodiversity, etc.





### 3. Creation of a National Water Information and Knowledge System

The proposal consists in implementing a national system that concentrates and manages information and knowledge of all public and private bodies involved in research and knowledge of water, including reliable data of supply, demand, ecological flow requirements, underground and recharge water, quality, contamination, actual resource availability, climate change, risks and vulnerability, strategic ecosystems for hydrological regulations such as high plateaus and wetlands, and their biodiversity, etc.

This system would be led by the IDEAM, which will also be in charge of communicating and democratizing official knowledge and information, indicators' system for monitoring the resource, and decision making relative to its use. Availability of information in an adequate language for the various recipients would be guaranteed: national, departmental and municipal government organizations; technical institutions; autonomous corporations; community leaders and communities; companies and entities involved in water resource management.



## 4. Strengthening of the Technical Secretariat of the Water National Council

In accordance with article 250 of the Law for the 2014-2018 National Development Plan, the Technical Secretariat of the National Water Council must be exercised by the Ministry of the Environment and Sustainable Development. Even though the Council has the environmental, social and territorial perspective required for preparing public policies, it is indispensable to strengthen its Technical Secretariat so that, through the use and building of tools, it provides technical and scientific information that is useful and objective, necessary to make decisions related to water related issues.

The functions of this Secretariat must be guided by the National Water Policy and must be the best manner to materialize the responsibilities that legally correspond to the National Water Council. Moreover, **it would have to provide the Council with all the information and technical analysis, in coordination with the IDEAM**, which it requires for its enforcement of policies and guidelines set out at national, regional and local level.

Its role would be to assist in the implementation of the Water Resource Integral Management Policy in macro-basins and basins. **Based on technical and scientific information and evaluations, it must establish priorities, managed financial resources, have clarity on restrictions on opportunities related to the use of water and contribute to the regulation and the sign of monitoring mechanisms for productive activities that use water intensively. This contributes to decision-making processes in its territory for the use and care of the resources and the conciliation of national, regional and local interest.**

To address these new challenges, it is suggested to increase the technical capacity and hydrological authority of the Technical Secretariat, which are legally assigned to the Ministry of Environment and Sustainable Development, suggesting the following three alternatives:



### **1. Strengthening and raising the status of the Directorate of the Water Resource Integral Management**

The strengthening of its faculties and capacity taking into account its competences and the importance of reinforcing sectorial actions and coordination. Given the importance of water, it is essential to raise its status in order to secure a better administration, regulatory and monitoring role in accordance with the interests and multi-actor and multi-sectorial demand.

### **2. The creation of Water Agency/Authority/Unit**

In several countries in Latin America, there are specific institutions for an integrated management of water resources. It would be an autonomous institution, attached to the Ministry of Environment and Sustainable Development, made up of and managed exclusively by technical personnel, knowledgeable and experienced, specialized in water related issues. This alternative could provide technical independence to its management and would be coordinated with the MADS Directorate of Water Resource Integral Management, which is responsible for the National Water Policy. In this regard, it would be necessary to perform a cost-benefit analysis of this option.

### **3. From the Water Resource Integral Directorate to the National Water Agency**

The third alternative would consist in starting work by involving the MADS Water Resource Integral Management Directorate as part of the Technical Secretariat in order to progress on the route to create the National Water Agency.

## Considerations regarding the juridical nature of the Secretariat

To determine if the proposed entity must be an agency, and authority or a unit, it is necessary to analyze the juridical nature of this type of organizations, their functions and characteristics, and then determine which one is more suitable for the proposed objectives.

Taking into account that there is no law, as such, which defines the characteristics or particular features of each entity, as they are created by governmental decree, which set out their specific functions, we will use one example for each of them: the National Infrastructure Agency (ANI), the Environmental Licensing Authority (ANLA), and the Mining and Energy Planning Unit (UPME).

## I. Agency

Based on Decree 4165 of 2011 issued by the ANI, it may be concluded that an agency is a state national body, of a special nature, decentralized from the Executive Branch, of national order, with legal personality, own equity and administrative, financial and technical autonomy, attached to a Ministry or a national order entity. However, the fact that an entity has legal personality means that it has its own rights and obligations, that it may be sued by citizens, and that it is empowered to undertake contracting by itself.

Similarly, an agency is intended to plan, coordinate, structure, contract, execute, administer and evaluate the design, construction, operation and administration of a specific project. This means that it is a coordinating body that plans and secures a comprehensive, effective execution of something.

## II. Authority

Based on Decree 3573 of 2011, whereby the ANLA was created, it is concluded that an authority is a technical body, with administrative and financial autonomy, responsible for the study, approval and issuance of licenses, permits and environmental processing that will contribute to improve the efficiency, efficacy and effectiveness of environmental management and sustainable development. It does not have legal personality and is part of a specific administrative sector, for example, Environment and Sustainable Development. As it does not have legal personality, it cannot have its own equity, cannot undertake contracting and cannot be sued, as it is part of another juridical person, for example, a Ministry.



Furthermore, and authority is in charge of projects, works or activities that are subject to licensing, permits or processing in a specific area; those of an environmental nature, as in the case of the ANLA, meet the respective regulations. This means that an authority is an entity of a monitoring and overseeing nature in a given area rather than being in charge of planning or coordinating as would be the case of an Agency

### III. Unit

Based on Decree number 1258 of June 17, 2013, which determines the structure of the Energy and Mining Planning Unit (UPME), it is concluded that a unit is a special administrative body attached to a ministry, which has its own equity and legal personality, with special regimes related to contracting, personnel administration, salaries and benefits, and budgetary autonomy.

Likewise, the essential function of a unit would be the comprehensive planning of development in a specific sector, supporting the public policy formulation and coordinating sectorial information with agents and other stakeholders. For example, with respect to the UPME, its objective is to plan in a comprehensive, indicative, permanent and coordinated manner with the stakeholders of the energy and mining industry, the development and use of mining and energy resources; producing and disseminating the information required to formulate the policy and to make decisions, added to supporting the Ministry of Mines and Energy to achieve its objectives and goals. In turn, the Rural Agriculture and Cattle Farming Planning Unit (UPRA) is intended to guide the management policy of the territory for agricultural and cattle farming usage.

Therefore, the UPRA plans, issues guidelines, indicators and technical criteria for decision-making relative to social planning of rural property, efficient use of the land for agricultural and cattle farming purposes, land conditioning, market for rural lands, and tracking and assessment of public policies on these matters.

## Conclusions

Based on these recommendations, we consider of the utmost importance to develop a road map to assess various options for strengthening water resource governance. It is fundamental to thoroughly evaluate the functions of the Technical Secretariat and analyze the nature of the entity as such; this means if it is aimed at strengthening the Water Resource Directorate or becoming a new entity, whether an agency that would have planning and coordination responsibilities of the national order, an entity for processing and monitoring a specific matter in which case it would be an authority, or if otherwise the intent is having a technical entity, expert on a specific matter, which contributes to the planning of one sector, in which case it would be a Unit.

After reviewing the various functions and particular features of each type of entity, it can be concluded that to determine which one is more suitable to achieve the objectives set out in this proposal, it must first be determined if it is desired that it meets the following: 1) own equity, 2) administrative autonomy, 3) legal personality, 4) capacity to be the subject of rights and obligations, for example contracting.

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