

PROJECT BRAVO POWER STATION

DRAFT TERMS OF REFERENCE FOR THE ENVIRONMENTAL MONITORING COMMITTEE

1. Establishment and scope of the Committee

The Environmental Monitoring Committee (Committee) is established in terms of the requirements of Subclause 3.2.11 of Record of Decision (RoD) issued by the Department of Environmental Affairs and Tourism (DEAT) for the Project Bravo Power Station. The Committee shall confine its mandate to activities directly related to Project Bravo Power Station and associated infrastructure, as indicated in:

- The Environmental Impact report (EIA, *Report No.: 4284/401281*);
- The Construction Environmental Management Plan (CEMP, *Report No.: 4446/401281*);
- The Record of Decision (RoD, DEAT Reference: R12/12/20/807); and
- The Minister's decision on the appeals (DEAT Reference: R12/12/20/???)

2. Guiding principles of the Committee

- 2.1 All discussions relating to the tasks and functions of the Committee shall be transparent.
- 2.2 All parties within the Committee shall act in an accountable and responsible manner in the deliberations of the tasks arising from the process.
- 2.3 All proceedings of the Committee shall be recorded and be made accessible to the public.
- 2.4 All parties shall have access to information relating to the work of the Committee to facilitate decision-making.
- 2.5 Good faith and common understanding shall underline all proceedings within the Committee.
- 2.6 All matters relating to the Committee shall be addressed with the necessary urgency.
- 2.7 Any conflict of interest/duties in terms of the role on the Committee with the development or future related developments shall be declared by members of the Committee.

3. Role, purpose and aims of the Committee

- 3.1 The Committee has an advisory, monitoring and 'watch-dog' role.
- 3.2 The Committee will actively participate in the compliance monitoring of Eskom's adherence to the conditions specified in the RoD and implementation of the approved EMPs by reviewing audit reports (prepared by the Environmental Control Officer) and conducting site inspections.
- 3.3 The purpose and functions of the Committee are to monitor the development with reference to:

- 3.3.1 The management of the site during construction (in accordance with the EIR, CEMP, RoD, Appeal decision and any subsequent requirements specified by DEAT) to ensure minimal impact on the environment.
 - 3.3.2 The management of the site during operation (in accordance with the Operational Environmental Management Plan) to ensure minimal impact on the environment.
 - 3.3.3 The environmental standard of activities on the site.
 - 3.3.4 The degree of nuisance and/or health hazard caused or likely to be caused to the neighbouring communities.
 - 3.3.5 The degree to which the biophysical environment is impacted upon, and when necessary, propose, discuss and recommend appropriate mitigation measures.
 - 3.3.6 The effectiveness of mitigation measures proposed in the EIR, EMPs and RoD.
- 3.4 To inform relevant authorities of non-compliance by Eskom with the conditions of the ROD, by submitting a report when there are non-compliances on a regular basis (as agreed to by the Committee and Eskom).
 - 3.5 To promote environmental awareness and capacity building with regards to Project Bravo that shall strive to improve the understanding of surrounding communities and generate interest to keep abreast with future developments of the port.
 - 3.6 To promote a sustainable social and physical environment through responsible management procedures, future rehabilitation and informed monitoring of the site.
 - 3.7 To disseminate information to the various constituencies of the organisations present on the Committee.
 - 3.9 To develop trust amongst the participants and interested and affected parties.
 - 3.10 To evaluate Eskom's complaints procedure and channels of communication with the public on an ongoing basis.

4. Composition of the Committee

- 4.1 Members nominated to serve on the Committee must have a direct interest/ involvement in the project.
- 4.2 The Committee shall include the following mandated sectors:
 - Proponent (Eskom, both with regard to over project management and site supervision);
 - Authorities (DEAT, MDALA, DWAF, District Municipality, Local Municipality),
 - Community (inclusive of NGO's, CBO's and the business sector)
 - ECO; and
 - Specialists (ecologist and air quality specialist).
- 4.2 To ensure a workable committee, the Committee shall not comprise of more than 25 representatives including authorities, the proponent, the ECO and the various specialists. Should the need arise for more representatives to be appointed, the Chairperson of the Committee has the discretion to do so in consultation with the Committee members.

- 4.3 Any member may appoint a *secundus* from the same organization to represent him/her at a Committee meeting by notifying the Chairperson/Secretariat in advance.
- 4.4 Observer status shall be afforded to anyone wishing to attend any meeting on condition that the Chairperson/Secretariat is informed well in advance of this intention. Observers shall be given limited speaking rights.
- 4.5 The quorum shall be 60% of the membership of the Committee. A quorum shall require that representatives of all three sectors (Proponent, Authorities and Community) are present.
- 4.6 In the event of any of the Committee members or their appointed representatives not being able to attend a meeting, prior notification within a reasonable period shall be provided to the Chairperson/Secretariat in writing to allow the meeting to be postponed with a reasonable period of notification thereafter, should this be required. At that postponed meeting, those members present shall constitute the quorum.

5. Membership requirements

- 5.1 Members shall be nominated by their representing organization or constituency and appointed in writing by their respective organizations to serve on the Committee.
- 5.2 Members of the Committee shall be disqualified; if they or their appointed representatives are absent for three (3) consecutive meetings of the Committee. Should a representative no longer qualify for membership, the organization he/she represented will be invited to nominate a new representative.
- 5.3 A member may resign at any time from the Committee by submitting his/ her resignation in writing via to the Chairperson. Once a resignation has been accepted, the organization he/she represented will be invited to nominate a new representative.

6. Decision making procedures within the Committee

- 6.1 Where possible issues shall be debated until consensus is reached.
- 6.2 Where consensus cannot be reached, the issues of disagreement shall be recorded in writing and referred to the respective authorities who have jurisdiction over the relevant matters for consideration.

7. Meetings

- 7.1 The Committee shall meet once every two months or at such intervals as a majority of the members may agree, but not less than four (4) times per annum.
- 7.2 In the event of an unusual incident occurring (relevant to the Committee's scope), any member of the Committee may request an emergency meeting with the Chairperson, the ECO and an Eskom representative.
- 7.3 The Committee shall deal with the following matters at its regular meetings:
 - 7.3.1 The report of the ECO on compliance with the RoD and CEMP.
 - 7.3.2 Any amendments required to the EMP
 - 7.3.3 Reports or complaints about incidents or related matters received from members of the public.
 - 7.3.4 Issues of concern to the Committee members. Whenever possible, these issues shall be forwarded in writing to the Chairperson/ Secretariat for

inclusion on the agenda, and if answers are needed, shall also be forwarded to the relevant party / parties before the meeting, to facilitate discussion at the meeting.

7.3.5 Report back on relevant meetings held outside of the Committee.

7.3.6 Reports from Eskom about operational and other relevant matters.

8. Chairperson and deputy chairperson

8.1 At the inaugural meeting of the Committee, the Committee members will nominated an independent Chairperson, from within the ranks of the Committee. As per the requirements of the RoD, the Chairperson must possess the appropriate people and project management skills.

8.2 The Committee shall also nominate a Deputy Chairperson at its inaugural meeting, to stand in for the Chairperson should they be unavailable.

8.3 The appointment of the Chairperson may be reviewed annually, and where there is consensus from the Committee that the Chairperson should be replaced, the existing Chairperson shall be dismissed and a new Chairperson shall be elected from within the Committee's ranks. Upon dismissal, the past Chairperson shall return being an ordinary member of the Committee.

8.4 It shall be the duty of the Chairperson to ensure the orderly conduct of meetings and to ensure that all persons present and wishing to speak are given a reasonable opportunity to do so.

8.5 The Chairperson shall be unbiased in all the deliberations of the Committee.

8.6 The Chairperson shall be the spokesperson of the Committee.

8.7 The Chairperson shall have an executive function and shall be able to call emergency meetings outside of the regular Committee meetings as and when required.

8.8 The Chairperson will approve any formal communication to be distributed from the Committee as a group to a wider audience.

8.9 The Chairperson may resign at any time from the Committee by submitting his/ her resignation in writing to the Secretariat for tabling at the next Committee meeting. Once the resignation has been accepted, a new Chairperson shall be nominated from within the ranks of the Committee.

9. Environmental Control Officer

9.1 As per the provisions of Condition 3.2.13 of the RoD, a suitably qualified Environmental Control Officer (ECO) shall be appointed by Eskom for the construction phase. The ECO's appointment shall only terminate once the final rehabilitation measures are completed and the site has been handed over to Eskom by the Contractor.

9.2 The ECO shall act on behalf of the Committee, and shall report to and be accountable to the Committee.

9.3 The ECO shall audit compliance with the RoD, environmental legislation and the CEMP.

9.4 The ECO shall conduct regular site inspections and environment audits.

9.5 The ECO shall compile an environmental compliance report every two months and distribute this to the Committee. Once ratified by the Committee, this report shall be submitted to the DEAT Director of Environmental Impact Evaluation.

- 9.6 The ECO shall ensure that the compliance reports prepared by him/her are circulated at least 14 days before the date of the meeting at which they are to be considered.

10. Responsibilities of the Committee members

- 10.1 As the Project Proponent, Eskom shall:

- 10.1.1 Adhere to conditions in the RoD and implement the EMPs.
- 10.1.2 Provide sufficient resources for the effective functioning of the Committee. In this regard, in terms of the requirements of Condition 3.2.11.7 Eskom shall bear all costs associated with the Committee
- 10.1.3 Ensure that all reports and/or complaints directed at it by any person and the responses thereto are recorded in writing, which shall be made available at each meeting of the Committee. Any complaints directed to the various official departments shall be recorded and tabled for discussion.
- 10.1.4 Fulfil all roles as set out for members of the Committee.

- 10.2 The authorities represented on the Committee shall:

- 10.2.1 Oversee that all commitments in RoD, EMP, and any other authorizations issued for the proposed project, are met by being involved in the monitoring function of Committee.
- 10.2.2 Provide guidance on the functioning of the Committee.
- 10.2.3 Evaluate all reports and correspondence received from the Chairperson.
- 10.2.4 Fulfil all other roles as set out for members of the Committee.

- 10.3 The community organization represented on the Committee shall:

- 10.3.1 Provide insights based on local knowledge
- 10.3.2 Keep constituencies informed of progress with the implementation of the EMP and compliance with the RoD
- 10.3.3 Inform the Committee of any issues or concerns constituencies might have with regard to the environmental impact of the project.
- 10.3.4 Fulfil all roles as set out for members of the Committee.

- 10.4 The specialists represented on the Committee shall:

- 10.4.1 Provide such specialist inputs/ guidance as might be requested by the Committee

11. Accountability

- 11.1 Members of the Committee are accountable to their constituencies, and are responsible for keeping their members informed of the Committee's proceedings.
- 11.2 Participation by any member of the Committee shall not be interpreted as a waiver of such a person's right to challenge any issue outside the forum of the Committee.
- 11.3 The Committee shall report back to the DEAT on matters pertaining to the Project Bravo Power Station and associated infrastructure. The prior mechanisms for

reporting shall be the minutes of the Committee meetings and the ECO's environmental compliance reports.

- 11.4 The Proponent is responsible for the management of contractors on site in accordance with the CEMP; approved Method Statements and RoD conditions.

12. Administration

- 12.1 The ECO shall fulfil the function of Secretariat of the Committee and shall be responsible for convening meetings, taking minutes and the dissemination thereof to members. Specifically, as the Secretariat, the ECO's duties and responsibilities shall include:

- 12.1.1 Organisation of Committee meetings in consultation with the Chairperson.
- 12.1.2 Keeping all records of the Committee.
- 12.1.3 Taking minutes at all meetings of the Committee and ensuring accurate recordings of the proceedings off all meetings.
- 12.1.4 Attending to correspondence and keeping copies thereof.
- 12.1.5 Circulating notices to convene meetings.
- 12.1.6 Preparation of documents requested by the Committee.
- 12.1.7 Ensuring that minutes are forwarded to all members timeously.
- 12.1.8 Circulate documentation for the next meeting to all Committee members at least 14 days prior to the meeting.

- 12.2 Eskom will be responsible for the reimbursement of costs incurred by the ECO (both in terms of their monitoring and secretarial functions) and the specialists, as well as any costs incurred by the Chairperson, over and above what would normally be anticipated for Committee members.
- 12.3 The respective organisations represented on the Committee shall be responsible for funding attendance of their representatives (Community and Authorities).

13. Amendments

This ToR can only be amended with the necessary prior notification and in the presence of a full quorum. This document should be read together with the Environmental Monitoring Committee guidelines compiled by DEAT in terms of their Integrated Environmental Management, Information Series (*viz.* . DEAT [2005] *Environmental Monitoring Committees, Integrated Environmental Management, Information Series 21*, DEAT, Pretoria.)

14. Dispute resolution

Any disputes related to the roles and responsibilities of the Committee that cannot be resolved within the Committee, should be referred to DEAT for resolution.

Abbreviations

CBO:	Community Based Organisation
CEMP:	Construction Environmental Management Plan
NGO:	Non-governmental Organisation
DEAT:	Department of Environmental Affairs and Tourism (National)
DWAF:	Department of Water Affairs and Forestry
ECO:	Environmental Control Officer
EMC:	Environmental Monitoring Committee
EMP:	Environmental Management Plan
MDALA:	Mpumalanga Department of Agriculture and Land Affairs
RoD:	Record of Decision
ToR:	Terms of Reference