



environment & tourism

Department:
Environmental Affairs and Tourism
REPUBLIC OF SOUTH AFRICA

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Ref: 12/12/20/748

Tel: (012) 310 3597 Fax: (012) 310 3688 e-mail: pngoasheng@deat.gov.za
Enquiries: Peter Ngoasheng

Mr J Geeringh
Eskom Holding Limited
P O Box 1091
JOHANNESBURG
2000

Fax: (011) 800 3917

Dear Mr Geeringh

THE PROPOSED CONSTRUCTION OF A 765kV TRANSMISSION LINE AND ITS ASSOCIATED INFRASTRUCTURE FROM MAJUBA POWER STATION, MPUMALANGA PROVINCE TO MFOLOZI SUBSTATION, KWAZULU NATAL PROVINCE

Your application for authorization, in terms of section 22 of the Environment Conservation Act, 1989 (Act No. 73 of 1989) in respect of an activity identified in terms of section 21 of the Act, of 19 July 2005 regarding the above matter refers.

This department, the KwaZulu Natal Department of Agriculture and Environmental Affairs, and the Mpumalanga Department of Agriculture and Land Administration, have evaluated the environmental impact report dated May 2006 and have considered your application.

By virtue of the power delegated to me in terms of section 33(1) of the Environment Conservation Act, 1989 (Act No. 73 of 1989) I hereby, in terms of section 22(3) of the Act, authorize:

- **The construction of a 765kv transmission line and its associated infrastructure from Majuba power station, Mpumalanga province to Mfolozi substation, KwaZulu Natal province**

Enclosed please find the record of decision and the conditions under which your application is authorized.

Appeals must comply with the provisions of regulation 11 of the environmental impact assessment regulations, (Government Notices No. R. 1182 and 1183 of 5 September 1997), which reads as follows:

- (1) An appeal to the Minister or the provincial authority under section 35(3) of the act must be done in writing within 30 days from the date on which the record of decision was issued to the applicant in terms of regulation 10(1);
- (2) An appeal must set out all the facts as well as the grounds of appeal, and must be accompanied by all relevant documents or copies of them, which are certified as true by a commissioner of oaths.
- (3) An appeal questionnaire may be used in the lodging of an appeal. It is obtainable from the department's offices at tel. (012) 310 3590 or e-mail: cveeden@deat.gov.za.

Yours sincerely



Pam Yako
Director-General
Department of Environmental Affairs and Tourism
Signed by: Lize McCourt
Designation: Chief Director - Environmental Impact Management
Date: 23/11/2006

Cc: Ms T Shilubane
Mr G Willis-Smith

Mpumalanga: Agriculture and Land Administration (017) 819 2072
KwaZuluNatal: Agriculture and Environmental Affairs (011) 337 2292

RECORD OF DECISION

RECORD OF DECISION FOR PROJECT REFERENCE 12/12/20/748: THE PROPOSED CONSTRUCTION OF A 765kV TRANSMISSION LINE AND ITS ASSOCIATED INFRASTRUCTURE FROM MAJUBA POWER STATION, MPUMALANGA PROVINCE TO MFOLOZI SUBSTATION, KWAZULU NATAL PROVINCE

By virtue of the power delegated by the Minister in terms of section 33(1) Environment Conservation Act, (Act 73 of 1989) ("the Act"), I hereby, in terms of section 22(3) of the Act, authorizes **Eskom** to undertake the activity specified / detailed below subject to the indicated conditions.

1. DESCRIPTION, EXTENT AND LOCATION OF THE ACTIVITY:

The proposed project involves the construction of a 765kV transmission line from Majuba power station in Mpumalanga province to Mfolozi substation in KwaZulu Natal province. Eskom will require 80m servitude (40m on either side of the centre line). The proposed transmission line will extend over a distance of approximately 200km.

The proposed new route will follow the alignment as indicated on the attached map.

In addition the development consists of the following:

- (a) Construction of 45m high cross-roped suspension towers along the route with an average span of 450m between towers.
- (b) Construction of self-supporting strain towers at the bending points along the transmission line. A minimum separation distance of 80m between the centre lines is required where the 765kV transmission power lines are constructed in parallel to any other power line.
- (c) An 80m servitude is required to accommodate the towers on which the overhead line will be strung. The servitude is required to ensure safe construction, maintenance and operation of the line.
- (d) Construction of access roads and the installation gates.
- (e) Foundation excavation.
- (f) Servitude clean-up and rehabilitation.

The project falls within the ambit of sub-regulation 1(a) and (d) of Government Notice R.1182 (as amended) promulgated under sections 21, 26 and 28 of the Act.

2. KEY FACTORS INFORMING THE DECISION:

In reaching its decision in respect of the application, the Department has, *inter alia*, taken the following information into consideration:



- The final environmental impact report report dated May 2006 and the final corridor alignment map dated July 2006.
- Comments received from Mpumalanga and KwaZulu Natal environmental authorities.
- Government Notice No. R. 1182 and R. 1183 (as amended) promulgated in terms of Sections 21, 22 and 26 of the Environment Conservation Act, 1989 (Act 73 of 1989).
- Principles contained in the National Environmental Management Act, 1998 (Act 107 of 1998);
- Objectives of Integrated Environmental Management as set out in Section 23 of the National Environmental Management Act, 1998 (Act 107 of 1998);
- The Constitution of the Republic of South Africa (Act 108 of 1996), in particular Chapter 2 and Section 24 (b) of the Bill of Rights;
- The findings of the site visit undertaken by Ms T Shilubane, Mr P Ngoasheng and Mr G Willis-Smith on 6 June 2006.
- A set of maps submitted by Eskom to DEAT on 27 July 2006 outlining the proposed final corridor alignment.

In reviewing this information, the Department made the following findings:

- The electricity demand in KwaZulu Natal is increasing at much faster rate than was originally expected. If Eskom is to honour its commitment to meet the increasing needs of end-users, it has to establish and expand its infrastructure of power lines and substations.
- The Environmental Impact Report, dated May 2006, prepared by SRK (Pty) Ltd complies with the minimum requirements as contained in sub-regulation 8 of Government Notice No. R. 1183 of 5 September 1997, as amended.
- The public participation process as described in Section 3.6 (pages 4 – 20) of the Environmental Impact Report, dated May 2006, prepared by SRK (Pty) Ltd is considered adequate.
- The activities will result in some socio-economic benefits, not only to the communities around which the line will traverse, but to the country as a whole;
- The mitigation measures proposed in the environmental impact report are appropriate and practical for implementation.
- Specific environmental specialist studies were commissioned as part of the environmental impact assessment process and it was found that the impact of this development was acceptable.
- It is envisaged that, should the conditions as stipulated in this record of decision be complied with, the negative environmental impact of this activity will be minimized.



- Based on the above, the Department's conclusion is that this activity will not lead to substantial detrimental impact on the environment, that potential detrimental impacts resulting from this activity can be mitigated to acceptable levels and that the principles of section 2 of NEMA can be upheld.

The Department has accordingly decided to grant **Eskom** authorisation in terms of Regulations R.1182 and 1183 (as amended) promulgated under section 21, 22 and 26 of the Environment Conservation Act (Act 73 of 1989) subject to the conditions and provisions listed below.

3. CONDITIONS

3.1 DESCRIPTION AND EXTENT OF THE ACTIVITY

The proposed project involves the construction of a 765kV transmission line from Majuba power station in Mpumalanga province to Mfolozi substation in KwaZulu Natal province. Eskom will require 80m servitude (40m on either side of the centre line). The proposed transmission line will extend over a distance of approximately 200km.

3.2 Specific conditions

3.2.1 Environmental Control Officer (ECO)

3.2.1.1 Eskom must appoint an environmental control officer (ECO) one month before the start of construction and this department must be notified of such an appointment for communication purposes.

3.2.1.2 The environmental control officer (ECO) will be responsible for monitoring project compliance with the conditions of the record of decision, environmental legislation and recommendations of the EMP on a daily basis.

3.2.1.3 The ECO must also ensure that the quarterly independent environmental performance audits are undertaken during project implementation. The audit reports must be submitted to the Director-General of the Department of Environmental Affairs and Tourism (DEAT), copied to Mpumalanga Department of Agriculture and Land Administration and KwaZulu Natal Department of Agriculture and Environmental Affairs.

3.2.1.4 The ECO shall maintain the following on site:

- A daily site diary
- A non-conformance register
- A public complaint register
- A register of audits

3.2.1.5 The ECO shall submit an environmental compliance report on a two-monthly basis, in writing, to the Director-General of the Department of Environmental Affairs and Tourism (DEAT), copied to Mpumalanga Department of Agriculture and Land Administration and KwaZulu Natal Department of Agriculture and Environmental Affairs.

3.2.1.6 The ECO shall remain employed until all rehabilitation measures, as required for implementation due to construction damage, are completed and the site is handed over to Eskom by the contractor for operation.

3.2.1.7 The ECO shall report to and be accountable to the Eskom.

3.2.2 Environmental Management Plan

3.2.2.1 Eskom must submit a construction EMP to the Department of Environmental Affairs and Tourism for approval before commencement of any of the activities related to this authorization. Copies of the EMP must be submitted to the Mpumalanga Department of Agriculture and Land Administration and KwaZulu Natal Department of Agriculture and Environmental Affairs to enable them to comment to DEAT on the EMP. The envisaged construction EMP must cover, but not limited to, the following aspects:

- (a) Rehabilitation of areas to be disturbed during the construction of the power line.
- (b) Siting and management of construction camps.
- (c) Access roads to individual construction areas.
- (d) Plant search and rescue before commencement of any construction related activity.
- (e) Waste avoidance and minimization during construction.
- (f) Management of traffic during construction phase where the power line crosses roads and other transportation networks.
- (g) Measures to reduce soil erosion during construction phase must be clearly stated in the EMP.
- (h) Measures aimed at controlling invasive plant species and weeds must form part of the EMP.

3.2.2.2 Once accepted by the Department of Environmental Affairs and Tourism (DEAT), the revised EMP will be seen as a dynamic document. However, changes in the EMP must be submitted to DEAT for acceptance before such changes could be effected.

3.2.2.3 Compliance with the approved EMP must form part of the project documentation of all contractors working on the project, and must be clearly indicated in all contractor's contracts.

3.2.3 Rehabilitation after construction

3.2.3.1 Eskom must ensure that no exotic plant species are used for rehabilitation purpose. Only indigenous plants endemic to the area may be utilised.

3.2.4 Monitoring and auditing

3.2.4.1 This department reserves the right to monitor and audit the development throughout its full life cycle to ensure that it complies with the conditions stipulated in the record of decision as well as mitigation measures in the final environmental impact report dated May 2006 the construction and operational EMPs.

3.2.4.2 The ECO must ensure that records relating to monitoring and auditing referred to in **3.2.1.2 and 3.2.1.3** above are made available on a quarterly basis for inspection to DEAT officials and the Mpumalanga and KwaZulu Natal environmental authorities in respect of this development.

3.2.5 Land acquisition

3.2.5.1 This development is authorized on condition that Eskom acquires the necessary servitude for the power line route prior to the construction. Eskom must reach an agreement with all affected landowners within the preferred alignment prior to initiation of construction activity. Evidence of settlements reached between Eskom and affected landowners must be submitted to this department for notification 14 days prior to construction.

3.2.5.2 Eskom must submit the final power line alignment route to this department after the finalisation of the land acquisition process. In addition, any anticipated route adjustment influenced by the local circumstances within the corridor should be reported to the department in writing for acceptance before implementation.

3.2.6 Compliance with other legislation

3.2.6.1 Archaeological remains, artificial features and structures older than 60 years are protected by the National Heritage Resources Act, 1999 (Act No. 25 of 1999). Should any archaeological artefacts be exposed during excavation, construction in the vicinity of the finding must be stopped. The ECO must call an archaeologist to the site for inspection. Under no circumstances shall any artefacts be destroyed or removed from the site. The South African Heritage Agency must be contacted to this effect. Their recommendations should be included in the EMP and be adhered to.

3.2.6.2 Eskom must ensure that no prospecting or mining activities or extraction of any material is conducted within the proposed project area, or in relation to the proposed project without necessary authorisations in terms of the Minerals Petroleum Resources Development Act, 2002 (Act No.28 of 2002).

3.2.6.3 All provisions of the Occupational Health and Safety Act, 85 of 1993 and any other applicable legislation. must be adhered to by the holder of this authorization.

3.2.6.4 All provisions of the National Water Act, Act 36 of 1998, must be adhered to by the holder of this authorisation.

3.2.6.5 All provisions of the National Environment Management: Air Quality Act, Act 39 of 2004, must be adhered to by the holder of this authorisation.

3.2.6.6 All provisions of the Atmospheric Pollution Prevention Act, Act 45 of 1965, must be adhered to by the holder of this authorisation.

3.2.6.7 All provisions of the National Environment Management: Biodiversity Act, Act 10 of 2004, must be adhered to by the holder of this authorisation.

3.2.6.8 Eskom must obtain a permit from the provincial department of nature conservation for the removal of indigenous protected and endangered plant and animal species.



3.2.7 Construction and operational impacts

- 3.2.7.1 The construction team must make use of existing access roads where possible. In addition Eskom must ensure that the following conditions are adhered to during the implementation of the project:
- 3.2.7.1.1 The transmission line route must be planned in such a way to avoid areas with high potential for bird strikes. Overhead earth-wires must be used to increase visibility;
 - 3.2.7.1.2 Measures must be taken to maintain a safe distance from sensitive bird habitats and breeding areas such as wetlands, dams and river crossings;
 - 3.2.7.1.3 No towers or access roads must be placed in wetlands. If this is unavoidable, then authorisation from the Department of Water Affairs and Forestry must be obtained prior to construction;
 - 3.2.7.1.4 Vegetation, avi-faunal, wetland and heritage resources specialists must undertake a site inspection of each tower position and any new access roads to assess and ensure that no endangered vegetation, sensitive avi-faunal habitat or heritage resources are compromised and advise on mitigation prior to construction;
 - 3.2.7.1.5 Self-supporting strain towers must be protected with bird guards;
 - 3.2.7.1.6 An avi-faunal specialist must identify the sections of the line that require demarcation for anti-collision devices once the route has been finalised;
 - 3.2.7.1.7 The final route of the transmission power line must cross the existing main roads as close to 90° as possible;

3.3 GENERAL CONDITIONS

- 3.3.1 This authorisation is granted only in terms of section 22 of the Environment Conservation Act, 1989 (Act No. 73 of 1989) and does not exempt the holder thereof from compliance with any other legislation.
- 3.3.2 This authorisation refers only to the activity as specified and described in the environmental impact report dated May 2006. Any other activity listed under section 21 of the Environment Conservation Act, 1989 (No. 73 of 1989) which is not specified above, is not covered by this authorization, and must therefore comply with the requirements of the Environment Conservation Act, Government Notice R. 1182 and R.1183 (as amended).
- 3.3.3 This authorization is subject to the approval of the relevant local authorities in terms of any legislation administered by those authorities.
- 3.3.4 The applicant must, within 7 (seven) calendar days of receipt of this record of decision inform all interested and affected parties of the following:
 - (i) That an authorisation has been issued to the applicant to proceed with the construction and operation of the activity. If requested, provide copies of this ROD.



- (ii) That any appeals against the issuing of the authorisation must be lodged with the Minister of Environmental Affairs and Tourism within 30 (thirty) days from the date on which this ROD has been issued to the applicant at the address stipulated in this ROD.
- (iii) That an appeal questionnaire may be used in the lodging of an appeal. It is obtainable from the Department's offices at tel. (012) 310 3590 or e-mail: cveeden@deat.gov.za.
- iv) Include the date on which the ROD was issued to the applicant in terms of regulation 10(1) and the date by which appeals must reach the Minister.

Failure to inform interested and affected parties within the stipulated time period may result in the Minister considering requests from such parties to submit a late appeal favourably.

- 3.3.5 One week's written notice must be given to this Department before commencement of construction activities. Such notice shall make clear reference to the site location details and must include the reference number given above.
- 3.3.6 One week's written notice must be given to this Department before commencement of operation activities. Such notice shall make clear reference to the site location details and must include the reference number given above.
- 3.3.7 The applicant shall be responsible for ensuring compliance with the conditions contained in this ROD by any person acting on his behalf, including but not limited to, an agent, servant, or employee or any person rendering a service to the applicant in respect of the activity, including but not limited to, contractors and consultants.
- 3.3.8 The applicant must notify the Department in writing, within 24 (twenty four) hours if any condition of this authorisation cannot, or is not, adhered to. The notification must be supplemented with reasons for non-compliance.
- 3.3.9 A copy of the authorisation and ROD shall be available on site during construction and all staff, contractors and sub-contractors shall be familiar with or be made aware of the contents of this authorisation and ROD.
- 3.3.10 Compliance/non-compliance records must be kept and shall be made available on request from the authorities within five days of receipt of the request.
- 3.3.11 Any changes to, or deviations from, the project description set out in this letter must be approved, in writing, by the Department before such changes or deviations may be effected. In assessing whether to grant such approval or not, the Department may request such information as it deems necessary to evaluate the significance and impacts of such changes or deviations.
- 3.3.12 This Department may review the conditions contained in this letter from time to time and may, by notice in writing to the applicant, amend, add or remove a condition.



- 3.3.13 In the event that the predicted impacts exceed the significance as predicted by the independent consultant in the final environmental impact report dated May 2006 and supporting documentation, the authorisation may be withdrawn after proper procedures have been followed.
- 3.3.14 In the event of any dispute concerning the significance of a particular impact, the opinion of the Department of Environmental Affairs and Tourism (DEAT) in respect of its significance will prevail.
- 3.3.15 The applicant must notify the Department, in writing, at least 10 (ten) days prior to the change of ownership, project developer or the alienation of any similar rights for the activity described in this letter. The applicant must furnish a copy of this document to the new owner, developer or person to whom the rights accrue and inform the new owner, developer or person to whom the rights accrue that the conditions contained herein are binding on them.
- 3.3.16 Where any of the applicant's contact details change, including the name of the responsible person, the physical or postal address and/or telephonic details, the applicant must notify the Department as soon as the new details become known to the applicant.
- 3.3.17 National government, provincial government, local authorities or committees appointed in terms of the conditions of this application or any other public authority or authorization shall not be held responsible for any damages or losses suffered by the applicant or his successor in title in any instance where construction or operation subsequent to construction be temporarily or permanently stopped for reasons of non-compliance by the applicant with the conditions of approval as set out in this document or any other subsequent document emanating from these conditions of approval.
- 3.3.18 If any condition imposed in terms of this authorization is not complied with, the authorization may be withdrawn after 30 days written notice to the applicant in terms of section 22(4) of the Environment Conservation Act, 1989 (Act No. 73 of 1989).
- 3.3.19 Failure to comply with any of these conditions shall also be regarded as an offence and may be dealt with in terms of sections 29, 30 and 31 of the Environment Conservation Act, 1989 (Act No. 73 of 1989), as well as any other appropriate legal mechanisms.
- 3.3.20 The applicant shall be responsible for all costs necessary to comply with the above conditions unless otherwise specified.
- 3.3.21 Any complaint from the public during construction must be attended to as soon as possible to the satisfaction of the parties concerned. A complaints register must be kept up to date and shall be produced upon request.
- 3.3.22 Departmental officials shall be given access to the construction areas referred to under project description above for the purpose of assessing and/or monitoring compliance with the conditions contained in this document at all reasonable times.
- 3.3.23 All outdoor advertising associated with this activity, whether on or off the property concerned, must comply with the South African Manual for Outdoor Advertising Control (SAMOAC) available from this Department.



3.4 Duration of authorization

If the activity authorized by this letter does not commence within 4 (four) years from the date of signature of this letter, the authorization will lapse and the applicant will need to reapply in terms of the applicable legislation or any amendments thereto.

4. CONSEQUENCES OF NON-COMPLIANCE

The applicant must comply with the conditions set out in this letter. Failure to comply with any of the above conditions may result in, *inter alia*, the Department withdrawing the authorization, issuing directives to address the non-compliance – including an order to cease the activity – as well as instituting criminal and/or civil proceedings to enforce compliance.

5. APPEALS

Appeals in respect of this decision must be lodged with the Minister of Environmental Affairs and Tourism within 30 (thirty) days of the date of this decision. Appeals can be submitted utilizing one of the following methods:

By facsimile: (012) 322 0082
By post: Private Bag X447, Pretoria 0001
By hand: 2nd Floor, Fedsure Forum Building, North Tower, cor. Van der Walt and Pretorius Streets, Pretoria.

Appeals must comply with the provisions of Regulation 11 of Government Notice No. R. 1183 which reads as follows:

An appeal to the Minister or provincial authority under section 35(3) of the Act must be done in writing within 30 days from the date on which the ROD was issued to the applicant in terms of regulation 10(1); An appeal must set out all the facts as well as the grounds of appeal, and must be accompanied by all relevant documents or copies of them which are certified as true by a commissioner of oaths.

An appeal questionnaire may be used in the lodging of an appeal. It is obtainable from the Department's offices at tel. (012) 310 3590 or e-mail: cveeden@deat.gov.za.

Should the applicant wish to appeal any aspect of this decision, the applicant must notify and furnish copies of the appeal which will be submitted to the Minister, to all registered interested and affected parties. Proof of such notification must be submitted to the Minister with the appeal. Failure to comply with this provision may result in the Minister refusing to consider the appeal.



6. APPLICANT:

Eskom Holdings Limited
P O Box 1091
JOHANNESBURG
2000

Contact person: Mr J Geeringh
Tel: (011) 800 2465
Fax: (011) 800 3917

7. CONSULTANT:


BKS (Pty) Ltd
P O Box 3173
PRETORIA
0001

Contact person: Mr R A Pullen
Tel: (012) 421 3500
Fax: (012) 421 3501

8. SITE VISIT

A site visit was undertaken on 06 June 2006 by the following:

Mr P Ngoasheng	National Department of Environmental Affairs & Tourism
Ms Thandeka Shilubane	Department of Agriculture and Land Administration
Mr G Willis-Smith	Department of Agriculture and Environmental Affairs
Mr J Geeringh	Eskom
Mr B Richardson	Eskom



Ms Pam Yako
Director-General
Department of Environmental Affairs and Tourism
Signed by: Lize McCourt
Designation: Chief Director - Environmental Impact Management
Date: 23/11/2006