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Our Ref: S0611

**Attention: Chief Directorate: Hazardous Waste
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Re: Application for Exemption from Provisions of the EIA Regulations: ASH DAM EXTENSION 3 AT KOMATI POWER STATION

Dear Mr Tshitangoni and Ms Phoshoko

1. INTRODUCTION

Ash Dam Extension 3 at the Komati Power Station has been constructed in order to dispose of ash produced during the generation of electricity at Komati Power Station. The facility was constructed after it was approved with a Record of Decision (Ref: 12/12/20/1007) from the Department of Environmental Affairs and Tourism under the 2006 Environmental Impact Assessment Regulations. Ash disposal to the facility has not yet commenced.

The promulgation of the National Environmental Management: Waste Act, 2008 (NEMWA) introduced the requirement for a waste management licence for operations at Ash Dam Extension 3, despite the authorisation already granted. Eskom Holdings SOC Limited submitted an application to the Department of Environmental Affairs for an operational waste management licence for the Ash Dam Extension 3 at the Komati Power Station (12/9/11/L1010/6). The application was made in terms of the NEMWA.

The operation of Ash Dam Extension 3 is time-critical and key to the continued operation of power generation at and the country supply from the Komati Power Station. The non-availability of Ash Dam Extension 3 for ash disposal is resulting in an increasing safety risk at the ash dam facility and may force Eskom to reduce or stop electrical production at Komati. This could result in load shedding for the country.

Following discussions between Synergistics Environmental Services, Eskom and the Department of Environmental Affairs on 29 November 2012, it was agreed that exemption from certain provisions of the 2010 Environmental Impact Assessment (EIA) Regulations could be considered. This letter details the application for exemption from certain provisions of the EIA Regulations. A written response is requested from the Department in this regard.

2. APPLICATION AND MOTIVATION FOR EXEMPTION

As a Category B waste management activity in terms of the 'List of Waste Management Activities' (GN R 718, 3 July 2009), the application for an operational waste management licence for Ash Dam Extension 3 at Komati Power Station requires a scoping and EIA process as stipulated in the EIA Regulations (GN R 543, June 2010).

The EIA Regulations make provision for the granting of exemption 'from any provision of the Act as it relates to environmental impact assessment or from any provision of these regulations' (Chapter 5, Section 50). Given the current status and history of Ash Dam Extension 3 at Komati Power Station, Synergistics' is of the opinion that there is good reason for the exemption to be granted from certain provisions of the EIA Regulations. The following table sets out:

- 1) the provisions of the 2010 EIA Regulations from which exemption is applied, and
- 2) the assessment process that is proposed in support of the operational waste management licence for Ash Dam Extension 3.

Table: Proposed EIA and PPP process for Ash Dam Extension 3 at Komati Power Station.

GN R 543	EIA and PPP activity	Exemption	Description
Reg 26	Submit an application for a waste management licence to the competent authority.	No	Completed. Reference number obtained from the Department of Environmental Affairs (12/9/11/L1010/6)
Reg 27a to d and Reg 54,	Conduct public participation	No	<p>Initiate a new public participation process in terms of the 2010 EIA Regulations for the waste management licence application. All interested and affected parties that registered for the previously conducted process will be notified and efforts will be made to register new parties by:</p> <ul style="list-style-type: none"> • Fixing a notice board at the site. • Distributing written notifications. • Publishing advertisements <p>The information provided to the public will include details of the waste management activities applied for and notification of exemption granted from certain provisions of the EIA Regulations.</p>

GN R 543	EIA and PPP activity	Exemption	Description
Reg 55	Maintain a Register of Interested and Affected Parties	No	The details and issues raised by parties that register will be recorded in a register.
Reg 27 e to l, Reg 28 Reg 29 Reg 30	Scoping process	Requested	<p>Scoping will <u>not</u> be conducted and no scoping report will be prepared.</p> <p>Registered IAPs will <u>not</u> be given opportunity to comment on a scoping report.</p> <p><u>No</u> scoping report will be submitted to the competent authority.</p>
<p>The reasons for not undertaking the scoping process is firstly that Ash Dam Extension 3 has been constructed and has already impacted the site. Thus many of the impacts have already taken place. Secondly that scoping was completed during the previous EIA process. The original scoping process included the consideration of a range of site alternatives and resulted in Ash Dam Extension 3 being identified as the preferred site. The original scoping report also identified the need for and scope of the specialist studies that were required to assess the environmental impacts. These included an air quality impact assessment and a groundwater study. The environment of the site and surrounds has not changed since that work was completed and the work remains relevant. The purpose of scoping is to develop a proper understanding of the nature of the issues associated with the project and to determine a plan of study for EIA. Synergistics' is confident that this purpose has been met and there is therefore no need to complete a scoping report to inform the current waste management licence application process.</p>			
Reg 56 (1), (3c and d)	Public review of draft and final scoping report	Requested	There will <u>not</u> be a draft or final scoping report for the public to comment on.
<p>As indicated above, Synergistics' is confident that the purpose of scoping has been met and will not be completing a Scoping Report. There will not be a scoping report on which Interested and Affected Parties can comment. However, issues raised by Interested and Affected Parties will be addressed in the EIA report and the registered Interested and Affected Parties will be given opportunity to review the EIA report.</p>			
Reg 31	Complete Environmental Impact Assessment report	No	An EIA report was compiled in terms of the 2006 EIA Regulations during the previous EIA process. Synergistics will update the EIA report to reflect the current state of Ash Dam Extension 3, the receiving natural environment and the potential environmental impacts. The EIA report will be prepared to comply with the waste management legislation and the 2010 EIA

GN R 543	EIA and PPP activity	Exemption	Description
			<p>Regulations. Any new issues raised by IAPs during the public participation process will be documented and addressed in the EIA report.</p> <p>Synergistics will consult with the Department of Water Affairs regarding the design of the liner and mitigation on the constructed facility.</p> <p>Submit 5 copies to the DEA for approval.</p>
Reg 32	Specialist reports as required	No	Any applicable comments or newly identified impacts will be used to revise the specialist reports where necessary.
Reg 33	Environmental Management Programme	No	<p>An EMP was compiled in terms of the 2006 EIA Regulations during the previous EIA process. Synergistics will update the EMP for the operations to reflect the identified environmental impacts and the required management and mitigation measures.</p> <p>The EMP report will be prepared to comply with the waste management legislation and the 2010 EIA Regulations.</p> <p>Submit 5 copies to the DEA for approval.</p>
Reg 56 (1),	Public review of <u>draft</u> EIA report	Reduced timeframe requested	Registered IAPs will be given 21 calendar days to comment on the draft EIA report.

Interested and affected parties for the Komati Ash Dam are highly likely to be involved with the Komati Power Station as most persons living or working in the adjacent areas are employed by Eskom or are involved in businesses related to the power station. In addition Ash Dam Extension 3 has already been constructed in terms of an environmental authorisation. As such it is anticipated that there will not be many parties with issues or concerns regarding Ash Dam Extension 3 and there will be few respondents who will wish to review and comment on the EIA report. This was apparent during the previous EIA when very few external parties registered to participate in the public process. On this basis it is motivated that 14 days is a reasonable period for IAPs to comment on the draft EIA report. All interested and affected parties who register for the process will be notified of the draft reports availability and given opportunity to comment on the draft EIA and EMP report.

GN R 543	EIA and PPP activity	Exemption	Description
Reg 54	Public review of <u>final</u> EIA and draft EMP report.	No	Registered IAPS will be provided with 14 calendar days to comment on the final EIA and EMP reports.
Reg 34, 35, 36 and 37	DEA to consider the EIA and make a decision on the WML	No	

Note: please refer to the submissions already made to the Department for copies of the previous EIA/EMP.

Synergistics is confident that the proposed EIA and PPP processes are aligned with the current legislative framework; will not jeopardise the rights of interested and affected parties or of Eskom and will provide the competent authority with sufficient information to make an informed decision regarding an operational waste management licence for Ash Dam Extension 3. The granting of exemption from certain provisions of the EIA regulations will shorten the process timeframes and minimise the operational risks at Komati Power Station.

3. CONCLUSION

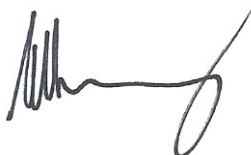
On behalf of Eskom, Synergistics hereby requests the Department to grant exemption from certain provisions of the 2010 EIA Regulations in respect of the EIA and PPP processes required to support the operational waste management licence for Ash Dam Extension 3. Please be so kind as to acknowledge receipt of this submission.

We respectfully request that the Department make their decision on the exemption application as soon as possible, with due consideration for the National interest regarding this project.

Synergistics and Eskom are more than willing to meet with the Department to discuss the proposed strategy and work toward the timeous delivery of a waste management licence for Ash Dam Extension 3.

Please do not hesitate to contact the undersigned should you have any questions on the matter.

Yours faithfully



Matthew Hemming

Director

Synergistics Environmental Services (Pty) Ltd