



environment & tourism

Department:
Environmental Affairs and Tourism
REPUBLIC OF SOUTH AFRICA

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Ref: 12/12/20/781

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Enquiries: Ms Mosili Ntene

Mr J Geeringh
Eskom Holdings Limited: Transmission Division
P.O. Box 1091
JOHANNESBURG
2000

Fax: (011) 800 3917

Dear Mr Geeringh

RECORD OF DECISION FOR PROJECT REFERENCE 12/12/20/781: THE CONSTRUCTION OF THE PROPOSED COEGA INTEGRATION 400/132kV SUBSTATIONS AND 400 AND 132kV TRANSMISSION LINES IN THE COEGA INDUSTRIAL DEVELOPMENT ZONE NEAR PORT ELIZABETH

Your application for authorisation, 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 said Act, regarding the above matter refers.

This department has evaluated the final scoping report dated July 2006 and has considered your application.

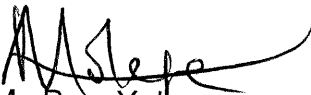
By virtue of the power delegated to me in terms of section 33(1) of the Environment Conservation Act, 1989 (Act No. 73 of 1989) I hereby, in terms of section 22(3) of the Act, authorise:

- Item 1: The construction, erection and upgrading of-
 - (a) facilities for commercial electricity generation with an output of at least 10 megawatts and infrastructure for bulk supply for Coega Integration project;
 - (g) structures associated with communication networks, other than telecommunication lines and cables, as well as access roads leading to these structures for Coega Integration project.

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

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.
- (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.


Ms Pam Yako
Director – General
Department of Environmental Affairs and Tourism
Letter signed by: L Molefe
Designation: Director, Env. Impact Evaluation
Date: 07 | 11 | 2006

CC: Mr Andries Struwig: Eastern Cape Department of Economic Affairs,
Environment and Tourism

Fax: (041) 585 1958

Mr Gavin Wray: Eyethu Engineers CC:

Fax: (031) 312 9930

RECORD OF DECISION

RECORD OF DECISION FOR PROJECT REFERENCE 12/12/20/781: THE CONSTRUCTION OF THE PROPOSED ESKOM HOLDINGS LIMITED: TRANSMISSION DIVISION, COEGA INTEGRATION 400/132kV SUBSTATIONS AND 400 AND 132kV TRANSMISSION AND DISTRIBUTION LINES IN THE COEGA INDUSTRIAL DEVELOPMENT ZONE NEAR PORT ELIZABETH

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, authorise Eskom Holdings Limited: Transmission Division (Hereafter referred to as Eskom) to undertake the activities specified/ detailed below subject to the indicated conditions.

1. DESCRIPTION, EXTENT AND LOCATION OF THE ACTIVITY:

The development is within the Coega Industrial Development Zone within the Nelson Mandela Metropolitan Municipality and consists of the following components:

- the upgrading of the Grassridge 400kV Transmission substation,
- the construction of the proposed Dedisa 400/132kV Transmission substation,
- the construction of the proposed Alcan 400/132kV Transmission substation,
- the construction of the proposed 400kV Transmission substation at the proposed CCGT plant
- the construction of the proposed 132kV CDC substation next to the Alcan substation,
- the installation of microwave telecommunication masts at the proposed new substations for telecommunication purposes,
- the construction of 3 x 400kV Transmission and 2 x 132kV Distribution power lines between Grassridge and Dedisa substations (6km),
- the construction of 2 x 400kV Transmission and 2 x 132kV Distribution power lines between Dedisa and the Alcan Smelter substations (4km),
- the construction of 2 x 400kV Transmission power lines between the CCGT plant and the Alcan Smelter substation (9km),
- the construction of 3 x 400kV transmission and 4 x 132kV Distribution power lines between Dedisa substation and the CCGT plant (7km),
- the construction of 1 x 400kV to connect with the existing 220kV traction power line to Dedisa substation (2,5km),
- the construction of 1 x 400kV Transmission and 2 x 132kV Distribution power lines in a north-easterly direction to the boundary of the IDZ for future use (3km).

All the 400 and 132kV Substations and power lines in the Coega Industrial Development Zone (IDZ) will be situated as shown on the layout map , figure 6, of the final scoping report dated July 2006.

2. KEY FACTORS INFORMING THE DECISION:

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

- The final scoping report dated July 2006.
- All specialist reports and recommendations included in the final scoping report dated July 2006.
- Appendix B & C of the final scoping report dated July 2006: Public participation process and issues report.
- The aims of the Coega Industrial Development Zone.
- The existing information regarding the Coega Open Space Plan.
- The development is in line with the Government programme of creating opportunities for employment in the Eastern Cape region, and specifically the NMMM where there is a high rate of unemployment.

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

- The proposed development is part of Eskom's new capacity installation programme and is intended to meet the future peak electricity demands of the Coega IDZ and Nelson Mandela Metropolitan Municipality (NMMM).
- The purpose of the proposed 400/132kV Transmission substations and power lines is to supply the proposed tenants of the Coega IDZ with electricity and to integrate the proposed future Coega Combined Cycle Gas Turbine generation station into the Eskom Transmission National Grid to facilitate the transfer of available base load generation capacity to the grid and to further supply this additional capacity in such a way as to improve security of supply in the national grid system in its entirety.
- The proposed development is compatible with the proposed area for the development as the whole area is being developed as an industrial zone.
- 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.
- The sensitive areas in the IDZ have been identified in relation to the proposed development and the Coega Open Space Plan.
- It is envisaged that should the recommendations and the mitigation measures contained in the final scoping report dated July 2006, and the conditions as stipulated in this record of decision be complied with, the negative environmental impact of this activity will be minimised where it cannot be avoided altogether.
- Based on the above, the Department's conclusion is that this activity will not lead to any substantial detrimental impact on the environment, potential detrimental impacts resulting from this activity can be mitigated to acceptable levels and that the principles of section 2 of NEMA can largely be upheld.

The Department has accordingly decided to grant Eskom Holdings Limited: Transmission Division authorisation in terms of Regulations R 1182 and R 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 authorisation applies in respect of the following activities required by the project and as listed in Schedule 1, regulation R. 1182 and described in the final scoping report dated July 2006:

- Item 1: The construction, erection or upgrading of-
 - (a) facilities for commercial electricity generation with an output of at least 10 megawatts and infrastructure for bulk supply for the Coega Electrical Integration Project;
 - (g) structures associated with communication networks, other than telecommunication lines and cables, as well as access roads leading to these structures for the Coega Electrical Integration Project.

3.2 SPECIFIC CONDITIONS

3.2.1 Environmental Management Plan (EMP)

3.2.1.1 Eskom must submit a site specific construction EMP to DEAT for approval before commencement of any of the activities related to this authorisation. Once approved by DEAT, the construction EMP will be seen as a dynamic document. Any changes to the EMP must be submitted to DEAT for approval before such changes are implemented. In addition, compliance with the EMP is considered an extension of the conditions of the authorisation.

3.2.1.2 The construction EMP must include but not be limited to the following aspects:

- Rehabilitation of all areas disturbed during the construction phase of the project. No exotic plant species may be used for rehabilitation purposes. Only indigenous plants may be utilised.
- A site specific plan for the protection of indigenous vegetation where construction activities will take place. A single access road of six (6) meters for construction purposes shall be allowed along the power line corridor and clearing of vegetation shall be limited to the sites where pylons are erected. Stringing operations shall be done without the removal of indigenous vegetation between the pylon positions. The servitude area of the power line corridor shall act as a wildlife corridor and shall be maintained as such.
- Provisions for harvesting of any medicinal plants that may occur on site prior to site clearance.
- Provision for plant search and rescue of protected and endangered species which should be done by a suitably qualified ecologist / botanist whom shall identify vegetation of conservation, economical and medicinal value for the purpose of plant search and rescue should such vegetation be earmarked for destruction to accommodate permanent structures before commencement of any construction related activity.
- Siting and management of construction camps, ablution and housing facilities as well as material storage areas used by the contractor. All work areas must be supplied with proper ablution facilities.

- Management and rehabilitation of access roads to individual construction areas that will not become permanent roads upon completion of construction. Any new permanent road constructed for access purposes outside of the proposed substation sites must comply with the relevant SANS codes and permission for construction must be obtained from DEAT as required by Schedule 1, item 1 (d) of R. 1182.
- Waste avoidance, minimisation of waste and disposal of waste at a registered waste disposal facility.
- Protection of any heritage sites likely to be impacted by the development should such sites be found during any phase of the project.
- Management of traffic during the construction phase of the development where the access roads and other transportation networks intersect.
- Management of runaway fires for implementation on site during the construction phase.
- During the construction of the substations and power lines, an effective monitoring system must be put in place to ensure safety and to detect any leakage or spillage of coolants from all oil containing equipment during their use.
- Implementation of site specific erosion and sediment control measures during construction and the maintenance and operational phases of the project.
- A site specific plan for the implementation of mitigation measures to prevent or reduce avi-faunal interaction with the new power lines.
- All recommendations and mitigation measures as proposed in the final scoping report dated July 2006 forms part of this record of decision and must be implemented as part of the EMP.

3.2.1.3 Eskom must include the EMP in the contractor's tender documentation for all contractors working on the project and the EMP must be endorsed contractually.

3.2.1.4 Eskom must submit a site specific EMP for the operational phase of the development to DEAT for approval prior to the completion of construction phase and the inception of the operational phase of the development. The operational EMP will be seen as a dynamic document. Any changes to the operational EMP must be submitted to DEAT for approval before such changes could be implemented.

3.2.1.5 The operational EMP referred to under 3.2.1.4 must include measures aimed at controlling invasive plant species and weeds and protection of heritage resources once the operational phase of the development is implemented.

3.2.2 Environmental Control Officer (ECO)

3.2.2.1 Eskom must appoint a suitably qualified Independent Environmental Control Officer (ECO) who would on behalf of Eskom, on a daily basis monitor the project compliance with conditions of the record of decision, environmental legislation and recommendations of the Environmental Management Plan (EMP).

3.2.2.2 The ECO must be appointed one month before the start of construction and DEAT must be notified of such an appointment and contact details of the ECO for communication purposes.

3.2.2.3 The ECO shall ensure that monthly environmental performance audits are undertaken during the construction phase. The ECO must compile an audit checklist that includes all the relevant conditions of the ROD, the mitigation measures proposed in the Scoping Report, the specifications of the EMP and other legal requirements as per 3.2.4 below and audit the project execution against the checklist. The ECO must raise non-conformance reports (NCR's) against any non-compliance with the audit checklist.

3.2.2.4 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), The report shall indicate the reference number of the project as supplied above and contain copies of all NCR's raised with regard to the audit checklist, as well as close out documentation related to the NCR's.

3.2.2.5 The ECO shall maintain the following on site for monitoring and auditing purposes during the construction phase until completion of the rehabilitation works:

- A daily site diary
- A non-conformance register and copies of NCR documentation
- A public complaint register
- A register of audits and copies of all monthly reports

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

3.2.2.7 The cost of the ECO shall be borne by Eskom.

3.2.3 Monitoring and auditing

3.2.3.1 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 ROD, the mitigation measures proposed in the final scoping report dated July 2006, and the approved construction and operational EMP's.

3.2.3.2 Records related to 3.2.3.1 must be made available for inspection to DEAT and the Provincial DEAET when required by the said departments.

3.2.4 Compliance with other legislation

Eskom shall ensure compliance to the following legal requirements 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 for the life cycle of the development

3.2.4.1 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 for the purpose of laying foundations, construction in the vicinity of the finding must be stopped. The applicant or its site representative must call a registered archaeologist to the site for inspection. Under no circumstances shall any artefacts be destroyed or removed from the site. The South African Heritage Resource Agency must be informed of any findings.

- 3.2.4.2 The transportation, handling and storage of hazardous substances must comply with all the provisions of the Hazardous Substances Act, (Act No.15 of 1973), associated regulations as well as SANS 10228 and SANS 10089 codes. Should a temporary bulk fuel supply storage facility be required on site, it must comply with the mentioned SANS codes and authorisation must be obtained from DEAT as required by Section 1, item 1 (c) (ii) of R. 1182.
- 3.2.4.3 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 authorisation.
- 3.2.4.4 All provisions of the National Water Act, 36 of 1998, must be adhered to by the holder of this authorisation. No development may take place under the 1:50 year flood line of any river or stream that is affected by the property under development. No disturbance of the land at any annual or perennial stream or rivers edge is allowed unless such disturbance complies with legislation regulated by the Department of Water Affairs and Forestry.
- 3.2.4.5 All provisions of the National Environment Management: Biodiversity Act, Act 10 of 2004, must be adhered to by the holder of this authorisation.
- 3.2.4.6 Should fill material be required for any purpose, the use of borrow pits must comply with the provisions of the Minerals and Petroleum Resources Development Act, 28 of 2002 administered by the Department of Minerals and Energy.
- 3.2.4.7 No indigenous and / or protected vegetation may be removed without the required permits from the relevant Provincial Nature Conservation department.

3.3 GENERAL CONDITIONS

- 3.3.1 This authorisation is granted only in terms of section 22 of the Environment Conservation Act, 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 above and described in the final scoping report dated July 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 authorisation, 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 authorisation is subject to the approval of the relevant local authorities in terms of any legislation administered by those authorities.
- 3.3.4 Construction may only start once all negotiations for the servitude is finalised and all landowners have signed the required legal documents granting Eskom the right to construct the line.
- 3.3.5 The applicant must, within 7 (seven) calendar days of receipt of this record of decision inform all interested and affected parties and at least include 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) 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 for permission to submit a late appeal favourably.

- 3.3.6 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.
- 3.3.7 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.
- 3.3.8 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.
- 3.3.9 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.
- 3.3.10 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.
- 3.3.11 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.
- 3.3.12 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.
- 3.3.13 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.

- 3.3.14 In the event that the predicted impacts exceed the significance as predicted by the independent consultant in the final scoping report dated July 2006 and supporting documentation, the authorisation may be withdrawn after proper procedures have been followed.
- 3.3.15 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.
- 3.3.16 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.
- 3.3.17 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.
- 3.3.18 National government, provincial government, local authorities or committees appointed in terms of the conditions of this application or any other public authority or authorisation 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.
- 3.3.19 If any condition imposed in terms of this authorisation is not complied with, the authorisation 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).
- 3.3.20 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.
- 3.3.21 The applicant shall be responsible for all costs necessary to comply with the above conditions unless otherwise specified.
- 3.3.22 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.
- 3.3.23 Departmental officials shall be given access to the properties earmarked for construction activities for the purpose of assessing and/or monitoring compliance with the conditions contained in this document at all reasonable times.

3.3.24 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 AUTHORISATION

If the activity authorised by this letter does not commence within 4 (four) years from the date of signature of this letter, the authorisation will lapse and the applicant will need to reapply for exemption or authorisation in terms of the above 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 authorisation, 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 utilising 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: cvedden@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:

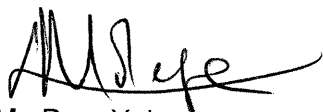
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7. CONSULTANT:

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Fax: (031) 312 9930



Ms Pam Yako
Director – General
Department of Environmental Affairs and Tourism
Letter signed by: L Molefe
Designation: Director, Env Impact Evaluation

Date: 07/11/2006