



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Reference: 12/12/20/1487

Enquiries: Mr. Mogole Mphahlele

Telephone: (012) 310 3004 Fax: (012) 320 7539 E-mail: mlmphahlele@deat.gov.za

Ms. M. Seabe
Eskom Holdings Limited
P O Box 1091
JOHANNESBURG
2000

Fax: 011 800 3917

PER FACSIMILE / MAIL

Dear Ms. Seabe

ENVIRONMENTAL AUTHORISATION FOR THE PROPOSED CONSTRUCTION OF A 15M TELECOMMUNICATION MAST AT THE IZIKO SUBSTATION ON PORTION 00001, DOORNHÖEK AND PORTION 00018, GROOTE VALLEI, MIDDELBURG, EASTERN CAPE PROVINCE

With reference to the abovementioned application, please be advised that the Department has decided to grant authorisation. The environmental authorisation and reasons for the decision are attached herewith.

In terms of regulation 10(2) of the Environmental Impact Assessment Regulations, 2006, you are instructed to notify all registered interested and affected parties (IAPs), in writing and within ten (10) calendar days of the date of this letter, of the Department's decision in respect of your application as well as the provisions regarding the making of appeals that are provided for in the regulations.

Your attention is drawn to Chapter 7 of the Regulations which regulates appeal procedures. Attached please find a simplified copy of the appeals procedure to be followed. Kindly include a copy of this procedure with the letter of notification to IAPs.

A copy of the official appeal form can be obtained from:

Mr PKM Retief, Appeals Administrator, Tel: 012 310 3705, pretief@deat.gov.za; or

Mr H Grové, Appeals Administrator, Tel: 012 310 3070, hgrove@deat.gov.za, at the Department.

Any party wishing to appeal any aspect of the decision must, *inter alia*, lodge a notice of intention to appeal with the Minister, within 10 days of receiving notice of the decision, by means of one of the following methods:

By facsimile: (012) 320 7561;
By post: Private Bag X447, Pretoria, 0001; or
By hand: 2nd Floor, Fedsure Form Building, North Tower, cor. Van der Walt and Pretorius Streets, Pretoria.

Should the applicant decide to appeal, the applicant must serve a copy of its notice of intention to appeal on all registered IAPs as well as a notice indicating where, and for what period, the appeal submission will be available for inspection.

Please include the Department, attention of the Director: Environmental Impact Evaluation, in the list of IAPs, notified through your notification letter of the decision, for record purposes.

The authorised activity/activities may not commence within thirty (30) days of the date of signature of the authorisation. Please further note that the Minister may, on receipt of appeals against the authorisations or conditions thereof suspend the authorisation pending the outcome of the appeals procedure.

Yours faithfully



Ms. Lize McCourt
Chief Director: Environmental Impact Management
Department of Environmental Affairs

Date: 14 September 2009

CC: Ms. Gugu Mlangeni

Bembanl Sustainability Training (Pty) Ltd

Fax: 086 618 1569

APPEALS PROCEDURE IN TERMS OF CHAPTER 7 OF R. 385 OF 2006 TO BE FOLLOWED BY THE APPLICANT AND INTERESTED AND AFFECTED PARTIES UPON RECEIPT OF NOTIFICATION OF AN ENVIRONMENTAL AUTHORISATION

APPLICANT	INTERESTED AND AFFECTED PARTIES (IAPs)
1. Receive notice of Environmental Authorisation from the relevant Competent Authority	1. Receive notice of Environmental Authorisation from Applicant/Consultant
2. Within 10 days of receipt of notification, notify the relevant Competent Authority and all IAPs of intention to appeal	2. Within 10 days of receipt of notification, notify the relevant Competent Authority of intention to appeal
3. Notification served by the Applicant must include: 3.1. A copy of the notice of intention to appeal; and 3.2. A notice indicating where and for what period the appeal submission will be available for inspection by all IAPs	3. Appellant must serve on the Applicant 3.1. A copy of the notice of intention to appeal 3.2. A notice indicating where and for what period the appeal submission will be available for inspection by the applicant
4. The appeal must be submitted to the relevant Competent Authority or delegated organ of State within 30 days of lodging of the notice of intention to appeal	4. The appeal must be submitted to the relevant Competent Authority or delegated organ of State within 30 days of lodging of the notice of intention to appeal
5. A person or organ of state that receives notice of an appeal may submit a responding statement to the relevant Competent Authority or delegated organ of state within 30 days from the date that the appeal submission was made available for inspection by the appellant	5. An Applicant that receives notice of an appeal may submit a responding statement to the relevant Competent Authority or delegated organ of State within 30 days from the date the appeal submission was made available for inspection by the appellant

NOTES:

1. An appeal against a decision must be lodged with:-

- a) the Minister of Water and Environmental Affairs if the decision was issued by the Director-General of the Department of Environmental Affairs (or another official) acting in his/ her capacity as the delegated Competent Authority;
- b) the MEC if the decision was issued by the Head of Department (or another official) acting in his/ her capacity as the delegated Competent Authority;
- c) the delegated organ of state where relevant.

2. An appeal lodged with:-

- a) the Minister of Water and Environmental Affairs must be submitted to the Department of Environmental Affairs;
- b) the MEC must be submitted to the provincial department responsible for environmental affairs;
- c) the delegated organ of state, where relevant, must be submitted to the delegated organ of state.

3. An appeal must be:-

- a) on an official form obtainable or published by the relevant department;
- b) accompanied by:
 - a statement setting out the grounds of appeal;
 - supporting documentation which is referred to in the appeal and is not available to the relevant Competent Authority;
 - a statement that the appellant has complied with regulation 62 (2) or (3) together with copies of the notices referred to in regulation 62;
 - the prescribed appeal fee, if any.

4. A copy of the official appeal form can be obtained from:

See authorisation cover letter.



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Environmental Authorisation

Authorisation register number: 12/12/20/1487

Last amended:

Holder of authorisation: Eskom Holdings Limited

Location of activity: Portion 00001, Doornhoek 244
and Portion 00018, Groote
Vallei 203, Middelburg, Inxuba
Yethemba Local Municipality,
Eastern Cape Province

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Decision

The Department is satisfied, on the basis of information available to it and subject to compliance with the conditions of this environmental authorisation, that the applicant should be authorised to undertake the activity specified below.

Details regarding the basis on which the Department reached this decision are set out in Annexure 1.

Activities authorised

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) and the Environmental Impact Assessment Regulations, 2006 the Department hereby authorises –

Eskom Holdings Limited

with the following contact details –

Ms. Mmamoloko Seabe
Eskom Holdings Limited
P.O. Box 1091
JOHANNESBURG
2000

Tel no: (011) 800 2345

Fax no: (011) 800 3917

to undertake the following activity-

G. N R. 386 (14) "The construction of masts of any material or type and of any height, including those used for telecommunication broadcasting and radio transmission, but excluding-

- a) masts of 15 metres and lower exclusively used*
 - (i) by radio amateurs*
 - (ii) for lighting purposes*

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- b) *flag poles; and*
- c) *lightning conductor poles*."

for the construction of a 15m telecommunication mast on Portion 00001, Doornhoek 244 and Portion 00018, Grootte Vallei 203, Middelburg as described in the Basic Assessment Report (BAR) dated July 2009, which fall within the jurisdiction of Inxuba Yethemba Local Municipality of the Eastern Cape Province, hereafter referred to as "the property".

The granting of this environmental authorisation is subject to the conditions set out below.

Conditions

Scope of authorisation

- 1.1 Authorisation of the activity is subject to the conditions contained in this authorisation, which conditions form part of the environmental authorisation and are binding on the holder of the authorisation.
- 1.2 The holder of the authorisation shall be responsible for ensuring compliance with the conditions by any person acting on his or her behalf, including but not limited to, an agent, sub-contractor, employee or person rendering a service to the holder of the authorisation.
- 1.3 The activity authorised may only be carried out on Portion 00001, Doornhoek 244 and Portion 00018, Grootte Vallei 203, Middelburg in the jurisdiction of the Inxuba Yethemba Local Municipality, Eastern Cape Province.
- 1.4 Any changes to, or deviations from, the project description set out in this authorisation 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 and it may be necessary for the holder of the authorisation to apply for further authorisation in terms of the regulations.
- 1.5 This activity must commence within a period of two (2) years from the date of issue. If commencement of the activity does not occur within that period, the authorisation lapses and a new application for environmental authorisation must be made in order for the activity to be undertaken.
- 1.6 This authorisation does not negate the holder of the authorisation's responsibility to comply with any other statutory requirements that may be applicable to the undertaking of the activity.

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1.6.1 Relevant legislation that must be complied with by the holder of this authorisation includes but is not limited to:

- Compliance with the requirements of Section 38(1), (3) and (7) of the National Heritage Resources Act, Act 25 of 1999, including the comments and recommendations of the relevant heritage resources authority responsible for the area in which the development is proposed. Should any heritage resources be exposed during excavation for the purpose of construction, construction in the vicinity of the finding must be stopped. A registered heritage specialist must be called to the site for inspection. Under no circumstances shall any heritage material be destroyed or removed from the site. The relevant heritage resource agency must be informed about the finding.
- Occupational Health and Safety Act, 1993 (Act 85 of 1993).
- National Environment Management: Biodiversity Act, 2004 (Act 10 of 2004).

Appeal of authorisation

- 1.7 The holder of the authorisation must notify every registered interested and affected party, in writing and within 10 (ten) calendar days, of receiving notice of the Department's decision to authorise the activity.
- 1.8 The notification referred to in 1.7 must –
- 1.8.1 specify the date on which the authorisation was issued;
 - 1.8.2 inform the interested and affected parties of the appeal procedure provided for in Chapter 7 of the regulations; and
 - 1.8.3 advise the interested and affected parties that a copy of the authorisation and reasons for the decision will be furnished on request.

Management of the activity

- 1.9 The construction Environmental Management Plan (EMP) that was approved and is used for the construction of the Capacitor Bank Station must be seen as a management tool that is inclusive of the construction of the telecommunication mast. The EMP must form part of the contractor's tender documentation for all contractors working on the project and must be endorsed contractually.
- 1.10 The applicant will have the responsibility of implementing the approved EMP.

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- 1.11 The provisions of the EMP are extension of the conditions of the environmental authorisation (EA) and therefore non-compliance with the EMP would constitute non-compliance with the EA.
- 1.12 The construction EMP must be seen as a dynamic document. However, any changes to the EMP, which is environmentally defensible, must be submitted to DEAT for acceptance before such changes could be effected.

Monitoring

- 1.13 The applicant must appoint an Environmental Control Officer (ECO) that will have the responsibility of monitoring implementation of the approved EMP.
- The ECO must be appointed before the start of the construction and the authorities must be notified of such an appointment for communication purposes.
 - The ECO must remain employed until all rehabilitation measures, as required for implementation due to construction damage, are completed and the site is handed over to Eskom Holdings Limited by the contractor for operation.

Recording and reporting to the Department

- 1.14 The holder of the authorisation must submit an environmental audit report to the Department upon completion of the construction and rehabilitation activities. The environmental audit report must –
- Indicate the date of the audit, the name of the auditor and the outcome of the audit in terms of compliance with the Environmental Authorisation conditions as well as the requirements of the EMP.
 - This report must include:
 - Details of the rehabilitation measures which must be compiled with by an Independent Environmental Auditor.
 - Details of all incidents and mitigation measures implemented to address such incidents.
 - All measures which require follow-up.

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Commencement

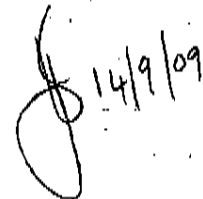
- 1.15 The construction of the authorised activity may not commence within thirty (30) days of date of signature of this authorisation.
- 1.16 Should you be notified by the minister of a suspension of the authorisation pending any appeals decision on the authorised activity, you may not commence with the activity unless authorised by the minister in writing.
- 1.17 Thirty (30) days written notice must be given to the Department that the activity will commence. Commencement for the purposes of this condition includes site preparation. The notice must include a date on which it is anticipated that the activity will commence.

Site closure and decommissioning

- 1.18 Should the use of the facility ever cease or become redundant, the applicant shall undertake the required actions as prescribed by legislation at the time and comply with all relevant legal requirements administered by any relevant and competent authority at that time.

Specific conditions

- 1.19 The applicant must place barriers and warning signs around excavations on sites and wherever there is a hazard to workers, the public and animals.
- 1.20 The applicant must take note that no temporary site camps will be allowed outside the footprint of the development area as the establishment of such structures might trigger a listed activity as defined in the NEMA Regulations, Government Notice 386 and 387 of 2006.
- 1.21 Changes in the proposal resulting in significant environmental impacts are only permissible if approved in writing by the Department.
- 1.22 An integrated waste management approach must be used that is based on waste minimisation and must incorporate reduction, recycling, re-use and disposal where appropriate. Any solid waste shall be disposed of at a waste disposal facility permitted in terms of Section 20(b) of the National Environmental Management Waste Management Act, 2008 (Act No. 59 of 2008).
- 1.23 Chemical ablution facilities must be available for the use of construction staff at all times during the construction period. These facilities must be removed from the site when the construction phase is completed as well as associated waste to be disposed of at a registered waste site.

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- 1.24 The applicant must train safety representatives, managers and workers in workplace safety. Enforce all applicable physical safety standards and regulations, including for subcontractors.
- 1.25 Independent Communications Authority of South Africa's regional office must be notified seven days prior to commissioning of the telecommunication mast so that they can inspect the new installation.

General

- 1.26 A copy of this authorisation must be kept at the property where the activity will be undertaken. The authorisation must be produced to any authorised official of the Department who requests to see it and must be made available for inspection by any employee or agent of the holder of the authorisation who works or undertakes work at the property.
- 1.27 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 applicant knows the new details.
- 1.28 The holder of the authorisation must notify the Department, in writing and within 24 (twenty four) hours, if any condition of this authorisation cannot be or is not adhered to. Any notification in terms of this condition must be accompanied by reasons for the non-compliance. Non-compliance with a condition of this authorisation may result in criminal prosecution or other actions provided for in the National Environmental Management Act, 1998 and the regulations.
- 1.29 National government, provincial government, local authorities or committees appointed in terms of the conditions of this authorisation or any other public authority 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 authorisation as set out in this document or any other subsequent document emanating from these conditions of authorisation.

Date of environmental authorisation: 14 September 2009


Ms Lize McCourt
Chief Director: Environmental Impact Management
Department of Environmental Affairs

Annexure 1: Reasons for Decision

1. Background

The applicant, Eskom Holdings Limited, applied for authorisation to carry out the following activity

R: 386 (14) "The construction of masts of any material or type and of any height, including those used for telecommunication broadcasting and radio transmission, but excluding-

- a) masts of 15 metres and lower exclusively used
 - (i) by radio amateurs
 - (ii) for lighting purposes
- b) flag poles; and
- d) lightning conductor poles"

for the construction of a 15m telecommunication mast on Portion 00001, Doornhoek 244 and Portion 00018, Grootte Vallei 203, Middelburg as described in the Basic Assessment Report (BAR) dated July 2009, which fall within the jurisdiction of Inxuba Yethemba Local Municipality of the Eastern Cape Province, hereafter referred to as "the property".


2. Information considered in making the decision

In reaching its decision, the Department took, *inter alia*, the following into consideration:

- a) The information contained in the BAR.
- b) No comments were received by I&AP's.
- c) The consent given by the landowners.
- d) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998).

3. Key factors considered in making the decision

All information presented to the Department was taken into account in the Department's consideration of the application. A summary of the issues, which in the Department's view, were of significance are set out below.

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- a) The applicant, Eskom Holdings Limited proposes the construction of a 15m telecommunication tower, which will include installation of an 8 or 15 GHz Alcatel 9400AWY 1+1 8 E1 radio with proposed 0.6 meter dish size working of Middelburg site on the main Eskom Telecommunication SDH system. This includes a total indoor installation of the radio in the existing Iziko Capacitor Bank Station next to the control room.
- b) Site location options available to the applicant were limited by the technical constraint that the telecommunication tower should be placed inside the station next to the existing control room of the Capacitor Bank Station. The proposed site or location (i.e. next to the control room of the Capacitor Bank Station) is the most economical for logistics, as well as service. There the feasible alternatives identified were limited to closer to the existing control room of the Capacitor Bank Station.
- c) The Nelson Mandela Bay Municipality and the Coega Development Company in the Coega Industrial Development Zone in the Eastern Cape will benefit from the activity due to the additional energy transfer of about 300MW created by the series capacitors, whereas the additional energy to be transferred to the Western Cape will be 50MW. However, the series capacitors cannot be commissioned and operated without the microwave towers.
- c) A sufficient public participation process was undertaken and the consultant has satisfied the minimum requirements as prescribed in the EIA regulations, 2006 for public involvement.
- d) As part of the EIA process, Bembani Sustainability Training (Pty) Ltd, being the EAP, identified potential environmental impacts associated with the proposed construction works and proposed feasible mitigation measures to mitigate the identified impacts.

4. Findings


After consideration of the information and factors listed above, the Department made the following findings -

- The BAR includes the identification and assessment of impacts.
- The procedure followed for the impact assessment seems to be adequate for the decision-making process based on the size of the project and affected area. The assessing officer is of the opinion that the assessment is adequate and comprehensive enough and that possible impacts have been assessed correctly.
- All legal and procedural requirements have been met.

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- There has been sufficient consultation with I&AP's apart from the landowner.
- Comments were received from the local authority.
- The proposed development is compatible with the proposed site for the development.

In view of the above, the Department is satisfied that, subject to compliance with the conditions contained in the environmental authorisation, the proposed activity will not conflict with the general objectives of integrated environmental management laid down in Chapter 5 of the National Environmental Management Act, 1998 and that any potentially detrimental environmental impacts resulting from the proposed activity can be mitigated to acceptable levels. The authorisation for the activity is accordingly granted.

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