



## environment, forestry & fisheries

Department:  
Environment, Forestry and Fisheries  
REPUBLIC OF SOUTH AFRICA

Private Bag X 447 · PRETORIA · 0001 · Environment House · 473 Steve Biko Road, Arcadia · PRETORIA

DEA Reference: 14/12/16/3/3/3/53/AM3

Enquiries: Ms Masina Litsokane

Telephone: (012) 399 9375 E-mail: [MLitsokane@environment.gov.za](mailto:MLitsokane@environment.gov.za)

Ms Deidre Herbst  
Eskom Holdings SOC Limited  
PO Box 1091  
JOHANNESBURG  
2000

Tel: 011 800 3501  
Email: [HerbstDL@eskom.co.za](mailto:HerbstDL@eskom.co.za)

### PER MAIL / EMAIL

Dear Ms Herbst

### AMENDMENT OF THE EXEMPTION FROM LINING REQUIREMENTS ISSUED ON 24 JUNE 2016 FOR THE PROPOSED CONTINUOUS ASHING AT THE MAJUBA POWER STATION ASH DISPOSAL FACILITY, MPUMALANGA PROVINCE

The Environmental Authorisation (EA) issued for the abovementioned application by this Department on 19 August 2015, Exemption from lining requirements issued on 24 June 2016, your application for amendment to the Exemption received on 05 February 2020, response letter issued to you dated 17 February 2020 and the final motivation report for amendment dated on December 2019 received by this Department on 06 March 2020 refer.

The applicant requires an amendment for extension of the validity period of the exemption from lining requirements issued on 24 June 2016.

This Department has consulted the Department of Water and Sanitation in order to obtain concurrence that is required in terms of Section 49(2) of the National Environmental Management: Waste Act, 2008 (Act No 59 of 2008) regarding the proposed amendment. Based on a review of the application for amendment as indicated above and the supporting documentation to amend the Exemption issued, this Department has decided not to amend the exemption dated 24 June 2016. The reasons for the decision are provided below:

- The reason for the exemption application was that the installation of the Class C liner will take approximately 4 years post-acquisition of the EA. The exemption was therefore issued solely based on the time required to install the liner not on footprint requested.
- The proposed amendment will result in disputes over precedence among other Type 3 waste producers of the mining and industrial sectors as the members of the mining sector have already raised allegations of unfairness following the four (4) years dry ash exemptions granted by DWS and DEFF to Eskom for some of the Power Stations some years ago.
- The Hydrological Opinion Study of the Majuba Ash Disposal Facility Exemption Area Report has a lot of assumptions, limitations and exclusions, indicated on Page 2 and Pages 30-31 Of the report.

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- The pH, electrical conductivity, Aluminium, Manganese and Arsenic have been identified as the parameters of concern through the existing monitoring programme on site. These parameters pose a major groundwater contamination risk.
- The investigation conducted for the site did not quantitatively indicate the groundwater impacts that may result from the requested additional timeframe to continue disposing in an unlined facility (the impacts are still based on the 2014 study).
- Non-compliance with the National Environmental Management Act, Act 107 of 1998 Principles, the National Water Act, Act 36 of 1998, and the National Environmental Management: Waste Act, Act 59 of 2008.

In terms of Regulation 4(2) of the Environmental Impact Assessment Regulations, 2014, as amended (the EIA Regulations), you are instructed to notify all registered interested and affected parties, in writing and within 14 (fourteen) days of the date of the EA, of the Department's as well as the provisions regarding the submission of appeals that are contained in the Regulations.

In terms of the Promotion of Administrative Justice Act, Act No. 3 of 2000, you are entitled to the right to fair, lawful and reasonable administrative action; and to written reasons for administrative action that affects you negatively. Further your attention is drawn to the provisions of the Protection of Personal Information Act, Act No. 4 of 2013 which stipulate that the Department should conduct itself in a responsible manner when collecting, processing, storing and sharing an individual or another entity's personal information by holding the Department accountable should the Department abuse or compromise your personal information in any way.

Your attention is drawn to Chapter 2 of National Environmental Management Act, Act No. 107 of 1998 National Appeal Regulations published under Government Notice R993 in Government Gazette No. 38303 dated 08 December 2014 (National Appeal Regulations, 2014), which prescribes the appeal procedure to be followed. Kindly include a copy of this document (National Appeal Regulations, 2014) with the letter of notification to interested and affected parties in this matter.

Should any person wish to lodge an appeal against this decision, he/she must submit the appeal to the appeal administrator, and a copy of the appeal to the applicant, any registered interested and affected party, and any organ of state with interest in the matter within 20 days from the date that the notification of the decision was sent to the registered interested and affected parties by the applicant; or the date that the notification of the decision was sent to the applicant by the Department, whichever is applicable.

**Appeals must be submitted in writing in the prescribed form to:**

The Director: Appeals and Legal Review of this Department at the below mentioned addresses.

By email: [appeals@environment.gov.za](mailto:appeals@environment.gov.za);

By hand: Environment House  
473 Steve Biko  
Arcadia  
Pretoria  
0083; or

By post: Private Bag X447  
Pretoria  
0001

Please note that in terms of Section 43(7) of the National Environmental Management Act, Act No. 107 of 1998, as amended, the lodging of an appeal will suspend the environmental authorisation or any provision or condition attached thereto. In the instance where an appeal is lodged, you may not commence with the activity until such time that the appeal is finalised.

To obtain the prescribed appeal form and for guidance on the submission of appeals, please visit the Department's website at [https://www.environment.gov.za/documents/forms#legal\\_authorisations](https://www.environment.gov.za/documents/forms#legal_authorisations) or request a copy of the documents at [appeals@environment.gov.za](mailto:appeals@environment.gov.za).

Yours faithfully



**Mr Sabelo Malaza**  
**Chief Director: Integrated Environmental Authorisations**  
**Department of Environmental Affairs**

Date: 07/09/2020