



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Private Bag X 447· PRETORIA · 0001· Environment House · 473 Steve Biko, Arcadia· PRETORIA
Tel (+ 27 12) 399 9372

NEAS Reference: DEA/EIA/0001480/2012

DEA Reference: 14/12/16/3/3/1/710

Enquiries: Ms Ndivhudza Sebei

Telephone: 012-399-9408 **E-mail:** Nsebei@environment.gov.za

Mr Neil Purdon
Eskom Holdings SOC Limited
P.O. Box 66
NEW GERMANY
3610

Tel: 031 710 5483
Fax: 031 710 5146

PER FACSIMILE/ MAIL

Dear Mr Purdon

ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998: GN R. 543, 544 AND 546: CONSTRUCTION OF THE NDUMO-GEZISA 132kV POWER LINES, UMKHANYAKUDE DISTRICT MUNICIPALITY, KWAZULU NATAL PROVINCE

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

In terms of regulation 10(2) of the Environmental Impact Assessment Regulations, 2010 (the Regulations), you are instructed to notify all registered interested and affected parties, in writing and within 12 (twelve) days of the date of the EA, of the Department's decision in respect of your application as well as the provisions regarding the submission of appeals that are contained in the Regulations.

Your attention is drawn to Chapter 7 of the Regulations, which prescribes the appeal procedure to be followed. This procedure is summarised in the attached document. Kindly include a copy of this document with the letter of notification to interested and affected parties.

Should the applicant or any other party wish to appeal any aspect of the decision a notice of intention to appeal must be lodged by all prospective appellants with the Minister, within 20 days of the date of the EA, by means of one of the following methods:

By post: Private Bag X447,
Pretoria, 0001; or

By hand: Environment House
437 Steve Biko Road
Arcadia
Pretoria

If the applicant wishes to lodge an appeal, it must also serve a copy of the notice of intention to appeal on all registered interested and affected parties as well as a notice indicating where, and for what period, the appeal submission will be available for inspection, should you intend to submit an appeal.

Please include the Department (*Attention: Director: Integrated Environmental Authorisations*) in the list of interested and affected parties, notified through your notification letter to interested and affected parties, for record purposes.

Appeals must be submitted in writing to:

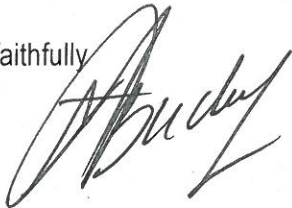
Mr Z Hassam Director: Appeals and Legal Review, of this Department at the above mentioned addresses or fax number. Mr Hassam can also be contacted at:

Tel: 012-399-9356

Email: AppealsDirectorate@environment.gov.za

The authorised activities shall not commence within twenty (20) days of the date of signature of the authorisation. Further, please note that in terms of section 43(7) of the National Environmental Management Act, 1998, an appeal under section 43 of that Act 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.

Yours faithfully



Mr Ishaam Abader

Deputy Director-General: Legal, Authorisations, Compliance and Enforcement

Department of Environmental Affairs

Date:

24/11/2014

CC:	Ms S Meyer	Zitholele Consulting (Pty) Ltd	Tel: 011 207 2060	Fax: 086 674 6121
	Mr I Mahlangu	DAEARD	Tel: 033 355 9690	Fax: 033 355 9293
	Mr B Ntuli	Jozini Municipality	Tel: 035 572 1269	Fax: 035 572 1423
	Mr Z W Ngwenya	Umhlabuyalingana	Tel: 035 592 0671	Fax: 035 592 0672

APPEALS PROCEDURE IN TERMS OF CHAPTER 7 OF THE NEMA EIA REGULATIONS, 2010 (THE REGULATIONS) AS PER GN R. 543 OF 2010 TO BE FOLLOWED BY THE APPLICANT AND INTERESTED AND AFFECTED PARTIES UPON RECEIPT OF NOTIFICATION OF AN ENVIRONMENTAL AUTHORISATION (EA)

APPLICANT	INTERESTED AND AFFECTED PARTIES (IAPs)
1. Receive EA from the relevant Competent Authority (the Department of Environmental Affairs [DEA]).	1. Receive EA from Applicant/Consultant.
2. Within 12 days of date of the EA notify all IAPs of the EA and draw their attention to their right to appeal against the EA in terms of Chapter 7 of the Regulations.	2. N/A.
3. If you want to appeal against the EA, submit a notice of intention to appeal within 20 days of the date of the EA with the Minister of Environmental Affairs (the Minister).	3. If you want to appeal against the EA, submit a notice of intention to appeal within 20 days of the date of the EA. with the Minister of Environmental Affairs (the Minister).
4. After having submitted your notice of intention to appeal to the Minister, provide each registered IAP with a copy of the notice of intention to appeal within 10 days of lodging the notice.	4. After having submitted your notice of intention to appeal to the Minister, provide the applicant with a copy of the notice of intention to appeal within 10 days of lodging the notice.
5. The Applicant must also serve on each IAP: <ul style="list-style-type: none"> • a notice indicating where and for what period the appeal submission will be available for inspection. 	5. Appellant must also serve on the Applicant within 10 days of lodging the notice, <ul style="list-style-type: none"> • a notice indicating where and for what period the appeal submission will be available for inspection by the applicant.
6. The appeal must be submitted in writing to the Minister within 30 days after the lapsing of the period of 20 days provided for the lodging of the notice of intention to appeal.	6. The appeal must be submitted to the Minister within 30 days after the lapsing of the period of 20 days provided for the lodging of the notice of intention to appeal.
7. Any IAP who received a notice of intention to appeal may submit a responding statement to that appeal to the Minister within 30 days from the date that the appeal submission was lodged with the Minister.	7. An Applicant who received notice of intention to may submit a responding statement to the appeal to the Minister within 30 days from the date that the appeal submission was lodged with the Minister.

NOTES:

1. **An appeal must be:-**
 - a) submitted in writing;
 - b) accompanied by:
 - a statement setting out the grounds of appeal;
 - supporting documentation which is referred to in the appeal; and
 - a statement that the appellant has complied with regulation 62 (2) or (3) together with copies of the notices referred to in regulation 62.





environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Environmental Authorisation

In terms of Regulation 36 of the Environmental Impact Assessment Regulations, 2010

The construction of Ndumo-Gezisa 132kV power line within the jurisdiction of the
Umkhanyakude District Municipality, KwaZulu Natal Province

Umkhanyakude District Municipality

Authorisation register number:	14/12/16/3/3/1/710
NEAS reference number:	DEA/EIA/0001480/2012
Last amended:	First issue
Holder of authorisation:	ESKOM HOLDINGS SOC LIMITED
Location of activity:	Makhathini Flats, Northern KwaZulu-Natal in Umhlabuyalingana Local Municipality and Jozini Local Municipality, KZN Province

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.

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/ies specified below.

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 EIA regulations.

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 107 of 1998) and the Environmental Impact Assessment Regulations, 2010 the Department hereby authorises –

ESKOM HOLDINGS SOC LIMITED

with the following contact details –

Mr Neil William Purdon
Eskom Holdings SOC Limited
P.O. Box 66

NEW GERMANY

3610

Tel: 031 710 5483

Fax: 031 710 5146

Cell: 082 862 6555

E-mail: neil.purdon@eskom.co.za



to undertake the following activity/ies (hereafter referred to as "the activity") indicated in terms of GN R543 GN R544, and GN R546 of 18 June 2010:

Listed activities	Activity/Project description
<p><u>GN R. 544 Item 10(i)</u> The construction of facilities or infrastructure for the transmission and distribution of electricity (i) Outside urban areas or industrial complexes with a capacity of more than 33 but less than 275kV.</p>	<p>Construction of a multi-circuit high voltage electricity transmission line between the existing Ndumo Substation and the proposed Gezisa Substations or the construction of a single 132kV high voltage power line.</p>
<p><u>GN R. 544 Item 11(xi)</u> The construction of infrastructure or structures within a watercourse or within 32m of a watercourse.</p>	<p>Some of the power line structures may have to be placed within 32 m of the banks of the Pongola River (estimated 2 structures), within a floodplain, or within the Muzi wetlands.</p>
<p><u>GN R. 544 Item 26</u> Any process or activity identified in terms of Section 53(1) of NEM: Biodiversity Act, 2004</p>	<p>The Ndumo to Gezisa area is known for its environmental sensitivity due to the presence of Sand Forest patches and the location of the Ndumo Nature Reserve and the Tembe Elephant Park Nature Reserve.</p>
<p><u>GN R. 546 Item 13 (a) (c)(ii)</u> The clearance of an area of 1 hectare or more of vegetation where 75 % or more of the vegetative cover constitutes indigenous vegetation.</p>	<p>Clearing of indigenous vegetation along the servitude will occur and will exceed 1 ha in totality.</p>
<p><u>GN R. 546 Item 12(a)</u> The clearance of an area of 300 square metres or more of vegetation where 75% or more of the vegetative cover constitutes indigenous vegetation. (a) Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;</p>	<p>Sections of the power line will require the clearing of indigenous bush and this may include (depending on final power line routing within the preferred corridor) the clearing of Sand Forest.</p>
<p><u>GN R. 546 Item 16(iv) (a) (ii) (hh)</u> The construction of: (iv) infrastructure covering 10 square metres or more where such construction occurs within a watercourse or within 32 metres of a</p>	<p>The power line structures will cover an area of 10m² or more and some of them may have to be placed within 32m of a watercourse/wetland where unavoidable. This will occur within 5 km of the Tembe Elephant Nature</p>

Listed activities	Activity/Project description
watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.	Reserve.

as described in the amended Basic Assessment Report (BAR) dated September 2014 at:

Power line Preferred Corridor 3P Alternative	Latitude	Longitude
1		
Starting point of activity	27° 00.16. 23"	32° 15'.12. 69"
Middle point of activity	27° 04. 31. 09"	32° 28'. 09. 46"
End point of activity	27° 01. 18. 68"	32° 38'.56. 08"

- for the construction of Ndumo-Gezisa 132kV power line within the jurisdiction of the Umkhanyakude District Municipality, KwaZulu Natal Province, hereafter referred to as "the property".

Conditions of this Environmental Authorisation

Scope of authorisation

1. The preferred Alternative 1 Corridor 3P for the construction of approximately 44km 132kV Multi-circuit/Single circuit Overhead power line with a servitude of 36m (18m on either side of the centre line) from the Ndumo Substation to Gezisa Substation, within Umkhanyakude District Municipality in the KwaZulu Natal Province is approved.
2. Authorisation of the activity/ies are subject to the conditions contained in this authorisation, which form part of the environmental authorisation and are binding on the holder of the authorisation.
3. The holder of the authorisation is responsible for ensuring compliance with the conditions contained in this environmental authorisation. This includes any person acting on the holder's behalf, including but not limited to, an agent, servant, contractor, sub-contractor, employee, consultant or person rendering a service to the holder of the authorisation.
4. The activities authorised must be carried out at the property as described above.
5. 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.

6. These activities must commence within a period of five (5) years from the date of issue of this authorisation. If commencement of the activity/ies does not occur within that period, the authorisation lapses and a new application for environmental authorisation must be made in order for the activity/ies to be undertaken.
7. Commencement with one activity listed in terms of this authorisation constitutes commencement of all authorised activities.
8. The holder of an environmental authorisation must notify the competent authority of any alienation, transfer and change of ownership rights in the property on which the activity is to take place.

Notification of authorisation and right to appeal

9. The holder of the authorisation must notify every registered interested and affected party, in writing and within 12 (twelve) calendar days of the date of this environmental authorisation, of the decision to authorise the activity.
10. The notification referred to must –
 - 11.1 specify the date on which the authorisation was issued;
 - 11.2 inform the interested and affected party of the appeal procedure provided for in Chapter 7 of the Environmental Impact Assessment Regulations, 2010;
 - 11.3 advise the interested and affected party that a copy of the authorisation will be furnished on request; and
 - 11.4 give the reasons of the competent authority for the decision.
11. The holder of the authorisation must publish a notice –
 - 11.1. informing interested and affected parties of the decision;
 - 11.2. informing interested and affected parties where the decision can be accessed; and
 - 11.3. drawing the attention of interested and affected parties to the fact that an appeal may be lodged against this decision in the newspaper(s) contemplated and used in terms of regulation 54(2) (c) and (d) and which newspaper was used for the placing of advertisements as part of the public participation process.



Management of the activity

12. The Environmental Management Programme (EMPr) submitted as part of the Application for EA is hereby approved. This EMPr must be implemented and adhered to.
13. The EMPr must be included in all contract documentation for all phases of the development.
14. The provisions of the approved EMPr is considered an extension of the conditions of this EA and therefore noncompliance with them would constitute noncompliance with the EA.

Monitoring

15. The applicant must appoint a suitably experienced independent Environmental Control Officer (ECO) for the construction phase of the development that will have the responsibility to ensure that the mitigation/rehabilitation measures and recommendations referred to in this authorisation are implemented and to ensure compliance with the provisions of the EMPr.
 - 15.1. The ECO must be appointed before commencement of any authorised activity/ies.
 - 15.2. Once appointed, the name and contact details of the ECO must be submitted to the *Director: Compliance Monitoring* of the Department.
 - 15.3. The ECO must meet with the contractors to discuss the conditions of the EA and the contents of the EMPr prior to any site clearing occurring.
 - 15.4. The ECO must keep record of all activities on site, problems identified, transgressions noted and a task schedule of tasks undertaken by the ECO.
 - 15.5. The ECO must remain employed until all rehabilitation measures, as required for implementation due to construction damage, are completed and the site is ready for operation.

Recording and reporting to the Department

16. All documentation e.g. audit/monitoring/compliance reports and notifications, required to be submitted to the Department in terms of this authorisation, must be submitted to the *Director: Compliance Monitoring* at the Department.
17. The holder of the authorisation must submit an environmental audit report to the Department within 30 days of completion of the construction phase (i.e. within 30 days of site handover) and within 30 days of completion of rehabilitation activities.



18. 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 EMPr.
19. Records relating to monitoring and auditing must be kept on site and made available for inspection to any relevant and competent authority in respect of this development

Commencement of the activity

20. The authorised activity shall not commence within twenty (20) days of the date of signature of the authorisation.
21. In terms of section 43(7), an appeal under section 43 of the National Environmental Management Act, 1998 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 has been finalised.

Notification to authorities

22. Fourteen (14) days written notice must be given to the Department that the activity/ies 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/ies will commence, as well as a reference number. This notification period may coincide with the notice of intent to appeal period.

Operation of the activity

23. Fourteen (14) days written notice must be given to the Department that the activity operational phase will commence.

Site closure and decommissioning

24. Should the activity 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

25. A final walk down by the faunal, floral, heritage and avifaunal specialists must be undertaken, and be used to inform the final tower locations prior to commencement of construction. Should the findings of the walk down reveal that the area for the location of the towers is environmentally sensitive, an amended layout must be submitted to the Department for approval.
26. Care must be taken in sensitive areas such as grassland, wetland and river crossings not to create more disturbance than is necessary. Access of machinery and vehicles to these areas must be carefully controlled and maintenance and construction activities must be restricted to the servitude.
27. A permit must be obtained from the relevant nature conservation agency for the removal or destruction of indigenous protected and endangered plant and animal species.
28. Vegetation clearing must be kept to an absolute minimum. Mitigation measures must be implemented to reduce the risk of erosion and the invasion of alien species.
29. Construction must include appropriate design measures that allow surface and subsurface movement of water along drainage lines so as not to impede natural surface and subsurface flows. Drainage measures must promote the dissipation of storm water run-off.
30. All areas disturbed during the construction phase must be rehabilitated and re-seeded with indigenous plants at the end of the construction phase.
31. Anti-collision devices such as bird flappers must be installed where power line crosses avifaunal corridors, as recommended by the avifaunal specialist. The input of an avifaunal specialist must be obtained for the fitting of the anti-collision devices onto specific sections of the line once the exact positions of the towers have been surveyed and pegged.
32. The applicant must ensure that all waste control and the location of fuel storage areas, hazardous materials (oils, chemicals, and cement), waste storage areas, ablution and latrines and any other potentially polluting activities are in bunded areas and are 100m away from wetlands, river or stream.
33. An integrated waste management approach must be implemented that is based on waste minimisation and must incorporate reduction, recycling, re-use and disposal. Any solid waste shall be disposed of at a landfill licensed in terms of section 20 (b) of the National Environment Management Waste Act, 2008 (Act 59 of 2008).

General

34. A copy of this authorisation and the approved EMPr must be kept at the property where the activity/ies will be undertaken. The authorisation and approved EMPr must be produced to any authorised official
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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.

35. The holder of the authorisation must notify both the *Director: Integrated Environmental Authorisations* and the *Director: Compliance Monitoring* at the Department, in writing and within 48 (forty eight) 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.
36. 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: 21 NOVEMBER 2014


Mr Ishaam Abader

Deputy Director-General: Legal Authorisations, Compliance & Enforcement
Department of Environmental Affairs

Annexure 1: Reasons for Decision

1. 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 amended BAR dated September 2014 and received by the Department on 22 September 2014;
- b) The comments received from the organ of state and interested and affected parties as included in the BAR dated September 2014;
- c) Mitigation measures as proposed in the BAR dated September 2014 and the EMPr;
- d) The information contained in the specialist studies contained within Appendix D of the BAR; and
- e) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act 107 of 1998).

2. 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 the most significance is set out below.

- a) The findings of all the specialist studies conducted and their recommended mitigation measures.
- b) The need for the proposed project stems from the high demand from the highly constraint Makhathini network which is unable to supply additional electrification load growth in the Candover, Mbazwana and Gezisa area.
- c) The BAR dated September 2014 identified all legislation and guidelines that have been considered in the preparation of the BAR.
- d) The methodology used in assessing the potential impacts identified in the BAR dated September 2014 and the specialist studies have been adequately indicated.
- e) A sufficient public participation process was undertaken and the applicant has satisfied the minimum requirements as prescribed in the EIA Regulations, 2010 for public involvement.



3. Findings

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

- a) The identification and assessment of impacts are detailed in the BAR dated September 2014 and sufficient assessment of the key identified issues and impacts have been completed.
- b) The procedure followed for impact assessment is adequate for the decision-making process.
- c) The proposed mitigation of impacts identified and assessed adequately curtails the identified impacts.
- d) EMPr measures for the pre-construction, construction, operation and rehabilitation phases of the development were proposed and included in the BAR and will be implemented to manage the identified environmental impacts during all the phases.

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 environmental authorisation is accordingly granted.

