



## **environmental affairs**

Department:  
Environmental Affairs  
**REPUBLIC OF SOUTH AFRICA**

Private Bag X 447 · PRETORIA · 0001 · Fedsara Building · 315 Pretorius Street · PRETORIA  
Tel (+ 27 12) 310 3911 · Fax (+ 2712) 322 2682

Reference: 12/12/20/1350

Enquiries: Ms Tebogo Mapinga

Telephone: 012-395-1805 Fax: 012-320-7539 E-mail: [TMapinga@environment.gov.za](mailto:TMapinga@environment.gov.za)

Ms Anrea van Gensen  
Eskom Holdings Limited Pty (Ltd)  
P.O. Box 356  
**BLOEMFONTEIN**  
9300

Fax: 051 404 2972

### **PER FACSIMILE / MAIL**

Dear Ms Van Gensen

#### **APPLICATION FOR ENVIRONMENTAL AUTHORISATION: PROPOSED CONSTRUCTION OF A 20MVA SUBSTATION, 132KV LOOP IN LINE AND A 22KV OVERHEAD POWER LINE IN SCHMIDTSDRIFT, NORTHERN 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, in writing and within 7 (seven) 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 submission 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 interested and affected parties.

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

Mr T Zwane, Senior Appeals Administrator, Tel: 012 310 3929, [tzwane@environment.gov.za](mailto:tzwane@environment.gov.za) at the Department.

Should any party, including you, wish to appeal any aspect of the decision, they / you 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 Building, North Tower, cnr. Van der Walt and  
Pretorius Streets, Pretoria.

You (applicant) 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, Environmental Impact Evaluation) in the list of interested and affected parties, notified through your notification letter to interested and affected parties, for record purposes.

The authorised activity shall not commence within thirty (30) days of the date of signature of the authorisation. Further, please note that the minister may, on receipt of appeals against the authorisation 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: 21 September 2010

CC: Ms Carmen du Toit

The Environmental Partnership

Fax: 021 422 0998

**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**

<b>APPLICANT</b>	<b>INTERESTED AND AFFECTED PARTIES (IAPs)</b>
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:-**

- 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;
- the Minister of Justice and Constitutional Development if the applicant is the Department of Water Affairs and 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;
- 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;
- the delegated organ of state where relevant.

**2. An appeal lodged with:-**

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

**3. An appeal must be:-**

- on an official form obtainable or published by the relevant department;
- 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.

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## Environmental Authorisation

**Authorisation register number:** 12/12/20/1350

**Last amended:** First issue

**Holder of authorisation:** Eskom Holdings Limited Pty  
(Ltd)

**Location of activity:** Schmidtsdrift, Northern Cape  
Province

*21/9/2010*

## 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 PTY (LTD)**

with the following contact details –

Ms Anrea van Gensen  
Eskom Holdings Limited Pty (Ltd)  
P.O. Box 356  
BLOEMFONTEIN  
9300

Tel: 051 404 2040

Fax: 051 404 2972

to undertake the following activity (hereafter referred to as "the activity"):

### **GN R.386 activities**

*Item 1(m): "The construction of facilities or infrastructure, including associated structures or infrastructure, for any purpose in the one in ten year flood line of a river or stream, or within 32 metres from the bank of a river or stream where the flood line is unknown, excluding purposes associated with existing residential use, but including –*

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- i. canals;
- ii. channels;
- iii. bridges;
- iv. dams; and
- v. weirs;

**GN R.387 activities**

*Item 1(i): "The construction of facilities or infrastructure, including associated structures or infrastructure, for the transmission and distribution of above ground electricity with a capacity of 120 kilovolts or more".*

as described in the Environmental Impact Assessment Report dated October 2009, as the proposed construction of a 20MVA substation, 132kV loop-in line and a 22kV overhead power line in Schmidtsdrift, within the Northern Cape Province, hereafter referred to as "the property".

## Conditions

### Scope of authorisation

1. The Route Alternative 1a identified in the EIR dated May 2010 is hereby approved.
2. Authorisation of the activity is 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 shall be 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 may only 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

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and it may be necessary for the holder of the authorisation to apply for further authorisation in terms of the regulations.

6. This activity must commence within a period of four (4) 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. Commencement with one activity listed in terms of this authorisation constitutes commencement of all authorised activities.
7. 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.
  - 7.1 Relevant legislation that must be complied with by the holder of this authorisation includes, *inter alia*:
    - Archaeological remains, artificial features and structures older than 60 years are protected by National Heritage Resources Act, 1999 (Act No. 25 of 1999). Should any archaeological artefacts be exposed during excavation for the purpose of construction, construction in the vicinity of the finding must be stopped immediately. 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 and the relevant heritage resource agency must be informed about the finding. Heritage remains uncovered or disturbed during earthworks must not be disturbed further until the necessary approval has been obtained from the South African Heritage Resources Agency and/or any of their delegated provincial agencies.
    - All provisions of the Occupational Health and Safety Act, 1993 (Act 85 of 1993).
    - All provisions of the National Water Act, 1998 (Act 36 of 1998).
    - All provisions of the National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004).
    - All provisions of the National Environmental Management: Protected Areas Act, 2003 (Act 57 of 2003) and its Regulations.
8. Vegetation clearing must be kept within the servitude of the power line and the footprint of the substation. Mitigation measures must be implemented to reduce the risk of erosion and the invasion of alien species.
9. An integrated waste management approach must be implemented that is based on waste minimisation and must incorporate reduction, recycling, re-use and disposal where appropriate.

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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 No. 59 of 2008).

#### **Appeal of authorisation**

10. 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.
11. The notification referred 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 regulations;
  - 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 for the decision.

#### **Management of the activity**

12. The Environmental Management Plan (EMP) that was received by the department on 03 May 2010 is hereby approved by this Department. The Applicant will have the responsibility of implementing the approved EMP.
13. The EMP must be seen as a dynamic document. However, any changes to the EMP, which are environmentally defensible, must be submitted to DEA for acceptance before such changes could be effected.
14. The recommendations and mitigation measures recorded in the EIR dated May 2010 must be adhered to and incorporated as part of the EMP where applicable.
15. All correspondence with regard to this application must be forwarded for attention to The Director: Environmental Impact Evaluation within the Department.

#### **Monitoring**

16. The applicant must appoint a suitably experienced Environmental Control Officer (ECO) for the construction phase of the development that will have the responsibility to ensure that the



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mitigation / rehabilitation measures and recommendations referred to in this authorisation are implemented and to ensure compliance with the provisions of the EMP.

17. The ECO shall be appointed before commencement of any land clearing or construction activities.
18. The ECO shall keep record of all activities on site, problems identified, transgressions noted and a task schedule of tasks undertaken by the ECO.
19. The ECO shall remain employed until all rehabilitation measures, as required for implementation due to construction damage, are completed and the site is ready for operation.
20. 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.

#### **Recording and reporting to the Department**

21. 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 –
  - 21.1 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.
  - 21.2 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.
22. All compliance monitoring and audit reports must be submitted to the Director: Compliance Monitoring.

#### **Commencement of the activity**

23. The authorised activity shall not commence within thirty (30) days of the date of signature of the authorisation.
24. Should you be notified by the minister of a suspension of the authorisation pending appeal procedures, you shall not commence with the activity unless authorised by the minister in writing.

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### Notification to authorities

25. Fourteen (14) 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. This notification period may coincide with the period contemplated in 23 above.

### Operation of the activity

26. Fourteen (14) days written notice must be given to the Department that the activity operational phase will commence.
27. The applicant must compile an operational EMP for the operational phase of the activity or alternatively, if an operational EMP exists for the area, it must be amended to include the proposed activity as applied for authorisation.

### Site closure and decommissioning

28. 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

29. Vegetation clearing must be kept to an absolute minimum. Mitigation measures must be implemented as recommended in the specialist studies and EMP to reduce the risk of erosion and the invasion of alien species.
30. Where protected shepherd's trees *Boscia albitrunca* fall within an area to be cleared and have to be removed, permits are required from the Department of Water Affairs and Forestry (Upington) before construction proceeds.
31. All recommendations stated on pages 13 & 14, section 7 of the Vegetation Assessment Report and the Draft Environmental Management plan must be adhered to.
32. 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.

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33. Copies of permits in respect of 30 and 35 above required must be submitted to the Department for record keeping.
34. No exotic plants may be used for rehabilitation purpose. Only indigenous plants of the area may be utilised.

**General**

35. 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.
36. 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.
37. The holder of the authorisation must notify 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. 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.
38. 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 September 2010



Ms Liza McCourt

**CHIEF DIRECTOR: ENVIRONMENTAL IMPACT MANAGEMENT**

Department of Environmental Affairs

## Annexure 1: Reasons for Decision

### 1. Background

The applicant, Eskom Holdings Limited applied for the following activity:

#### ***GN R.386 activities***

*Item 1(m): "The construction of facilities or infrastructure, including associated structures or infrastructure, for any purpose in the one in ten year flood line of a river or stream, or within 32 metres from the bank of a river or stream where the flood line is unknown, excluding purposes associated with existing residential use, but including -*

- i. canals;*
- ii. channels;*
- iii. bridges;*
- iv. dams; and*
- v. weirs.*

#### ***GN R.387 activities***

*Item 1(l): "The construction of facilities or infrastructure, including associated structures or infrastructure, for the transmission and distribution of above ground electricity with a capacity of 120 kilovolts or more".*

- for the proposed construction of a 20MVA substation, 132kV loop-in line and a 22kV overhead power line in Schmidtsdrift, within the Northern Cape Province on page 1 of the Environmental Impact Report dated October 2009.

The applicant appointed The Environmental Partnership to undertake an environmental assessment process in accordance with the EIA Regulations, 2006.

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## 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 EIR dated October 2009 and the specialist studies which were included in the EIR;
- b) Mitigation measures as proposed in the EIR dated October 2009, specialist studies and the EMP; and
- c) 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 the most significance is set out below.

- a) Details provided of the qualifications of the EAP indicate that the EAP is competent to carry out the environmental impact assessment procedures.
- b) The EIR dated October 2009 included a description of the environment that may be affected by the activity and the manner in which the physical, biological, social, economic and cultural aspects of the environment may be affected by the proposed activity.
- c) The EIR dated October 2009 identified all legislation and guidelines that have been considered in the preparation of the EIR dated October 2009 and the legislation and guidelines that will be considered in the preparation of the Environmental Impact Assessment.
- d) The proposed methodology used in assessing the potential impacts identified in the EIR dated October 2009.
- e) A sufficient public participation process was undertaken and the applicant has satisfied the minimum requirements as prescribed in the EIA regulations, 2006 for public involvement.

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#### 4. Findings

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

- The majority of impacts on the natural environment associated with the proposed construction of the power line and substation are considered to be of low in significance provided that the mitigation measures are implemented.
- The identification and assessment of impacts are detailed in the EIR dated October 2009 is a sufficient assessment of the key identified issues and impacts have been completed.
- The procedure followed for impact assessment is adequate for the decision-making process.
- The proposed mitigation of impacts identified and assessed adequately curtails the identified impacts.
- All legal and procedural requirements have been met.
- The information contained in the EIR dated October 2009 and the additional information received by the Department on 08 August 2010 is accurate and credible.
- EMP measures for the pre-construction, construction and rehabilitation phases of the development were proposed and included in the EIR and will be implemented to manage the identified environmental impacts during the construction process.

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 application is accordingly granted.

 21/9/2010