



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

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NEAS Reference: DEA/EIA/0000136/2011

DEA Reference: 12/12/20/2118

Enquiries: Mr Lerato Mokoena

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Ms Mmamoloko Seabe
Eskom Holdings SOC Limited
PO Box 1091
JOHANNESBURG
2001

Fax no: (011) 800-3917

PER FACSIMILE / MAIL

Dear Ms Seabe

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998: GN R. 543 and 544: PROPOSED CONSTRUCTION OF A 220kV TRANSMISSION LINE FROM THE AGGENEYS TO THE PAULPUTS SUBSTATIONS INCLUDING THE ASSOCIATED SUBSTATION UPGRADES, KHAI MA LOCAL MUNICIPALITY, NORTHERN CAPE PROVINCE

With reference to the abovementioned application, please be advised that the Department has decided to accept the BAR dated 3 August 2011 and 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 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.

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: Environmental Impact Evaluation*) 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:

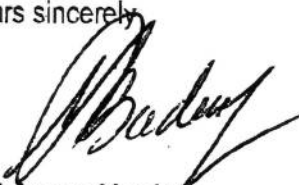
Mr T Zwane, Senior Legal Administration Officer (Appeals) of this Department at the above mentioned addresses or fax number. Mr Zwane can also be contacted at:

Tel: 012-310-3929

Email: tzwane@environment.gov.za

The authorised activity/ies shall not commence within twenty (20) 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 sincerely,



Mr Ishaam Abader

**Deputy Director-General: Environmental Quality and Protection
Department of Environmental Affairs**

Date: 20/10/2011

CC:	Ms Melissa Naidoo	SSI	Tel: 011-798-6458	Fax: 011-708-6010
	Ms L Karsten	DENC	Tel: 053-807-7300	Fax: 053-807-7328
	Mr PJ Baker	Khai Ma Local Municipality	Tel: 054-933-1000	Fax: 054-933-0252
	Mr T Zwane	Appeals Authority (DEA)	Tel: 012-310-3929	Fax: 012-320-7561

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 Water and 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 Water and 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 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 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;
2. **An appeal lodged with:-**
 - a) the Minister of Water and Environmental Affairs must be submitted to the Department of Environmental Affairs;
 - b) the Minister of Justice and Constitutional Development must be submitted to the Department of Environmental Affairs;
3. **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

Proposed construction of a 220kV transmission line from the Aggeneys to Paulputs Substations
including the associated substation upgrades

Namakwa District Municipality

Authorisation register number:	<i>12/12/20/2118</i>
NEAS reference number:	<i>DEA/EIA/0000136/2011</i>
Last amended:	<i>First issue</i>
Holder of authorisation:	<i>Eskom Holdings Limited</i>
Location of activity:	<i>NORTHERN CAPE PROVINCE: Khai Ma Local Municipality</i>

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.

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 –

Ms Mmamoloko Seabe
Eskom Holdings SOC Limited
PO Box 1091
JOHANNESBURG
2001

Tel: (011) 800-2345
Fax: (011) 800-3917
Cell: (082) 801-3911
E-mail: SeabeJM@eskom.co.za

to undertake the following activity/ies (hereafter referred to as "the activity/ies" indicated in Listing Notices 1 (GN R 544):

Listed activities	Activity/Project description
<p>GN R. 544: Item 10: <i>The construction of facilities or infrastructure for the transmission and distribution of electricity -</i></p> <p>(i) outside urban areas or industrial complexes with a capacity of more than 33 but less than 275 kilovolts; or</p> <p><i>(ii) inside urban areas or industrial complexes.</i></p>	<p><i>The project will entail the construction of a 220kV transmission line within a 2 km corridor outside an urban area.</i></p>
<p>GN R. 544: Item 13: <i>The construction of facilities or infrastructure for the storage, or for the storage and handling, of a dangerous good, where such storage occurs in containers with a combined capacity of 80 but not exceeding 500 cubic metres,</i></p>	<p><i>During the construction phase the storage and handling of dangerous good (i.e. diesel) will be required.</i></p>
<p>GN R. 544: Item 22: <i>The construction of a road, outside urban areas,</i></p> <p><i>(i). with a reserve wider than 13,5 meters or,</i></p> <p><i>(ii). where no reserve exists where the road is wider than 8 metres, or</i></p> <p><i>(iii). for which an environmental authorisation was obtained for the route determination in terms of activity 5 in Government Notice 387 of 2006 or activity 18 in Notice 545 of 2010.</i></p>	<p><i>Access roads for the construction and maintenance of the powerline within the 2km corridor may be required. Existing access roads will be utilised as best practice and where practical.</i></p>
<p>GN R. 544: Item 24: <i>The transformation of land bigger than 1000 square metres in size, to residential, retail, commercial, industrial or institutional use, where, at the time of the coming into effect of this Schedule such land was zoned open space, conservation or had an equivalent zoning.</i></p>	<p><i>A portion of land in ownership of Black Mountain Mining is zoned for conservation purposes and will be affected by the proposed corridors.</i></p>



Listed activities	Activity/Project description
GN R. 544: Item 26: Any process or activity identified in terms of section 53(1) of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).	Indigenous vegetation will be cleared as part of site preparation for construction.
GN R. 544 Item 38: The expansion of facilities for the transmission and distribution of electricity where the expanded capacity will exceed 275 kilovolts and the development footprint will increase.	Upgrade of Aggeneys Substation will be required in order to accommodate the new power line.
GN R. 544 Item 47: The widening of a road by more than 6 metres, or the lengthening of a road by more than 1 kilometre - (i) where the existing reserve is wider than 13,5 meters; or (ii) where no reserve exists, where the existing road is wider than 8 metres – Excluding widening or lengthening occurring inside urban areas.	Existing access roads along the preferred corridor may require widening or lengthening for the power line construction and maintenance.

as described in the Basic Assessment Report (BAR) dated 03 August 2011 at:

Alternative S1	Latitude (S)	Longitude (E)
Starting point of activity	29°17.797	18°48.167
Middle point of activity	29°7.744	19°13.639
End point of activity (TM2)	28°52.765	19°33'834

- for the construction of a 220kV transmission line from the Aggeneys to the Paulputs Substations (including the associated substation upgrades) within the Khai Ma Municipality in the Northern Cape Province, hereafter referred to as "the property".

Conditions of this Environmental Authorisation

Scope of authorisation

1. The preferred corridor Alternative 2 is 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 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 may only be carried out at the property as described above.
5. The recommendations and mitigation measures recorded in the BAR dated 3 August 2011 must be adhered to.
6. 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.
7. This activity must commence within a period of 5 years from the date of issue of this authorisation. 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.
8. Commencement with one activity listed in terms of this authorisation constitutes commencement of all authorised activities.
9. 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.
10. Relevant legislation that must be complied with by the holder of this authorisation includes, *inter alia*:
 - The National Heritage Resources Act, 1999 (Act 25 of 1999) protecting the archaeological remains, artificial features and structures older than 60 years. 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.

- Relevant provisions of the Occupational Health and Safety Act, 1993 (Act 85 of 1993).
 - Relevant provisions of the National Water Act, 1998 (Act 36 of 1998).
 - Relevant provisions of the National Forests Act, 1998 (Act 84 of 1998).
 - Relevant provisions of the National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004).
 - Relevant provisions of the National Environmental Management: Protected Areas Act, 2003 (Act 57 of 2003) and its Regulations.
 - 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, 2002 (Act 28 of 2002) administered by the Department of Mineral Resources.
11. 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

12. 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.
13. The notification referred to must –
- 13.1. specify the date on which the authorisation was issued;
 - 13.2. inform the interested and affected party of the appeal procedure provided for in Chapter 7 of the Environmental Impact Assessment Regulations, 2010;
 - 13.3. advise the interested and affected party that a copy of the authorisation will be furnished on request; and
 - 13.4. give the reasons of the competent authority for the decision.
14. The holder of the authorisation must publish a notice –
- 14.1. informing interested and affected parties of the decision;



- 14.2. informing interested and affected parties where the decision can be accessed; and
- 14.3. 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

15. The Environmental Management Programme (EMPr) submitted as part of Application for EA must be amended and submitted to the Department for written approval prior to commencement of the activity. The recommendations and mitigation measures recorded in the BAR dated 3 August 2011 must be incorporated as part of the EMPr. Once approved, the EMPr must be implemented and adhered to.
16. The EMPr must include the results of the final power line route walkthrough as recommended in the surface water assessment; heritage assessment; biodiversity assessment and avifaunal assessment, of the BAR dated 3 August 2011.

Monitoring

17. The applicant must appoint a suitably qualified and 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.
 - 17.1. The ECO shall be appointed before commencement of any authorised activity/ies.
 - 17.2. Once appointed, the name and contact details of the ECO must be submitted to the *Director: Compliance Monitoring* of the Department.
 - 17.3. The ECO shall keep record of all activities on site, problems identified, transgressions noted and a task schedule of tasks undertaken by the ECO.
 - 17.4. 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.
 - 17.5. 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

18. 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.
19. The holder of the authorisation must submit an environmental audit report to the Department within 30 days of completion of the construction and rehabilitation activities.
20. 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.
21. 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

22. The authorised activity shall not commence within twenty (20) days of the date of signature of the authorisation.
23. An appeal under section 43 of the National Environmental Management Act (NEMA), Act 107 of 1998 (as amended), does not suspend an environmental authorisation or exemption, or any provisions or conditions attached thereto, or any directive, unless the Minister, MEC or delegated organ of state directs otherwise.
24. Should you be notified by the Minister of a suspension of the authorisation pending appeal procedures, you may not commence with the activity until such time that the Minister allows you to commence with such an activity in writing.

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, as well as a reference number. This notification period may coincide with the period contemplated in 22 above.

Operation of the activity

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

Site closure and decommissioning

27. 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

28. Anti-collision devices such as bird flappers must be installed where the power lines crosses avifaunal corridors. 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.
29. The avifaunal "walk-through" should coincide with the Red Lark and Scalters Lark peak breeding season, when the birds are vocal.
30. No exotic plants may be used for rehabilitation purposes. Only indigenous plants of the area may be utilised.
31. Indigenous vegetation which does not interfere with the safe operation of the power line must be left undisturbed.
32. A suitable Red Data flora assessment must be conducted following adequate rain in the project area.
33. Pylons must not be placed on the Red Dunevelds or inside drainage lines.
34. Pylons must not be placed on ridges and koppies.
35. Liaison with communities and property owners is to be done prior to construction in order to provide sufficient time for them to plan livelihood activities.
36. 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. 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).

General

37. A copy of this authorisation and the approved EMPr must be kept at the property where the activity/ will be undertaken. The authorisation and approved EMPr 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.
38. 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.
39. 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.
40. 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:

20/10/2011



Mr Ishaam Abader

Deputy Director-General: Environmental Quality and Protection
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 BAR dated 3 August 2011;
- b) The comments received from the organs of state and interested and affected parties as included in the BAR dated 3 August 2011;
- c) Mitigation measures as proposed in the BAR dated 3 August 2011 and the EMPr;
- d) The information contained in the specialist studies contained within Appendix D1 to D7 of the BAR.
- 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) Details provided of the qualifications of the EAP indicate that the EAP is competent to carry out the environmental impact assessment procedures.
- b) The project entails the following:
 - The constructing a 220kV Sub-transmission power line approximately 97 km in length, connecting the Aggeneys and Paulputs Substations.
 - The upgrade of the Aggeneys Substation to accommodate the newly proposed Aggeneys-Paulputs power line.
- c) The findings of all the specialist studies conducted and their recommended mitigation measures.
- d) The BAR dated 3 August 2011 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.

- e) The BAR dated 3 August 2011 identified all legislation and guidelines that have been considered in the preparation of the BAR dated 3 August 2011.
- f) The methodology used in assessing the potential impacts identified in the BAR dated 3 August 2011 and the specialist studies have been adequately indicated.
- g) 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 3 August 2011 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) All legal and procedural requirements have been met.
- e) The information contained in the BAR dated 3 August 2011 is accurate and credible.
- f) EMPr measures for the pre-construction, construction and rehabilitation phases of the development were proposed and included in the BAR 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.