



# environment & tourism

Department:  
Environmental Affairs and Tourism  
REPUBLIC OF SOUTH AFRICA

Private Bag X447, Pretoria, 0001 • Fedsure Building, 315 Pretorius Street, Pretoria, 0002. Tel: (+27 12) 310 3911 Fax: (+27 12) 322 2682

Reference: 12/12/20/1266

Enquiries: Ms P Mashego

Telephone: (012) 310 3249 Fax: (012) 320 7539 E-mail: P.Mashego@deat.gov.za

Attention Ms. Deidre Herbst  
Eskom Holdings Limited  
P.O. Box 1091  
JOHANNESBURG  
2000

Tel no: (011) 800 5140  
Fax no: (011) 800 2559

Dear Madam

## ENVIRONMENTAL AUTHORISATION FOR THE PROPOSED CONSTRUCTION OF A BRIDGE OVER THE BRAAMHOEKSPRUIT RIVER DOWNSTREAM OF THE INGULA PUMPED STORAGE SCHEME, KWAZULU-NATAL PROVINCE

With reference to the abovementioned application, please be advised that the Department has decided to grant authorisation for this project. 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 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 lodging of appeals that are provided for in the regulations.

Your attention is drawn to Chapter 7 of the Regulations which regulate the appeals procedure. Attached please find a simplified table 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 PKM Retief, Appeals Administrator, Tel: 012 310 3705, [pretief@deat.gov.za](mailto:pretief@deat.gov.za); or

Mr H Grové, Appeals Administrator, Tel: 012 320 3070; [hgrove@deat.gov.za](mailto: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) 310 7561  
By post: Private Bag X447, Pretoria, 0001; or

Muhasho wa zwa Vhuno na Vhundenelamshengo • Litika le Tsoelondzozo nokuVakasha • Isabe lemiCimbi yokushingungileyo tokhanketho  
Ndzawule ya Tshika & Mibungo • Department: Umgewingsake en Tourism • Lefapha le Tikoloho le Bohankhauko • Lefapha le-Bejanala  
Kgoro ya Tikoloho le Bostl • UmNyango wezeBhuduluko nokuVakalja • Umnyango Wezemvelo NokuVakalja

By hand: 2<sup>nd</sup> 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 interested and affected parties as well as a notice indicating where, and for what period, the appeal submission will be available for inspection.

Please include the Department in the list of interested and affected parties, notified through your notification letter to interested and affected parties, for record purposes.

The authorised 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 Nosipho Ngcaba**  
Director – General

Department of Environmental Affairs and Tourism

Letter signed by: Ms Sibusisiwe Hlela

Designation: Chief-Director: Environmental Impact Management (Acting)

Date: 02 JANUARY 2009

CC: Ms J Héx Zitholele Consulting (Pty) Ltd (011) 805 2100  
Mr PKM Retief DEAT

**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 if the decision was issued by the Director-General (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 must be submitted to the Department of Environmental Affairs and Tourism
- 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:**

Mr PKM Retief, Appeals Administrator; Tel: 012 310 3705; [pretief@deat.gov.za](mailto:pretief@deat.gov.za) ; or

Mr H Grové, Appeals Administrator; Tel: 012 310 3070; [hgrove@deat.gov.za](mailto:hgrove@deat.gov.za) at the Department.

Should you wish to appeal any aspect of the decision, 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: 012 310 7561;

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

By hand: 2<sup>nd</sup> Floor, Fedsure Form Building, North Tower; cur. Van der Walt and Pretorius Streets; Pretoria.



# environment & tourism

Department:  
Environmental Affairs and Tourism  
REPUBLIC OF SOUTH AFRICA

## Environmental Authorisation

**Authorisation register number:** 12/12/20/1266  
**Last amended:**  
**Holder of authorisation:** Eskom Holdings Limited  
**Location of activity:** Portion 3 and 4 of portion 3 of  
Trek Boer 1002, Gs, Ladysmith  
/ Mnambithi Local Municipality,  
KwaZulu Natal 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 authorizes –

Eskom Holdings Limited

with the following contact details –

Ms. Deidre Herbst

Eskom Holdings Limited

P. O. Box 1091

JOHANNESBURG

2000

Tel: (011) 800 3501

Fax: (011) 800 5140

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02/01/09

to undertake the following activities-

- R. 386 (1) *"The construction of facilities or infrastructure, including associated structures or infrastructure, for -*
  - (m) 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*
    - (iii) bridges."*
- (7) *"The above ground storage of a dangerous good, including petrol, diesel, liquid, petroleum gas or paraffin, in containers with a combined capacity of more than 30 cubic metres but less than 1 000 cubic metres at any one location or site."*
- (15) *"The construction of a road that is wider than 4 metres or that has a reserve wider than 6 metres, excluding roads that fall within the ambit of another listed activity or which are access roads of less than 30 metres long."*
- (25) *"The expansion of or changes to existing facilities for any process or activity, which requires an amendment of an existing permit or license or a new permit or license in terms of legislation governing the release of emissions, pollution, effluent."*

for the construction of a bridge over the Braamhoekspruit River downstream of the Ingula pump-storage scheme, as described in the Basic Assessment Report (BAR) dated October 2008 (page 2).

at 26° 20'20.58" S and 29° 35'25.74" E, which fall within the jurisdiction of Ladysmith / Mnambithi Local Municipality of the KwaZulu-Natal Province, hereafter referred to as "the property".

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

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# Conditions

## Scope of authorisation

- 1.1 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.
- 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 activities authorised may only be carried out at the portion 3 and 4 of portion 3 of Trek Boer 1002, GS.
- 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 activities must commence within a period of two (2) years from the date of issue. If commencement of the activities does not occur within that period, the authorisation lapses and a new application for environmental authorisation must be made in order for the activities 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 activities.
  - 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

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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.

- National Water Act, 1998 (Act 36 of 1998).
- 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 ten (10) calendar days, of receiving notice of the Department's decision to authorise the activities.
- 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 Environmental Management Plan (EMP) that was included in the BAR dated October 2008 is approved by this Department. 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.
- 1.11 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...

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acceptance before such changes could be effected. The EMP is regarded as an extension of the Environmental Authorisation (EA) and must be treated as such in terms of compliance monitoring.

1.12 The applicant must appoint a suitably experienced Environmental Control Officer (ECO) before commencement of land clearing, construction, or exploratory activities to ensure that the mitigation/rehabilitation measures and recommendations referred to in the BAR dated October 2008 and this Environmental Authorisation are implemented and to ensure compliance with provisions of the EMP.

**Recording and reporting to the Department**

1.11 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:
  - Detail of the rehabilitation measures which must be compiled with by an Environmental Control Officer (ECO).
  - Detail of all incidents and mitigation measures implemented to address such incidents.
  - All measures which require follow-up.

**Commencement**

1.12 The construction of the authorised activities may not commence within thirty (30) days of date of signature of this authorisation.

1.13 Should you be notified by the minister of a suspension of the authorisation pending any appeals decision on the authorised activities; you may not commence with the activities unless authorised by the minister in writing.

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- 1.14 Thirty (30) days written notice must be given to the Department that the activities 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 activities will commence.

#### Site closure and decommissioning

- 1.15 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

- 1.16 The applicant must place barriers and warning signs around excavations on sites and wherever there is a hazard to workers, the public and animals.
- 1.17 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.
- 1.18 Changes in the proposal resulting in significant environmental impacts are only permissible if approved in writing by the Department.
- 1.19 An integrated waste management approach that is based on waste minimisation must be used 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 of the Environment Conservation Act, 1989 (Act No. 73 of 1989).
- 1.20 Chemical abatement 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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- 1.21 The applicant must train safety representatives, managers and workers in workplace safety. Enforce all applicable safety standards and regulations, including for subcontractors.
- 1.22 The development must not commence prior to obtaining a Water Use License from the Department of Water Affairs and Forestry.
- 1.23 Suitable fencing must be erected prior to the construction to ensure that livestock is kept out of areas which could potentially pose a danger to them.
- 1.24 No access roads are allowed to be constructed in the river and stream banks.
- 1.25 No construction must take place in wetland areas.
- 1.26 Site rehabilitation must be done according to specification in the EMP.
- 1.27 The dust control measures must be put in place during construction activities.


**General**

- 1.28 A copy of this authorisation must be kept at the property where the activities 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.
- 1.29 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.
- 1.30 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.
- 1.31 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.

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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: 02 JANUARY 2009



Ms Nosipho Ngcaba

Director – General

Department of Environmental Affairs and Tourism

Letter signed by: Ms Sibusisiwe Hlela

Designation: Chief Director: Environmental Impact Management (Acting)

### Annexure 1: Reasons for Decision

#### 1. Background

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

R. 386 (1) *"The construction of facilities or infrastructure, including associated structures or infrastructure, for –*

*(m) 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-*  
*(iii) bridges."*

*(7) "The above ground storage of a dangerous good, including petrol, diesel, liquid, petroleum gas or paraffin, in containers with a combined capacity of more than 30 cubic metres but less than 1 000 cubic metres at any one location or site."*

*(15) "The construction of a road that is wider than 4 metres or that has a reserve wider than 6 metres, excluding roads that fall within the ambit of another listed activity or which are access roads of less than 30 metres long."*

*(25) "The expansion of or changes to existing facilities for any process or activity, which requires an amendment of an existing permit or license or a new permit or license in terms of legislation governing the release of emissions, pollution, effluent."*

for the construction of a bridge over the Braamhoekspruit River downstream of the Ingula pump-storage scheme, as described in the Basic Assessment Report (BAR) dated October 2008.

The applicant appointed Zibulele Consulting (Pty) Ltd to undertake a Basic Assessment process and to compile a Basic Assessment Report (BAR) as required by regulation R. 385.

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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 B/A/R dated October 2008.
- b) Comments were received from the following:
  - Cymbian Enviro-Social Consulting Services;
  - Golder Associates;
  - Traffic Assessment;
  - Airshed Planning Professional (Pty) Ltd; and
  - Archaeological and Heritage Assessment.
- 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:

- a) The applicant, Eskom Holdings Limited proposes the construction of a bridge over the Braamhoekspruit River downstream of the Ingula pumped storage scheme, KwaZulu Natal Province.
- b) Alternative 1 is the preferred site alternative and is authorised to take place on portions 3 and 4 of portions 3 of Trek Boer 1002 farm, within the Uthukela District Municipality.
- 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.

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- d) As part of the EIA process, Zitholele Consulting (Pty) Ltd, being the principal consultancy, 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.
- There has been sufficient consultation with I&AP's apart from the landowner.
- No comments were received from the provincial authority or 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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