



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

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

Reference: 12/12/20/1095

Enquiries: Lerato Mokoena

Telephone: 012-310-3137 Fax: 012-320-7539 E-mail: lmokoena@deat.gov.za

Ms Mmamoloko Seabe
Eskom Holdings Limited
PO Box 1091
Johannesburg
2000

Fax: 011-800-3917

PER FACSIMILE / MAIL

Dear Ms Mmamoloko Seabe

APPLICATION FOR ENVIRONMENTAL AUTHORISATION R.387: THE PROPOSED CONSTRUCTION OF TWO 400KV POWER LINES BETWEEN KENDALL POWER STATION AND ZEUS SUBSTATION (BRAVO INTEGRATION PROJECT PHASE 4), MPUMALANGA PROVINCE (R. 387 ITEM 1(I) (REFERENCE NO. 12/12/20/1095)

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 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 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 PKM Retief Appeals Administrator Tel: 012 310 3705
Mr H Grové Appeals Administrator Tel: 012 310 3070

pretief@deat.gov.za; or
hgrove@deat.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 Forum Building, North Tower, cor. 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.

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 activity / ies 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 and Tourism

DATE: 8 October 2009

Cc: Johan Hayes
Appeals Administrators

Zitholele Consulting (Pty) Ltd

Fax: (011) 805-2100
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

APPLICANT	INTERESTED AND AFFECTED PARTIES (IAPs)
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:-

- 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 MEC if the decision was issued by the Head of Department (or another official) acting in his/ her capacity as the delegated Competent Authority;
- c) the delegated organ of state where relevant.

2. An appeal lodged with:-

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

3. An appeal must be:-

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



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Environmental Authorisation

Authorisation register number: 12/12/20/1096
Last amended:
Holder of authorisation: *Eskom Holdings*
Location of activity: Emalahleni Local Municipality,
Delmas Local Municipality,
Govan Mbeki Local Municipality
and Nkangala District
Municipality and Gert Sibande
District Municipality,
Mpumalanga 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 authorises –

Eskom Holdings Limited

with the following contact details –

Ms Mmamoloko Seabe
Eskom Holdings Limited
PO Box 1091
Johannesburg
2000

Tel: 011-800-2345
Fax: 011-800-3917
E-mail: seabejm@eskom.co.za

to undertake the following activity / activities (hereafter referred to as "the activity");

GN R.387 activity 1(l): The construction of facilities or infrastructure, including associated structures or infrastructure, for the transmission and distribution of electricity above ground with a capacity of 120 kilovolts or more.

GN 386 activity 12: The transformation or removal of indigenous vegetation of 3 hectares or more or of any size where the transformation or removal would occur within a critically endangered or an endangered ecosystem listed in terms of section 52 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).

GN R.386 activity 14: The construction of masts of any material or type of any height, including those used for telecommunication broadcasting and radio transmission, but excluding:

- a) Masts of 15 metres and lower exclusively used

- i. By radio amateurs; or
 - ii. For lighting purpose
- b) Flag poles; and
 - c) Lightning conductor poles

GN R.386 activity 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.

GN R.386 activity 16 (b): The transformation of undeveloped, vacant or derelict land to residential, mixed, retail, commercial, industrial or institutional use where such development does not constitute infill and where the total area to be transformed is bigger than 1 hectare.

The construction of two new 400kv power lines from Kendal Power Station to the existing Zeus substation.

The study area falls within the jurisdiction of Emalahleni Local Municipality, Delmas Local Municipality, Govan Mbeki Local Municipality and Nkangala District Municipality and Gert Sibande District Municipality, Mpumalanga Province, hereafter referred to as "the properties".

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

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 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.
- 1.3 The activity authorised may only be carried out at the property (Route Alternative 3) as described above and as shown on the layout plan of the Environmental Impact Report, dated May 2009.
- 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

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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 activity must commence within a period of five (5) 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.

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 activity.

1.6.1 Relevant legislation that must be complied with by the holder of this authorisation includes, *inter alia*:

- The requirements of Chapter II, Section 38(1), (3) and (7) of the National Heritage Resources Act, 1999 (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.
- Provisions of the Occupational Health and Safety Act, 1993 (Act 85 of 1993).
- Provisions of the National Water Act, 1998 (Act 36 of 1998).
- Provisions of the National Forests Act, 1984 (Act No. 122 of 1984).
- Provisions of the National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004).
- Provisions of the National Environmental Management: Protected Areas Act, 2003 (Act 57 of 2003) and its Regulations.
- Provisions of the National Environmental Management: Waste Act, 2008 (Act 59 of 2008).

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 activity.

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 party of the appeal procedure provided for in Chapter 7 of the regulations;
- 1.8.3 advise the interested and affected party that a copy of the authorisation will be furnished on request; and
- 1.8.4 give the reasons for the decision.

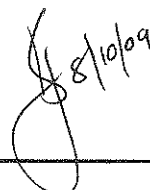


Management of the activity

- 1.9 The draft environmental management plan (EMP) submitted together with the Environmental Impact Report dated May 2009 has been approved. The final site specific (Preferred Routes) Environmental Management Plan ("EMP") for construction which fulfils the requirements of this authorisation must be compiled and submitted to the Department for approval before the construction process commence. The EMP must comply with regulation 34 of the EIA regulations, 2006 and must include, but not limited to the following:
- A site specific plan for erosion and sedimentation control during construction, maintenance and operational phases of the project.
 - A plan for rehabilitation of all areas to be disturbed during the construction phase of the project. Only indigenous plants may be utilised for rehabilitation.
 - Management and rehabilitation of access roads to individual construction areas that will not become permanent roads upon completion of construction.
 - A site specific plan for the installation of mitigation measures to reduce and prevent avifaunal interaction with the new power lines.
 - A site specific plan for the protection of indigenous vegetation where construction activities will take place.
 - A sensitivity map showing all sensitive features in relation to the final route.
- 1.10 The provisions of the EMP are an extension of the conditions of the environmental authorisation (EA) and therefore non-compliance with the EMP would constitute non-compliance with the EA.
- 1.11 The EMP must form part of the contractor's tender documentation for all contractors working on the project and must be endorsed contractually.

Monitoring

- 1.12 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 EMP.
- 1.12.1 The ECO shall be appointed before commencement of any land clearing or construction activities.
- 1.12.2 The ECO shall keep record of all activities on site, problems identified, transgressions noted and a task schedule of tasks undertaken by the ECO.

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1.12.3 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.

1.12.4 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

1.1 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 –

1.1.1 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 approved final EMP.

1.1.2 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.

Commencement of the activity

1.2 The authorised activity / ies shall not commence within thirty (30) days of the date of signature of the authorisation.

1.3 Should you be notified by the minister of a suspension of the authorisation pending appeal procedures, you shall not commence with the activity / ies unless authorised by the minister in writing.

1.4 Thirty (30) 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 1.2 above.

Operation of the activity

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

Site closure and decommissioning

1.6 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

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relevant legal requirements administered by any relevant and competent authority at that time.

Specific Conditions

- 1.7 No construction activities (including vegetation clearing, excavations, construction camps, access roads, soil stockpiling and material storage) must take place within river banks, wetlands and drainage channels.
- 1.8 Should any heritage resources be exposed during the 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.
- 1.9 Sections of the power line that traverse known flight paths of large birds, or cross or are aligned adjacent to dams, pans, rivers and drainage lines, must be marked with appropriate bird flappers and diverters.
- 1.10 All areas to be disturbed during the construction phase of the project must be rehabilitated using only indigenous plants.
- 1.11 Indigenous vegetation which does not interfere with the safe operation of the power line must be left undisturbed.
- 1.12 Wetland, avifaunal and heritage specialists should be present during the planning and pegging of the final route alignment to ensure that the positions of pylons result in minimum impacts on birds, heritage resources and sensitive landscape features (wetlands and rivers).
- 1.13 Waste containers must be provided on the construction site as well as along the access routes to prevent littering.
- 1.14 No surface or ground water may be polluted due to any activity on the site.
- 1.15 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.

General Conditions

- 1.16 A copy of this authorisation must be kept at the property where the activity (ies) 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.

- 1.17 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.
- 1.18 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.
- 1.19 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: 8 October 2009



Ms Lize McCourt

Chief Director: Environmental Impact Management

Department of Environmental Affairs

Annexure 1: Reasons for Decision

1. Background

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

GN R.387 activity 1(l): The construction of facilities or infrastructure, including associated structures or infrastructure, for the transmission and distribution of electricity above ground with a capacity of 120 kilovolts or more.

GN 386 activity 12: The transformation or removal of indigenous vegetation of 3 hectares or more or of any size where the transformation or removal would occur within a critically endangered or an endangered ecosystem listed in terms of section 52 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).

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GN R.386 activity 16 (b): The transformation of undeveloped, vacant or derelict land to residential, mixed, retail, commercial, industrial or institutional use where such development does not constitute infill and where the total area to be transformed is bigger than 1 hectare.

The construction of two new 400kv power lines from Kendal Power Station to the existing Zeus substation.

The applicant appointed Zitholele Consulting (Pty) Ltd to undertake a scoping process and to compile an Environmental Impact Assessment Report (EIR) as required by regulation 27 of the EIA Regulations, 2006.



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 May 2009;
- b) The specialist studies contained in the EIR dated May 2009.
- c) The comments received from interested and affected parties as included in the EIR dated May 2009; and
- 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 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 scoping and environmental impact assessment procedures.
- b) The EIR dated May 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 May 2009 identified all legislation and guidelines that have been considered in the preparation of the EIR May 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 May 2009 and the proposed specialist studies have been adequately indicated.
- e) The applicant has met the requirements of the Environmental Impact Report (EIR) as per the EIA regulations, 2006.
- f) A detailed public participation process was undertaken and the consultant has satisfied the minimum requirements as prescribed in the EIA regulations, 2006 for public involvement.
- g) The need and desirability of the activity.
- h) The potential impacts on the environment by the proposed power line and substation.

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4. Findings

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

- a) The vegetation assessment found that the bulk of sensitive species in the study area were associated with the riparian zones and wetlands. No red data plant species were found on site. However, the occurrence of red data species cannot be ruled out.
- b) From a heritage point of view, two types of heritage resources were found in the study area. These include grave yards and house structures older than sixty years.
- c) From a bird impact perspective bird collisions and electrocutions are envisaged in the area. In terms of habitat, the disturbed Grassland in the area could potentially provide nesting and foraging for a number of species. At least four (Blue Crane, Marsh Owl, Lesser Flamingo and Secretary bird) species were observed within the study area.
- d) From a social perspective no significant impacts were found.
- e) The visual impact assessment found that an extensive power line network already exists in the study area. The power lines will be visible mostly from roads and farm houses.
- f) Rivers, riparian zones and wetlands were found on site and should be viewed as sensitive therefore no pylons will be placed within the 100m buffer zone of these wetlands.
- g) The soil on site was found to be of varying suitability for cultivation.
- h) The need for the proposed construction of new 400kv power lines has been clearly demonstrated.
- i) The construction of this power line will enable Eskom to meet the current and future electricity demands.
- j) The information contained in the EIR dated May 2009 is accurate and credible.
- k) The procedure followed for the impact assessment is adequate for the decision-making process.
- l) All legal and procedural requirements have been met.
- m) There has been sufficient consultation with I&AP's.
- n) The identification and assessment of impacts are detailed in the EIR dated May 2009.
- o) Sufficient assessment of the main identified issues and impacts have been completed.
- p) The proposed mitigation of impacts identified and assessed; adequately curtail the identified impacts.
- q) 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 application is accordingly granted.