



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 2882

Reference: 12/12/20/959

Enquiries: Mr Mogole Mphahlele

Telephone: (012) 310 3144 Fax: (012) 320 7539 E-mail: mimphahle@deat.gov.za

Mmamoloko Seabe
Eskom Holdings Limited
P O Box 1091
SUNNINGHILL
2157

Fax: (011) 800 3917

PER FACSIMILE / MAIL

Dear Ms. Seabe,

ENVIRONMENTAL AUTHORISATION: PROPOSED CONSTRUCTION OF TWO 400KV SUBSTATIONS AT PRAIRIE AND MARATHON (PART OF THE HENDRINA-PRAIRIE-MARATHON TRANSMISSION PROJECT), MPUMALANGA 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 (IAPs), in writing and within seven (7) 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 making 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 IAPs.

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

Mr PKM Retief, Appeals Administrator, Tel: 012 310 3705, pretief@deat.gov.za ; or

Mr H Grové, Appeals Administrator, Tel: 012 310 3070, hgrové@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 3688;
By post: Private Bag X447, Pretoria, 0001; or
By hand: 2nd 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 IAPs as well as a notice indicating where, and for what period, the appeal submission will be available for inspection.

Please include the Department, attention of the Director: Environmental Impact Evaluation, in the list of IAPs, notified through your notification letter of the decision, for record purposes.

You are strongly advised to refrain from the initiation of any construction activities prior to the conclusion of the appeals process. All construction activities initiated during the appeals process will be done solely at your risk.

Yours faithfully



Ms Nosipho Jezile
Acting Director – General
Department of Environmental Affairs and Tourism
Letter signed by: Ms. Lize McCourt
Designation: Chief Director: Environmental Impact Management
Date: 2/6/2008

CC: Mr. Reuben Heydenrych

Strategic Environmental Focus (Pty) Ltd

Fax: 012 349 1229

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

Mr PKM Retief, Appeals Administrator, Tel: 012 310 3705, pretief@deat.gov.za ; or

Mr H Grové, Appeals Administrator, Tel: 012 310 3070, hgrové@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:

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

By hand: 2nd Floor, Fedsure Form Building, North Tower, cor. Van der Walt and Pretorius Streets, Pretoria.

Environmental Authorisation

Authorisation register number:	<i>12/12/20/959</i>
Last amended:	
Holder of authorisation:	<i>Eskom Holdings Limited</i>
Location of activity:	<i>Mbombela and Highlands Local Municipalities, Mpumalanga Province</i>

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 –


Mmamoloko Seabe
P O Box 1091
SUNNINGHILL
2157

Fax: (011) 800 3917

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

R387:

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


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2: Any development activity, including associated structures and infrastructure, where the total area is, or is intended to be, 20 hectares or more.

The proposed development may involve the following activities as stipulated in Government Notice 386 of the EIA Regulations of 2006.

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

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

7: The above ground storage of a dangerous good, including petrol, liquid petroleum gas or paraffin, in containers with a combined capacity of more than 30 cubic metres but less than 1000 cubic meters at any one location or site.

12: The transformation or removal 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).

14: The construction of masts of any type and 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
 - (ii) for lightning purposes
- (b) flags and poles; and
- (c) lightning conductor poles

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

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- 16: The transformation of undeveloped, vacant derelict land to -
(a) establish infill development covering an area of 5 hectares or more, but less than 20 hectares.

for the construction of 2 new 400kV substations, one each near the existing Prairie and Marathon substations which fall within the jurisdiction of the *Mbombela and Highlands Local Municipalities* of the *Mpumalanga Province*, hereafter referred to as "the property".

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 conditions 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 activity authorized may only be carried out at the property indicated above.
- 1.4 Any changes to, or deviations from, the project description set 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 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.

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Appeal of authorisation

- 1.6 The holder of the authorisation must notify every registered interested and affected party (IAP), in writing within 7 (SEVEN) calendar days, of receiving notice of the Department's decision to authorise the activity.
- 1.7 The notification referred to in 1.7 must –
- 1.7.1 specify the date on which the authorisation was issued;
 - 1.7.2 inform the interested and affected party of the appeal procedure provided for in Chapter 7 of the regulations; and
 - 1.7.3 advise the interested and affected party that a copy of the authorisation will be furnished on request, and
 - 1.7.4 give the reasons for the decision.

Management of the activity

- 1.8 An Environmental Management Plan ("EMP") for construction which fulfills the requirements of this authorisation must be compiled and submitted to the Department for approval before the construction process commence.
- 1.9 Once approved by DEAT, the construction EMP will be seen as a dynamic document. However, any changes to the EMP must be submitted to the authorities for approval before such changes could be effected.

Monitoring

- 1.10 The applicant must appoint a responsible person that will act as an Environmental Control Officer (ECO) that will have the responsibility of implementing the approved EMP.
- The ECO shall be appointed before the start of construction and the authorities must be notified of such an appointment for communication purposes.
 - The ECO shall submit a quarterly environmental compliance report, in writing, to The Director: Environmental Impact Evaluation and copy the Applicant with such report. This report shall include a description of all activities on site, problems identified, transgressions noted and remedial action implemented. The report must reflect the DEAT reference number of the project on the cover page.

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- The ECO shall maintain the following on site:
 - A site diary
 - Copies of all reports submitted to the Department
 - A complaints register of all public complaints and the remedies applied to such complaints
- The ECO shall remain employed until all rehabilitation measures as well as site clean-up are completed and the site is handed over to Eskom by the contractor for operation.

Recording and reporting to the Department

1.11 The holder of the authorization must submit an environmental compliance audit report to the Department upon completion of the construction and rehabilitation activities. The environmental audit report must include –

- 1.11.1 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.
- 1.11.2 Records relating to compliance monitoring must be kept on site and made available for inspection to any relevant and competent authority in respect of this development.
- 1.11.3 Detail of the rehabilitation measures of the site that must be compiled by an Independent Environmental Auditor.
- 1.11.4 Detail of all incidents and mitigation measures implemented to address such incidents.
- 1.11.5 Any measures that require follow-up.

Commencement of the activity

1.12 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.



Operation of the activity

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

Site closure and decommissioning

- 1.14 Should the use of the facilities installed as part of this authorisation 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 condition

- 1.15 A detailed foundation investigation must be undertaken to determine the geotechnical suitability of the site for the construction of the substations.
- 1.16 The recommendations and mitigation measures as proposed by the geologist must be implemented, especially for dolomite stability investigation for the final chosen routes so that appropriate foundation and water precautionary measures can be recommended.
- 1.17 The substation at Marathon must be an expansion of the existing substation within the Eskom property boundary. The new Prairie substation must be placed as in the north-eastern corner of Portion 3 of the Farm Dalmanutha, as close as possible to the R 36 road.
- 1.18 The soil that is excavated during construction should be stockpiled in layers and protected by berms to prevent erosion.
- 1.19 The placement of flow retarding barriers must occur in consultation with the ECO and as part of an overall storm water management system during the construction phase.
- 1.20 Contractors must drive on existing access roads as far as possible to prevent formation of unnecessary tracks for access roads.
- 1.21 Refueling must take place in well demarcated areas and over suitable drip trays to prevent soil pollution.
- 1.22 Spill kits to clean up accidental spills from earthmoving machinery must be well marked and available on site.
- 1.23 Workers must undergo induction to ensure that they are prepared for rapid clean-up procedures.

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- 1.24 Should any heritage artifacts be exposed during excavation, work must stop immediately and the ECO must be notified as soon as possible.
- 1.25 All heritage discoveries must be reported immediately to a museum, preferably one at which an archaeologist is available, so that an investigation and an evaluation of the find can be made. Acting upon advice from these specialists, the ECO will advise the necessary actions to be taken.
- 1.26 Under no circumstances must any artifacts be removed, destroyed or interfered with by anyone on site.
- 1.27 Contractors and workers must be advised of the penalties associated and unlawful removal of cultural, historical, archaeological or palaeontological artifacts, as set out in Section 51 (1) of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).
- 1.28 Construction activities as well as the use of construction vehicles on the roads must only occur between 07:00 and 17:00.
- 1.29 The developer must ensure compliance with the National Environment Management: Biodiversity Act, 2004 (Act 10 of 2004), section 56 (d) and section 57 (1), with regards the protected and indigenous species.
- 1.30 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.
- 1.30.1 Relevant legislation that must be complied with by the holder of this authorisation include but is not limited to:
- Compliance with the requirements of Section 38 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.
 - Occupational Health and Safety Act, 1993 (Act No. 85 of 1993).
 - Compliance with the requirements of the National Water Act (Act 36 of 1998).
 - Relevant local authority bylaws and regulations.
- 1.31 None compliance must be reported immediately to the National Department of Environmental Affairs and Tourism.

General

- 1.32 A copy of this authorisation must be kept at the site office where the activity will be undertaken. The authorisation must be produced to any authorised official of the Department who requests to

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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.

- 1.33 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.
- 1.34 The holder of the authorisation must notify the Department, in writing and within 48 (fourty 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.
- 1.35 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: 2 June 2008



Ms Nosipho Jezile

Director – General (Acting)

Department of Environmental Affairs and Tourism

Letter signed by: Ms. Lize McCourt

Designation: Chief Director: Environmental Impact Management

Annexure 1: Reasons for Decision

1. Background

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

R.387:

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

2: Any development activity, including associated structures and infrastructure, where the total area is, or is intended to be, 20 hectares or more.

The proposed development may involve the following activities as stipulated in Government Notice 386 of the EIA Regulations of 2006.

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

- (i) canals
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- (iv) dams; and
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7: The above ground storage of a dangerous good, including petrol, liquid petroleum gas or paraffin, in containers with a combined capacity of more than 30 cubic metres but less than 1000 cubic meters at any one location or site.

12: The transformation or removal 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).

14: The construction of masts of any type and any height, including those used for telecommunication broadcasting and radio transmission, but excluding:-

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16: The transformation of undeveloped, vacant derelict land to -

- (a) establish infill development covering an area of 5 hectares or more, but less than 20 hectares.

for the construction of 2 new 400kV substations, one each near the existing Prairie and Marathon substations which fall within the jurisdiction of the *Mbombela and Highlands Local Municipalities* of the *Mpumalanga Province*, hereafter referred to as "the property".

The applicant appointed Strategic Environmental Focus (Pty) Ltd to undertake a Scoping / EIR process and to complete an EIR as required by regulation R. 385.

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 18 February 2008;
- b) The comments from the Directorate: Biodiversity and Conservation;
- c) The specialist studies undertaken;
- 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).

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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:

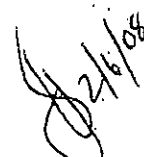
- (a) The proposed activity will address the demand of electricity in the area.
- (b) The electricity supply will provide great support to current and future development.
- (c) The proposed development will have an indirect economic contribution through mining.
- (d) It would have an additional economic benefit to household's dependant on mining.
- (e) The project will not severely or significantly impact negatively on the environment.
- (f) Sufficient public participation process was conducted and the consultant has met the minimum requirements as prescribed in the EIA regulations, GN. No. 385 of 21 April 2006 for public involvement.

4. Findings

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

- The issues raised by I & AP's were adequately addressed.
- The proposed project would be undertaken on an area exposed to mining development where the significant environmental impact would be managed.
- The information contained in the EIR was relevant and credible in order to make a decision.
- The applicant has satisfied the minimum requirements as prescribed in the EIA regulations of 21 April 2006.
- The EMP must be compiled, submitted to the Department for approval, and implemented to manage the identified environmental issues. The EMP must include mitigation measures for the identified impacts of the construction process and it must indicate how the conditions of approval would be implemented.

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.

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