

**environmental affairs**

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Private Bag X 447, PRETORIA, 0001 - Fodcuro Building - 315 Pretorius Street - PRETORIA
Tel (+ 27 12) 310 3911 - Fax (+ 2712) 322 2582

Reference: 12/12/20/691

Enquiries: Mr Reggie Nkosi

Telephone: (012) 310 3036 Fax: (012) 320 7539 E-mail: rnkosi@deat.gov.za

Ms Barbara van Geems
Eskom Distribution
PO Box 222
BRACKENFELL
7561

Fax: 021 980 3053

PER FACSIMILE / MAIL

Dear Ms Van Geems

APPLICATION FOR ENVIRONMENTAL AUTHORISATION R.385 & R.386: CONSTRUCTION OF AN 66 kV POWERLINE FROM THE EXISTING ROBERG SUBSTATION TO A NEW SUBSTATION SITE ON FARM 305/16, EAST OF THE BITOU RIVER

With reference to the above application, please be advised that the Department has decided to grant authorisation. The environmental authorisation and reasons for the decision are attached herewith.

In terms of regulation 10(2) of the Environmental Impact Assessment Regulations, 2006, you are instructed to notify all registered interested and affected parties, in writing and within 7 (seven) calendar days of the date of this letter, of the Department's decision in respect of your application as well as the provisions regarding the submission of appeals that are provided for in the regulations.

Your attention is drawn to Chapter 7 of the Regulations which regulates appeal procedures. Attached please find a simplified copy of the appeals procedure to be followed. Kindly include a copy of this procedure with the letter of notification to interested and affected parties.

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

Mr TH Zwane
Senior Legal Administration Officer (Appeals)
Tel: 012 310 3929
tzwane@deat.gov.za; or

Ms MM Serite
Legal Administration Officer (Appeals)
Tel: 012 310 3788
mserite@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, if you intend to submit an appeal.

Please include the Department [Attention: Mr Dumisane Mthembu, Director: EIE] 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



Mr WDM Fourie
CHIEF DIRECTOR: ENVIRONMENTAL IMPACT MANAGEMENT (ACTING)
Department of Environmental Affairs

Date: 30/04/2010

CC: Ms Gillian Louw (SHECapo Environmental)
Appeals Administrators (DEA)

021 553 1851

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 Water and 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: 12/12/20/691

Amendment history:

Holder of authorisation: ESKOM HOLDINGS LIMITED

Location of activity: Plettenberg Bay, Western Cape

A.

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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 be authorised to undertake the activities 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 HODINGS LIMITED

With the following contact details –

Ms Barbara van Geems
Eskom Distribution
PO Box 222
BRACKENFELL
7561

Tel: 044-302-6383
Fax: 021 980 3053

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

- R. 386 Item 11: The construction of facilities or infrastructure, including associated structures or infrastructure, for –The transmission and distribution of electricity above ground with a capacity of more than 33 kilovolts and less than 120 kilovolts;

as described in the Basic Assessment Report (BAR), dated November 2009, page 2, as follows:

The proposed activity and associated infrastructure involves the construction of a new 66Kv power line between the existing Robberg Substation to a new substation site (Bitou) on the Farm 305/16, located east of the Bilou River, to accommodate the new 66Kv Line.

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

Conditions

Scope of authorisation

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.

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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 applicant'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.
3. The activity authorised may only be carried out at the property indicated above.
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.
5. This activity must commence within a period of three (3) 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.
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.
 - 6.1. Relevant legislation that must be complied with by the holder of this authorisation includes:
 - Archaeological remains, artificial features and structures older than 60 years are protected by National Heritage Resources Act, 1999 (Act No. 25 of 1999). Should any archaeological artefacts be exposed during excavation for the purpose of construction, construction in the vicinity of the finding must be stopped. 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. Heritage remains uncovered or disturbed during earthworks must not be disturbed further until the necessary approval has been obtained from the South African Heritage Resources Agency and/or any of their delegated provincial agencies.
 - All provisions of the Occupational Health and Safety Act, 1993 (Act 85 of 1993).
 - All provisions of the National Water Act, 1998 (Act 36 of 1998).
 - All provisions of the National Forests Act, 1984 (Act No. 122 of 1984).
 - All provisions of the National Environmental Management Biodiversity Act, 2004 (Act 10 of 2004).
 - All provisions of the National Environmental Management Protected Areas Act, 2003 (Act 57 of 2003) and its Regulations.
7. All outdoor advertising i.e. signage boards associated with this proposed activity must be below the thresholds stipulated in the EIA Regulations as it was not applied for as an activity for authorisation during the environmental authorisation process. Should the holder of the environmental authorisation wish to exceed these thresholds he/she must submit an application for authorisation to this Department. Further, all outdoor advertising associated with this proposed activity, whether on or off the property concerned, must comply with the applicable Local Authority By-Law for the control of Outdoor Advertising or in the absence of local legislative controls, must comply with the South African Manual for Outdoor Advertising Control (SAMOAC).
8. 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 Minerals and Energy.

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9. A permit must be obtained from the relevant nature conservation agency for the removal or destruction of indigenous protected and endangered plant and animal species. At all times the principles of search and rescue of species must be explored prior to destruction.
10. Alternative Route 4 for the proposed project is approved and must be implemented as shown in Appendix A of the BAR dated November 2009.
11. All construction activities and/or earthworks must be carried out within the limits of the authorised site.
12. All areas disturbed during the construction phase must be rehabilitated and re-seeded with indigenous plants at the end of the construction phase.
13. Generation of dust must be minimised and dust control measures must be implemented.
14. Exposed soil and material stockpiles must be protected against the wind and water erosion.
15. Covered dust bins must be provided on site in order to handle all waste generated during construction. When the dust bins are full, all waste must be removed from the site and be disposed of at a licensed disposal site.
16. Power-lines must be routed away from the Low Forest communities as far as possible.
17. The salt marshes of the Bitou River system are very sensitive and although extensive they should not be disturbed.
18. Care must be taken not to negatively impact on the Milkwood Trees. A permit must be obtained from the Department of Agriculture, Fisheries and Forestry prior to removal of protected trees.
19. Both the temporal and spatial disturbance footprints of the construction process should be as compressed as possible.
20. An expert observer should work along the proposed route immediately before construction activities start to ensure that no-nests, particularly those of priority species are situated on or very close to the line.
21. The pylon structures used to support the conductors must be of a bird elements and the metalwork and with perching surfaces spaced adequately away from the conductors to prevent even the largest birds from spanning these gaps.
22. Bird-guards should be fitted wherever birds might perch above the conductors to reduce bird-streamer related faulting.
23. Suitable marking devices should be fitted to all identified problem areas on each of the selected routes.

Appeal of authorisation

24. 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.
25. The notification referred to in 24 must –
 - 25.1. specify the date on which the authorisation was issued;
 - 25.2. inform the interested and affected party of the appeal procedure provided for in Chapter 7 of the regulations;
 - 25.3. advise the interested and affected party that a copy of the authorisation will be furnished on request; and
 - 25.4. give the reasons for the decision.

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Management of the activity

26. The Environmental Management Plan submitted as part of the BAR dated November 2009 (EMP) must be implemented and strictly enforced during all construction activities. The EMP will be seen as a dynamic document. The EMP must be included in all contract documentation for the construction phase of the development.
27. The recommendations and mitigation measures recorded in the BAR submitted on November 2009 must be adhered to and incorporated as part of the EMP.
28. Measures for the management of heritage resources if such are exposed during construction must be implemented. Should any heritage resources 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. The relevant heritage resource agency must be informed about the finding.
29. All correspondence with regard to this application must be forwarded for attention to The Director, Environmental Impact Evaluation within the department.

Monitoring

30. The applicant must appoint an Environmental Control Officer (ECO) for the duration of the construction and rehabilitation phases of the development that will have the responsibility to ensure that the mitigation/rehabilitation measures recommendations referred to in this authorisation are implemented and to ensure compliance with the provisions of the EMP.
31. The ECO must be appointed before commencement of any land clearing or construction activities.
32. The ECO must, in addition to the requirements of the EMP, monitor project compliance with conditions of this environmental authorisation, environmental legislation and the recommendations for mitigation contained in the BAR.
 - 32.1. The ECO must keep record of all activities on site, problems identified, transgressions noted and a task schedule of tasks undertaken by the ECO and compliance monitoring.
 - 32.2. Records relating to monitoring must be kept on site and made available for inspection to any relevant and competent authority in respect of this development within five (5) days upon request.
 - 32.3. The ECO must remain employed until all rehabilitation measures, as required by the EMP are completed and the site is ready for operation.
 - 32.4. The cost of the ECO shall be borne by the applicant.
 - 32.5. The ECO must in addition to the requirements contained in the EMP also maintain the following on site:
 - A non-conformance register, and
 - A public complaints register.

Recording and reporting to the Department

33. The ECO must submit an environmental audit report to the Department upon completion of the construction and rehabilitation activities. This audit must
 - 33.1. Indicate the date of the audit, the name of the auditor and the outcome of the audit in terms of compliance with the environmental authorisation conditions as well as the requirements of the EMP.
 - 33.2. 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.

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34. The results of these audits must be submitted in writing to the Department within 10 (ten) days after completion of the audits. Should the reports indicate that there are significant detrimental impacts, the Department reserve the right to review its decision as indicated in the letter of authorisation.

Commencement of the activity

35. The construction of the authorised activity may not commence within thirty (30) days of date of signature of this authorisation.
36. 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.

Notification to authorities

37. Fourteen (14) days written notice must be given to the Department that the activity will commence. Commencement for the purposes of this condition includes site preparation. The notice must include a date on which it is anticipated that the activity will commence. This notification period may coincide with the period contemplated in 35 above.

Operation of the activity

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

Site closure and decommissioning

39. 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.

General

40. A copy of this authorisation, the BAR dated November 2009 and the EMP dated November 2009 must be kept at the property where the activity will be undertaken. The authorisation must be produced to any authorised official of the Department who requests to see it and must be made available for inspection by any employee or agent of the holder of the authorisation who works or undertakes work at the property.
41. 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.
42. 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.
43. 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.

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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: 30/04/2010



Mr WDM Fourie
Chief Director: Environmental Impact Management (Acting)
Department of Environmental Affairs

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Annexure 1: Reasons for Decision

1. Background

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

- R. 386 Item 1(f): The transmission and distribution of electricity above ground with a capacity of more than 33 kilovolts and less than 120 kilovolts;

The applicant appointed "SHE Cape Environmental Assessment CC" to undertake a screening process and to compile a Basic Assessment Report (BAR) as required by regulation 22 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) Information contained in the BAR dated November 2009.
- b) The additional information submitted to the Department on 18 February 2009;
- c) A site visits conducted by the Department on the 5th of February 2009.
- 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), as amended.
- e) All issues raised by the Interested and Affected Parties.
- f) The Bird Impact Assessment conducted by Andrew Jenkins of the Endangered Wildlife Trust which is included in Appendix D of the BAR dated November 2009.
- g) The Botanical Evaluation Study conducted by Bergwind Botanical Surveys & Tours included in Appendix D of the BAR dated November 2009.
- h) A heritage Impact Assessment Study conducted by Prof HJ Deacon PhD from Consulting Archaeologist included in Appendix D of the BAR dated November 2009.

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 and associated infrastructure involves the construction of new 66Kv power line between the existing Robberg Substation to a new substation site on Farm 305/16 east of the Bitou River to accommodate the new 66Kv Line.
- b) The current 11Kv will not adequately cater for the current and future demand in the wider Plettenberg Bay and the proposed project will provide security in this regard.
- c) The load on the existing network supplying Keurbooms / Uplands/ the Crags/ Natures Valley and rural surrounding areas is no longer sustainable at 66kV from the Robberg substation.
- d) Three site alternatives were identified. Site C was chosen as the preferred site because it has the least detrimental impacts on the environment in comparison to the other alternatives considered as indicated on the map as attached as Annexure D of the additional information submitted to the Department on the 18th of February 2010.
- e) Four route alternatives were identified and the preferred route option is Route 4 as it crosses the Bitou River floodplain at a fairly narrow point.

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- f) The visual impact is the most significant impact resulting from the proposed project
- g) The project will ensure reliable electricity provision to the area and will meet future demand.
- h) 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.

4. Findings

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

- The BAR dated November 2009 includes the identification, assessment and mitigation of impacts;
- The procedure followed for the impact assessment has been adequate for the decision-making process;
- All legal and procedural requirements have been met;
- There has been sufficient consultation with interested and affected parties;
- The information contained in the BAR dated November 2009 is accurate and credible;
- Adequate assessment of the main identified issues and impacts have been done;
- The proposed development is compatible with the proposed site for the development; and
- The EMP provided for all identified environmental impacts and includes mitigation measures for the identified impacts and issues.

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, as amended, and that any potentially detrimental environmental impacts resulting from the proposed activity can be mitigated to acceptable levels. The application is accordingly granted.