



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

NEAS Reference: DEA/EIA/0001114/2012

DEA Reference: 14/12/16/3/3/1/531

Enquiries: Mr Lerato Mokoena

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

Mr Roman Crookes
Eskom Holdings SOC Limited
P.O. Box 1091
JOHANNESBURG
2000

Fax no: (011) 800-3931

PER FACSIMILE / MAIL

Dear Mr Crookes

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998: GN R. 543, 544 AND 545: PROPOSED ESTABLISHMENT OF A COAL STOCKYARD ON THE ASH DUMP SITE AT MEDUPI POWER STATION LIMPOPO PROVINCE

With reference to the above application, please be advised that the Department has decided to accept the BAR dated May 2012 and grant authorisation. The environmental authorisation (EA) and reasons for the decision are attached herewith.

In terms of regulation 10(2) of the Environmental Impact Assessment Regulations, 2010 (the Regulations), you are instructed to notify all registered interested and affected parties, in writing and within 12 (twelve) days of the date of the EA, of the Department's decision in respect of your application as well as the provisions regarding the submission of appeals that are contained in the Regulations.

Your attention is drawn to Chapter 7 of the Regulations, which prescribes the appeal procedure to be followed. This procedure is summarised in the attached document. Kindly include a copy of this document with the letter of notification to interested and affected parties.

Should the applicant or any other party wish to appeal any aspect of the decision a notice of intention to appeal must be lodged by all prospective appellants with the Minister, within 20 days of the date of the EA, by means of one of the following methods:

By facsimile: 012 320 7561;
By post: Private Bag X447,
Pretoria, 0001; or
By hand: 2nd Floor, Fedsure Building, North Tower,
Cnr. Lilian Ngoyi and Pretorius Streets,
Pretoria.

If the applicant wishes to lodge an appeal, it must also serve a copy of the notice of intention to appeal on all registered interested and affected parties as well as a notice indicating where, and for what period, the appeal submission will be available for inspection, should you intend to submit an appeal.

Please include the Department (*Attention: Director: Environmental Impact Evaluation*) in the list of interested and affected parties, notified through your notification letter to interested and affected parties, for record purposes.

Appeals must be submitted in writing to:

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

Tel: 012-310-3929

Email: twane@environment.gov.za

The authorised activity/ies shall not commence within twenty (20) days of the date of signature of the authorisation. Further, please note that the Minister may, on receipt of appeals against the authorisation or conditions thereof suspend the authorisation pending the outcome of the appeals procedure.

Yours sincerely



Mr Mark Gordon

Chief Director: Integrated Environmental Authorisations

Department of Environmental Affairs

Date: 09 July 2012

CC:	Ms Jo Anne Thomas	Savannah Environmental (Pty) Ltd	Tel: 011 234 6621	Fax: 086 684 0547
	Mr Victor Mongwe	LDEDET	Tel: 015 293 8300	Fax: 015 295 4013
	Mr Bob Naidoo	Lephalale Local Municipality	Tel: 014 762 1409	Fax: 014 763 5662
	Mr T Zwane	Appeals Authority (DEA)	Tel: 012-310-3929	Fax: 012-320-7561

APPEALS PROCEDURE IN TERMS OF CHAPTER 7 OF THE NEMA EIA REGULATIONS, 2010 (THE REGULATIONS) AS PER GN R.543 OF 2010 TO BE FOLLOWED BY THE APPLICANT AND INTERESTED AND AFFECTED PARTIES UPON RECEIPT OF NOTIFICATION OF AN ENVIRONMENTAL AUTHORISATION (EA)

APPLICANT	INTERESTED AND AFFECTED PARTIES (IAPs)
1. Receive EA from the relevant Competent Authority (the Department of Environmental Affairs [DEA]).	1. Receive EA from Applicant/Consultant.
2. Within 12 days of date of the EA notify all IAPs of the EA and draw their attention to their right to appeal against the EA in terms of Chapter 7 of the Regulations.	2. N/A.
3. If you want to appeal against the EA, submit a notice of intention to appeal within 20 days of the date of the EA with the Minister of Water and Environmental Affairs (the Minister).	3. If you want to appeal against the EA, submit a notice of intention to appeal within 20 days of the date of the EA with the Minister of Water and Environmental Affairs (the Minister).
4. After having submitted your notice of intention to appeal to the Minister, provide each registered IAP with a copy of the notice of intention to appeal within 10 days of lodging the notice.	4. After having submitted your notice of intention to appeal to the Minister, provide the applicant with a copy of the notice of intention to appeal within 10 days of lodging the notice.
5. The Applicant must also serve on each IAP: <ul style="list-style-type: none"> a notice indicating where and for what period the appeal submission will be available for inspection. 	5. Appellant must also serve on the Applicant within 10 days of lodging the notice, <ul style="list-style-type: none"> a notice indicating where and for what period the appeal submission will be available for inspection by the applicant.
6. The appeal must be submitted in writing to the Minister within 30 days after the lapsing of the period of 20 days provided for the lodging of the notice of intention to appeal.	6. The appeal must be submitted to the Minister within 30 days after the lapsing of the period of 20 days provided for the lodging of the notice of intention to appeal.
7. Any IAP who received a notice of intention to appeal may submit a responding statement to that appeal to the Minister within 30 days from the date that the appeal submission was lodged with the Minister.	7. An Applicant who received notice of intention to may submit a responding statement to the appeal to the Minister within 30 days from the date that the appeal submission was lodged with the Minister.

NOTES:

1. An appeal against a decision must be lodged with:-

- 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;
- the Minister of Justice and Constitutional Development if the applicant is the Department of Water Affairs and the decision was issued by the Director- General of the Department of Environmental Affairs (or another official) acting in his/ her capacity as the delegated Competent Authority;

2. An appeal lodged with:-

- the Minister of Water and Environmental Affairs must be submitted to the Department of Environmental Affairs;
- the Minister of Justice and Constitutional Development must be submitted to the Department of Environmental Affairs;

3. An appeal must be:-

- submitted in writing;
- accompanied by:
 - a statement setting out the grounds of appeal;
 - supporting documentation which is referred to in the appeal; and
 - a statement that the appellant has complied with regulation 62 (2) or (3) together with copies of the notices referred to in regulation 62.



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Environmental Authorisation

In terms of regulation 36 of the Environmental Impact Assessment Regulations, 2010

Coal Stockyard on the Ash Dump Site at Medupi Power Station

Waterberg District Municipality

Authorisation register number:	14/12/16/3/3/1/531
NEAS reference number:	DEA/EIA/0001114/2012
Last amended:	First issue
Holder of authorisation:	ESKOM HOLDINGS SOC LIMITED
Location of activity:	LIMPOPO PROVINCE: Within Lephalale Local Municipality

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.

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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 activities specified below.

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 EIA regulations.

Details regarding the basis on which the Department reached this decision are set out in Annexure 1.

Activities authorised

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act 107 of 1998) and the Environmental Impact Assessment Regulations, 2010 the Department hereby authorises –

ESKOM HOLDINGS SOC LIMITED

with the following contact details –

Mr. Roman Crookes
Eskom Holdings SOC Limited
P.O. Box 1091
JOHANNESBURG
2000

Tel: (011) 800 3861
Fax: (011) 800 3931
Cell: (082) 775 4678
E-mail: crookeRA@eskom.co.za

to undertake the following activities (hereafter referred to as "the activity") indicated in Listing Notices 1 and 2 (GN R.544 &545):

Listed activities	Activity/Project description
GN R. 544 Item 2: The construction of facilities or infrastructure for the storage of ore or coal that requires an atmospheric emissions license in terms of the National Environmental Management: Air Quality Act (Act No. 39 of 2004).	The construction of infrastructure for the storage of coal. As approximately 38 million tonnes of coal would be stockpiled at this site up until 2025, an atmospheric emissions license would be required in terms of the requirements of the National Environmental Management: Air Quality Act (Act No. 39 of 2004).
GN R. 544 Item 11: The construction of: (i) canals; (ii) channels; (iii) bridges; (iv) dams; (v) weirs; (vi) bulk storm water outlet structures; (vii) marinas; (viii) jetties exceeding 50 square metres in size; (ix) slipways exceeding 50 square metres in size; (x) buildings exceeding 50 square metres in size; or (xi) infrastructure or structures covering 50 square metres or more where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.	A depression is located within the proposed development site.
GN R. 544 Item 18: The infilling or depositing of any material of more than 5 cubic metres into, or the	A depression is located within the proposed development site.

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Listed activities	Activity/Project description
<p>dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock from</p> <p>(i) a watercourse;</p> <p>(ii) the sea;</p> <p>(iii) the seashore;</p> <p>(iv) the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater-</p> <p>but excluding where such infilling, depositing, dredging, excavation, removal or moving</p> <p>(i) is for maintenance purposes undertaken in accordance with a management plan agreed to by the relevant environmental authority; or</p> <p>(ii) occurs behind the development setback line.</p>	
<p>GN R. 545 Item 5: The construction of facilities or infrastructure for any process or activity which requires a permit or license in terms of national or provincial legislation governing the generation or release of emissions, pollution or effluent and which is not identified in Notice No. 544 of 2010 or included in the list of waste management activities published in terms of section 19 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case that Act will apply.</p>	<p>An air emissions license will be required for the proposed development in terms of the National Environmental Management: Air Quality Act (Act No. 39 of 2004).</p>
<p>GN R. 545 Item 15: Physical alteration of undeveloped, vacant or derelict land for residential, retail, commercial, recreational, industrial or institutional use where the total area to be transformed is 20 hectares or more.</p>	<p>Physical alteration of a site of approximately 2km x 2km for the establishment of a coal stockyard.</p>

Listed activities	Activity/Project description
GN R. 545 Item 26: Commencing of an activity, which requires an atmospheric emission license in terms of section 21 of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004) except where such commencement requires basic assessment in terms of Notice No. R544 of 2010.	Approximately 38 million tonnes of coal would be stockpiled at this site up until 2025.

as described in the Basic Assessment Report (BAR) dated May 2012 at:

Coal Stockyard Site	Latitude	Longitude
	23°70941'	27°52924'

- for the proposed establishment of the coal stockyard on the Medupi Ash Dump site at Medupi Power Station on the farm Eenzaamheid 687LQ within Lephalale Local Municipality in the Limpopo Province, hereafter referred to as "the property".

The infrastructure associated with this facility includes:

- Establishment of a coal stockyard of approximately 2.5km x 2.5km in extent;
- Installing a system of conveyors and stack-reclaimer; and
- Construction of holding dams.

Conditions of this Environmental Authorisation

Scope of authorisation

1. The preferred site for the coal stockyard with the abovementioned coordinates is approved.
2. Authorisation of the activity is subject to the conditions contained in this authorisation, which form part of the environmental authorisation and are binding on the holder of the authorisation.
3. The holder of the authorisation is responsible for ensuring compliance with the conditions contained in this environmental authorisation. This includes any person acting on the holder's behalf, including but not limited to, an agent, servant, contractor, sub-contractor, employee, consultant or person rendering a service to the holder of the authorisation.

4. The activities authorised must only be carried out at the property as described above.
5. 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.
6. This activity must commence within a period of five (5) years from the date of issue of this authorisation. If commencement of the activity does not occur within that period, the authorisation lapses and a new application for environmental authorisation must be made in order for the activity to be undertaken. Should there be a requirement to extend the validity period of the EA, an application for extension of the validity of the EA, must be lodged at least six (6) months prior to the expiration date.
7. Commencement with one activity listed in terms of this authorisation constitutes commencement of all authorised activities.
8. The holder of an environmental authorisation must notify the competent authority of any alienation, transfer and change of ownership rights in the property on which the activity is to take place.

Notification of authorisation and right to appeal

9. The holder of the authorisation must notify every registered interested and affected party, in writing and within 12 (twelve) calendar days of the date of this environmental authorisation, of the decision to authorise the activity.
10. The notification referred to must –
 - 10.1. specify the date on which the authorisation was issued;
 - 10.2. inform the interested and affected party of the appeal procedure provided for in Chapter 7 of the Environmental Impact Assessment Regulations, 2010;
 - 10.3. advise the interested and affected party that a copy of the authorisation will be furnished on request; and
 - 10.4. give the reasons of the competent authority for the decision.
11. The holder of the authorisation must publish a notice –
 - 11.1. informing interested and affected parties of the decision;
 - 11.2. informing interested and affected parties where the decision can be accessed; and

- 11.3. drawing the attention of interested and affected parties to the fact that an appeal may be lodged against this decision in the newspaper(s) contemplated and used in terms of regulation 54(2)(c) and (d) and which newspaper was used for the placing of advertisements as part of the public participation process.

Management of the activity

12. The Environmental Management Programme (EMPr) submitted as part of the Application for EA is hereby approved. This EMPr must be implemented and adhered to.

Environmental Control Officer (ECO) and duties

13. The holder of the authorisation must appoint an Environmental Control Officer (ECO) with experience or expertise in the field for the construction phase of the development. The ECO will have the responsibility to ensure that the mitigation/rehabilitation measures and recommendations referred to in this authorisation are implemented and to ensure compliance with the provisions of the EMPr.
14. The ECO must be appointed before commencement of any authorised activities.
- 14.1. The ECO must remain employed until all rehabilitation measures, as required for implementation due to construction damage, are completed and the site is ready for operation.
- 14.2. Once appointed, the name and contact details of the ECO must be submitted to the *Director: Compliance Monitoring* of the Department.
- 14.3. The ECO must keep record of all activities on site, problems identified, transgressions noted and a task schedule of tasks undertaken by the ECO.
15. The ECO must:
- 15.1. Keep and maintain a detailed incident (including spillage of bitumen, fuels, chemicals, or any other material) and complaint register on site indicating how these issues were addressed, what rehabilitation measures were taken and what preventative measures were implemented to avoid re-occurrence of incidents/complaints.
- 15.2. Keep and maintain a daily site diary.
- 15.3. Keep copies of all reports submitted to the Department.
- 15.4. Keep and maintain a schedule of current site activities including the monitoring of such activities.

15.5. Compile bi-monthly monitoring reports.

Recording and reporting to the Department

16. The holder of this authorisation must keep all records relating to monitoring and auditing on site and make it available for inspection to any relevant and competent authority in respect of this development.
17. All documentation e.g. audit/monitoring/compliance reports and notifications, required to be submitted to the Department in terms of this authorisation, must be submitted to the *Director: Compliance Monitoring* at the Department.

Environmental audit report

18. The holder of the authorisation must submit an environmental audit report to the Department within 30 days of completion of the construction phase (i.e. within 30 days of site handover) and within 30 days of completion of rehabilitation activities.
19. The environmental audit report must:
 - 19.1. Be compiled by an environmental auditor;
 - 19.2. Indicate the date of the audit, the name of the auditor and the outcome of the audit;
 - 19.3. Evaluate compliance with the requirements of the approved EMPr and this environmental authorisation;
 - 19.4. Include measures to be implemented to attend to any non-compliances or degradation noted;
 - 19.5. Include copies of any approvals granted by other authorities relevant to the development for the reporting period;
 - 19.6. Highlight any outstanding environmental issues that must be addressed, along with recommendations for ensuring these issues are appropriately addressed; and
 - 19.7. Include a copy of this authorisation and the approved EMPr.
 - 19.8. Include all documentation such as waste disposal certificates, hazardous waste landfill site licences etc. pertaining to this authorisation.
 - 19.9. Include evidence of adherence to the conditions of this authorisation and the EMPr where relevant such as training records and attendance records.

Commencement of the activity

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

Notification to authorities

23. Fourteen (14) days written notice must be given to the Department that the activity will commence. Commencement for the purposes of this condition includes site preparation. The notice must include a date on which it is anticipated that the activity will commence, as well as a reference number. This notification period may coincide with the notice of intent to appeal period, within which construction may not commence.

Operation of the activity

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

Site closure and decommissioning

25. Should the activity ever cease or become redundant, the applicant shall undertake the required actions as prescribed by legislation at the time and comply with all relevant legal requirements administered by any relevant and competent authority at that time.

Specific conditions

- 26. No exotic plants may be used for rehabilitation purposes.
- 27. Only indigenous plants of the area may be utilised.
- 28. Search and rescue for medicinal, protected and red data plant species must be undertaken prior to the site being cleared.

General

- 29. A copy of this authorisation and the approved EMPr must be kept at the property where the activity/ will be undertaken. The authorisation and approved EMPr must be produced to any authorised official of the Department who requests to see it and must be made available for inspection by any employee or agent of the holder of the authorisation who works or undertakes work at the property.
- 30. The holder of the authorisation must notify both the *Director: Integrated Environmental Authorisations* and the *Director: Compliance Monitoring* at 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.
- 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 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: 09 July 2012



Mr Mark Gordon

**Chief Director: Integrated Environmental Authorisations
Department of Environmental Affairs**

Annexure 1: Reasons for Decision

1. Information considered in making the decision

In reaching its decision, the Department took, *inter alia*, the following into consideration -

- a) The information contained in the BAR dated May 2012;
- b) The comments received from organs of state and interested and affected parties as included in the BAR dated May 2012;
- c) Mitigation measures as proposed in the BAR dated May 2012 and the EMPr;
- d) The information contained in the summary of specialist studies contained within Appendix G7 of the BAR;
- e) Findings of the site visit conducted on 22 May 2012; and
- f) The objectives and requirements of relevant environmental legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act 107 of 1998).

2. Key factors considered in making the decision

All information presented to the Department was taken into account in the Department's consideration of the application. A summary of the findings which, in the Department's view, were of the most significance is set out below.

- a) The findings of all the specialist studies conducted and their recommended mitigation measures.
- b) The need for the proposed coal stockyard has been demonstrated;
- c) The BAR dated May 2012 identified all relevant legislation and guidelines that have been considered in the preparation of the BAR dated May 2012;
- d) The methodology used in assessing the potential impacts identified in the BAR dated May 2012 and the specialist studies have been adequately indicated; and
- e) A sufficient public participation process was undertaken and the applicant has satisfied the minimum requirements as prescribed in the EIA Regulations, 2010 for public involvement.

3. Conclusions

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

- a) The identification and assessment of impacts are detailed in the BAR dated May 2012 and sufficient assessment of the key identified issues and impacts have been completed.
- b) The procedure followed for impact assessment is adequate for the decision-making process.
- c) The proposed mitigation of impacts identified and assessed adequately curtails the identified impacts.
- d) According to the independent EAP, the information contained in the BAR dated May 2012 is accurate and credible.
- e) EMPr measures for the pre-construction, construction and rehabilitation phases of the development were proposed and included in the BAR and will be implemented to manage the identified environmental impacts during the construction process.

In view of the above, the Department is satisfied that, subject to compliance with the conditions contained in the environmental authorisation, the proposed activity will not conflict with the general objectives of integrated environmental management laid down in Chapter 5 of the National Environmental Management Act, 1998 and that any potentially detrimental environmental impacts resulting from the proposed activity can be mitigated to acceptable levels. The application is accordingly granted.

