



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

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NEAS Reference: DEAT/EIA/0000015/2010

DEA Reference: 12/12/20/2069

Enquiries: Portia Leshilo

Telephone: 012-395 1769 Fax: 012-320-7539 E-mail: pleshilo@environment.gov.za

Mr. Roman Crookes
Eskom Holding Limited
PO 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. 544: THE PROPOSED RAW WATER PIPELINE FOR MEDUPI POWER STATION, LIMPOPO PROVINCE

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

In terms of regulation 10(2) of the Environmental Impact Assessment Regulations, 2010, you are instructed to notify all registered interested and affected parties (IAPs), in writing and within twelve (12) 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 Environmental Impact Assessment (EIA) Regulations, 2010.

In addition, the holder of the authorisation must publish a notice –

- informing interested and affected parties of the decision;
- informing interested and affected parties where the decision can be accessed; and
- drawing the attention of interested and affected parties to the fact that an appeal may be lodged against this decision

in the newspapers 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.

Your attention is drawn to Chapter 7 of the EIA Regulations, 2010, 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 TH Zwane, Senior Legal Administrator (Appeals), Tel: 012 310 3929, TZwane@environment.gov.za at the Department.

Should any party, including the applicant, wish to appeal any aspect of the decision, they or the applicant must, *inter alia*, lodge a notice of intention to appeal with the Minister, within 20 days after the date of the decision, by means of one of the following methods:

By facsimile: 012 320-7561.

or

By post: Department of Environmental Affairs
Private Bag X447
Pretoria
0001

or

By hand: Fedsure Forum Building,
2nd Floor North Tower
Corner Van der Walt and Pretorius Streets
Pretoria

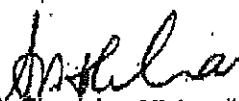
If the appellant is a person other than the applicant, the appellant must within ten (10) days of lodging the notice of intention to appeal, provide a copy of the notice to the applicant and a notice indicating where and for what period the appeal submission will be available for inspection by the applicant.

If the applicant is the appellant, the applicant must also provide a copy of the notice of intention to appeal, within ten (10) days of having lodged such notice, to each person and organ of state which was a registered interested and affected party. The applicant must furthermore provide all the above-mentioned registered interested and affected parties with a notice indicating that the appeal submission will be made available on the day of lodging it with the Minister or MEC, and indicate where and for what period the appeal submission will be available for inspection by such person or organ of state.

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.

The authorised activity or activities shall not commence within thirty (30) days of the date of signature of the authorisation. 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.

Yours sincerely



Ms Sbusisiwe Hlela

CHIEF DIRECTOR: ENVIRONMENTAL IMPACT MANAGEMENT (ACTING)

Department of Environmental Affairs

Date: 03 / 03 / 2011

CC: Ms Jo-Anne Thomas
Mr Victor Mongwe
Mr. MP Sebatjana
Mr TH Zwane

Savannah Environmental (Pty) Ltd
LDEDET
Lephalale Local Municipality
Appeals Authority (DEA)

Fax: 086 684 0547
Fax: 015 295 4107/5015
Fax: 014 783 8862
Fax: 012 320-7561

APPEALS PROCEDURE IN TERMS OF CHAPTER 7 OF THE NEMA EIA REGULATIONS, 2010 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

APPLICANT	INTERESTED AND AFFECTED PARTIES (IAPs)
1. Receive notice of Environmental Authorisation (EA) from the relevant Competent Authority (CA).	1. Receive notice of Environmental Authorisation (EA) from Applicant/Consultant.
2. Within 20 days after the date of the decision, notify the relevant Appeal Authority of the intention to appeal.	2. Within 20 days of date of the decision, notify the relevant Appeal Authority of the intention to appeal.
3. The Applicant must within 10 days of having submitted the notice of intention to appeal, as indicated in 2 above, provide to each persons and organ of state who was a registered IAP. 3.1 a copy of the notice of intention to appeal; and 3.2 a notice indicating that the appeal submission will be made available on the day of lodging it with the Appeal Authority and where and for what period the appeal submission will be available for inspection by such registered IAP.	3. Appellant must within 10 days of having submitted the notice of intention to appeal, as indicated in 2 above, provide the applicant with- 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 the applicant.
4. The appeal must be submitted to the Appeal Authority within 30 days after the lapsing of the 20 days period which is allowed for the submission of the notice of intention to appeal.	4. The appeal must be submitted to the Appeal Authority within 30 days after the lapsing of the 20 days period which is allowed for the submission 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 Appeal Authority or designated organ of state within 30 days from the date that the appeal submission was lodged with the Appeal Authority.	6. An applicant that receives notice of an appeal may submit a responding statement to the relevant Appeal Authority or designated organ of state within 30 days from the date the appeal submission was lodged with the Appeal Authority.

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 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;
 - c) 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; or
 - d) 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 Minister of Justice and Constitutional Development must be submitted to the Department of Environmental Affairs;
 - c) the MEC must be submitted to the provincial department responsible for environmental affairs; or
 - d) 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 Appeal Authority;
 - 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 Appeal Authority;
 - a statement that the appellant has complied with regulation 60 (2) or (3) has been complied with together with copies of the notices referred to in regulation 60; and
 - the prescribed appeal fee, if any.

4. A copy of the official appeal form can be obtained from:
Mr TH Zwane, Senior Legal Administrator (Appeals): Tel: 012 310 3929, TZwane@environment.gov.za



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Environmental Authorisation

Authorisation register number:	12/12/20/2069
NEAS reference number:	DEAT/EIA/0000015/2010
Last amended:	<i>First Issue</i>
Holder of authorisation:	<i>Eskom Holdings Limited</i>
Location of activity:	LIMPOPO PROVINCE: <i>Within the LEPHALALE LOCAL MUNICIPALITY</i>

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.

S/P

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/ies 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, 2010 the Department hereby authorises –

ESKOM HOLDINGS LIMITED

with the following contact details –

Mr. Roman Crookes

Eskom Holdings Limited

PO Box 1091

JOHANNESBURG

2000

Tel: (011) 800 3861

Fax: (011) 800 3931

E-mail: Roman.Crookes@eskom.co.za

to undertake the following activities (hereafter referred to as "the activities" indicated in Listing Notices 1 (GN R 544):

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Listed activities	Activity/Project description
GN R. 544: Item 11(x):	The construction of 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 the watercourse, excluding where such construction will occur behind the development setback line.

as described in the Basic Assessment Report (BAR) dated December 2010 at:

Alternative S1	Latitude	Longitude
Co-ordinates(Starting point)	23°42'24"	27°33'815"
Middle point	27°42'415"	27°33'759"
End point	23°42'734"	27°33'776"

Conditions of this Environmental Authorisation

Scope of authorisation

1. The preferred alternative A1 and exemption from assessing alternatives 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 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.
4. The activities authorised may only be carried out at the property as described above.

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5. The recommendations and mitigation measures recorded in the BAR dated December 2010 must be adhered to.
6. 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.
7. This activity must commence within a period of three (3) 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.
8. Commencement with one activity listed in terms of this authorisation constitutes commencement of all authorised activities.
9. 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.
10. Relevant legislation that must be complied with by the holder of this authorisation includes, *inter alia*:
 - The National Heritage Resources Act, 1999 (Act no. 25 of 1999) protecting the archaeological remains, artificial features and structures older than 60 years. Should any archaeological artefacts 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 and 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, 1998 (Act No. 84 of 1998).
 - 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.
 - 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.
11. Vegetation clearing must be kept to an absolute minimum. Mitigation measures must be implemented to reduce the risk of erosion and the invasion of alien species.
 12. 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.
 13. An integrated waste management approach must be implemented that is based on waste minimisation and must incorporate reduction, recycling, re-use and disposal where appropriate. Any solid waste shall be disposed of at a landfill licensed in terms of section 20 (b) of the National Environment Management Waste Act, 2008 (Act No. 59 of 2008).
 14. 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

15. 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.
16. The notification referred to must –
 - 16.1 specify the date on which the authorisation was issued;
 - 16.2 inform the interested and affected party of the appeal procedure provided for in Chapter 7 of the Environmental Impact Assessment Regulations, 2010;
 - 16.3 advise the interested and affected party that a copy of the authorisation will be furnished on request; and
 - 16.4 give the reasons for the decision.
17. The holder of the authorisation must publish a notice –
 - 17.1 Informing interested and affected parties of the decision;
 - 17.2 Informing interested and affected parties where the decision can be accessed; and

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- 17.3 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

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

Monitoring

19. The applicant must appoint a suitably experienced 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 EMPr.
20. The ECO shall be appointed before commencement of any authorised activity/ies.
21. Once appointed, the name and contact details of the ECO must be submitted to the Director: Compliance Monitoring of the Department.
22. The ECO shall keep record of all activities on site, problems identified, transgressions noted and a task schedule of tasks undertaken by the ECO.
23. 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.
24. 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

25. 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.
26. The holder of the authorisation must submit an environmental audit report to the Department within 30 days of completion of the construction and rehabilitation activities.

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27. The environmental audit report must indicate the date of the audit, the name of the auditor and the outcome of the audit in terms of compliance with the environmental authorisation conditions as well as the requirements of the EMPr.
28. 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.
29. All compliance monitoring and audit reports must be submitted to the *Director: Compliance Monitoring*.

Commencement of the activity

30. The authorised activity shall not commence within thirty (30) days of the date of signature of the authorisation.
31. 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.
32. Should you be notified by the Minister of a suspension of the authorisation pending appeal procedures, you may not commence with the activity/ies until such time that the Minister allows you to commence with such an activity in writing.

Notification to authorities

33. 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 30. above.

Operation of the activity

34. Fourteen (14) days written notice must be given to the Department that the activity operational phase will commence.
35. The applicant must compile an operational EMPr for the operational phase of the activity or alternatively, if the applicant has an existing operational environmental management system, it must be amended to include the operation of the authorised activity.

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Site closure and decommissioning

36. 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

37. No activities will be allowed to encroach into a water course without a water use authorisation being in place from the Department of Water Affairs.
38. No additional roads may be constructed, existing access roads must be used.
39. 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.
40. Copies of permits in respect of 1.39 above required must be submitted to the Department for record keeping.
41. No exotic plants may be used for rehabilitation purposes. Only indigenous plants of the area may be utilised.
42. Liaison with land owners/farm managers is to be done prior to construction in order to provide sufficient time for them to plan agricultural activities. If possible, construction should be scheduled to take place within the post-harvest, pre-planting season, when fields are lying fallow.
43. Vegetation clearing must be kept to an absolute minimum. Mitigation measures must be implemented to reduce the risk of erosion and the invasion of alien species.
44. 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.
45. An integrated waste management approach must be implemented that is based on waste minimisation and must incorporate reduction, recycling, re-use and disposal where appropriate. Any solid waste shall be disposed of at a landfill licensed in terms of section 20 (b) of the National Environment Management Waste Act, 2008 (Act No. 59 of 2008).

General

46. 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.
47. 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.
48. 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.
49. 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: 03 March 2011


Ms. Sibusiso Hlela

CHIEF DIRECTOR: ENVIRONMENTAL IMPACT MANAGEMENT (ACTING)

Department of Environmental Affairs

Annexure 1: Reasons for Decision

1. Background

The applicant, Eskom Holding Limited, applied for the following activities:

Listed activities	Activity description
GN R. 544: Item 11(xi):	The construction of 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 the watercourse, excluding where such construction will occur behind the development setback line.

- for the proposed raw water pipeline for Medupi Power Station as described on page 1 of the Basic Assessment Report dated December 2010.

The applicant appointed Savannah Environmental (Pty) Ltd to undertake an environmental assessment process in accordance with the EIA Regulations, 2010.

2. Information considered in making the decision

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

- The information contained in the BAR dated December 2010;
- Application for exemption from assessing alternatives;
- The comments received from the interested and affected parties as included in the BAR dated December 2010;
- Mitigation measures as proposed in the BAR dated December 2010 and the EMP;
- The information contained in the specialist studies contained within Appendix D of the BAR.

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- f) 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 environmental impact assessment procedures.
- b) The findings of all the Specialist studies conducted and their recommended mitigation measures.
- c) The proposed raw water pipeline will connect to the approved raw water reservoir and associated infrastructure.
- d) The need for the proposed project stems from the increasing demand of electricity in South Africa and Eskom is increasing the electricity generating capacity.
- e) Medupi Power Station is one of Eskom's latest capacity expansion projects to meet the growing demand for electricity. The purpose for the raw water pipeline is to supply raw water to the power station for use during operation and to provide water storage capacity.
- f) The BAR dated December 2010 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.
- g) The BAR dated December 2010 identified all legislation and guidelines that have been considered in the preparation of the BAR dated December 2010 and the legislation and guidelines that will be considered in the preparation of the Environmental Impact Assessment.
- h) The methodology used in assessing the potential impacts identified in the BAR dated December 2010 and the specialist studies have been adequately indicated.
- i) 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.

4. Findings

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

- The identification and assessment of impacts are detailed in the BAR dated December 2010 and sufficient assessment of the key identified issues and impacts have been completed.
- The procedure followed for impact assessment is adequate for the decision-making process.
- The proposed mitigation of impacts identified and assessed adequately curtails the identified impacts.
- All legal and procedural requirements have been met.
- The information contained in the BAR dated December 2010 is accurate and credible.
- EMP 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.

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