

IN THE WATER TRIBUNAL

CASE NO: 21/12/2006

IN THE APPEAL OF:

J. BALDIE AND SONS

Appellant

and

CHIEF DIRECTOR  
THE DEPARTMENT OF WATER AFFAIRS AND FORESTRY

Respondent

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DECISION

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This is an appeal against refusal of water use licence, in terms of section 41 of the National Water Act, 1998, for the storage of 272 500 cubic metres and the taking of water from the dam for the irrigation of apples and pears.

It was intended that the proposed dam be situated on the Schoemanshoek River, in quaternary catchment I82B, which eventually drains to the Kouga River.

The Respondent did not approve the application on the grounds that the water resources of the Langkloof catchment have been considered to be under stress.

In support of its reasons, the hydrology department, of the Respondent provided a Hydrological data (for Kouga Dam which is situated below the Langkloof area, where the Appellants intended constructing a dam) as follows:

- (i) Since January 1986 up to July 2006, Kouga dam only overflowed for 618 days out of 7483 days;
- (ii) From 24 November 1996 until 24 September 1993, the dam did not overflow; and
- (iii) No spillage occurred from 11 July 2003 until August 2006.

According to the Respondent spillage from Kouga dam is not a regularity with a fixed pattern.

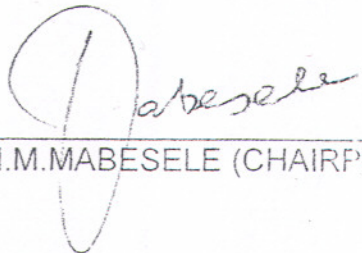
The Appellants do not dispute the hydrological data which the Respondent provided except to contend that the catchment in question cannot be under stress because water is flowing to the sea during winter months.

In our view, the Appellants' contention has no merit, taking into account the hydrological data which the Respondent provided.

In our view, therefore, the appeal should be dismissed

In the result, we decided as follows:

The appeal is dismissed.



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M.M.MABESELE (CHAIRPERSON)



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W SINGO (MEMBER)