

environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

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NEAS Reference: DEAT/EIA/12395/2011

DEA Reference: 12/12/20/978/1

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Mr. Ockie van den Berg
Department of Water Affairs
Private Bag X313
PRETORIA
0001

Fax no: 012-336-7399

PER FACSIMILE / MAIL

Dear Mr van den Berg

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998: GN R.386 & R.387: PROPOSED GROOT LETABA RIVER WATER DEVELOPMENT – THE RAISING OF TZANEEN DAM WALL, LIMPOPO PROVINCE

With reference to the above application, please be advised that the Department has decided to 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, Fedure Building, North Tower,
cnr. Van der Walt 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 activities 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 Sonnyboy Bapela

Acting Deputy Director-General: Environmental Quality and Protection

Department of Environmental Affairs

Date: 2011-09-27

CC:	Ms Terry Baker	ILISO Consulting	Tel: 012-682-0925	Fax: 012-665-1886
	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:-**
 - 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;
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;
3. **An appeal must be:-**
 - a) submitted in writing;
 - b) 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 37 of the Environmental Impact Assessment Regulations, 2006

Groot Letaba River Water Project: Raising of Tzaneen Dam Wall, Limpopo Province

Mopani District Municipality

Authorisation register number:	12/12/20/978/1
NEAS reference number:	DEAT/NEAS/12395/2011
Last amended:	First issue
Holder of authorisation:	Department of Water Affairs
Location of activity:	LIMPOPO PROVINCE: In the Groot Letaba River catchment within Greater Tzaneen 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.

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, 2006 the Department hereby authorises –

DEPARTMENT OF WATER AFFAIRS

with the following contact details –

Mr. Ockie van den Berg
Department of Water Affairs
Private Bag X313

PRETORIA

0001

Tel: (012) 336 8613

Fax: (012) 336 7399

Cell: (082) 809 2011

E-mail: VanDenBergO@dwa.gov.za

to undertake the following activities (hereafter referred to as “the activity”):



GN R. 386:

Item 1 (m): The construction of facilities or infrastructure, including associated structures or infrastructure, for any purpose in the one in ten year flood line of a river or stream, or within 32m from the back of a river or stream where the flood line is unknown, excluding purposes associated with existing residential use, but including (i) canals; (ii) channels; (iii) bridges; (iv) dams; and (v) weirs.

Item 4: The dredging, excavation, infilling, removal or moving of soil, sand or rock exceeding 5 cubic metres from a river, tidal lagoon, tidal river, lake, in-stream dam, floodplain or wetland.

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

GN R. 387:

Item 1(c): The above ground storage of a dangerous good, including petrol, diesel, liquid petroleum gas or paraffin, in containers with a combined capacity of 1000 cubic metres or more at any one location or site including the storage of one or more dangerous goods, in a tank farm.

Item 6: The construction of a dam where the highest part of the dam wall, as measured from the outside toe of the wall to the highest part of the wall, is 5 meters or higher or where the high-water mark of the dam covers an area of 10 hectares or more.

as described in the Environmental Impact Assessment Report (EIR) dated August 2010 at:

Alternative S1	Latitude	Longitude
Raising of Tzaneen Dam wall	23°47'8.76"S	30°08'57.9"E

- for the raising of Tzaneen Dam wall within the Greater Tzaneen Local Municipality in the Limpopo Province, hereafter referred to as "the property".



Conditions

Scope of authorisation

1. The proposed raising of Tzaneen Dam wall is hereby 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 Department may by written notice to the holder of an environmental authorisation suspend with immediate effect an environmental authorisation if suspension of the authorisation is necessary to prevent harm or further harm to the environment.
4. 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.
5. The activities authorised may only be carried out at the property as described above.
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 five (5) 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.
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*:
 - Archaeological remains, artificial features and structures older than 60 years are protected by National Heritage Resources Act, 1999 (Act 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 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.

- Relevant provisions of the Occupational Health and Safety Act, 1993 (Act 85 of 1993).
 - Relevant provisions of the National Water Act, 1998 (Act 36 of 1998).
 - Relevant provisions of the National Forests Act, 1998 (Act 84 of 1998).
 - Relevant provisions of the National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004).
 - Relevant 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 Mineral Resources.
11. The holder of an environmental authorisation has the responsibility to 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

12. 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.
13. The notification referred to must –
- 13.1. specify the date on which the authorisation was issued;
 - 13.2. inform the interested and affected party of the appeal procedure provided for in Chapter 7 of the Environmental Impact Assessment (EIA) Regulations, 2010;
 - 13.3. advise the interested and affected party that a copy of the authorisation will be furnished on request; and
 - 13.4. give the reasons for the decision.

Management of the activity

14. The Environmental Management Plan (EMP) for construction submitted as part of application for environmental authorisation is not approved. A project specific EMP must be compiled and submitted to the Department for written approval prior to commencement of the activity and it must include measures as dictated by the final spillway design. The recommendations and mitigation measures recorded in the EIR dated August 2010 must be incorporated as part of the EMP. Once approved, the EMP must be implemented and adhered to.

Monitoring

15. The applicant must appoint an independent 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 EMP.
16. The ECO shall be appointed before commencement of any authorised activity.
17. Once appointed, the name and contact details of the ECO must be submitted to the *Director: Compliance Monitoring* of the Department.
18. The ECO shall keep record of all activities on site, problems identified, transgressions noted and a task schedule of tasks undertaken by the ECO.
19. 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.
20. 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

21. 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.
22. The holder of the authorisation must submit an environmental audit report upon completion of the construction and rehabilitation activities.

23. 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 EMP.

Commencement of the activity

24. The authorised activity shall not commence within twenty (20) days of the date of signature of the authorisation.
25. 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.

Notification to authorities

26. 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 24 above.

Operation of the activity

27. Fourteen (14) days written notice must be given to the Department that the activity operational phase will commence.
28. The applicant must compile an operational EMP 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.

Site closure and decommissioning

29. 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

30. Prior to the commencement of construction activities, the final spillway design must be submitted to the Department for approval in writing.
31. 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.
32. Copies of permits in respect of 31 above required must be submitted to the Department for record keeping within one month of the date of issue.
33. Hazardous materials must be stored in regularly serviced containers enclosed in bunded areas. The bunded areas must be provided with a tap-off system through which spillages and leakages that might occur will be removed without any spillage outside of the bunded areas.
34. Chemical ablution facilities must be available for use by construction staff at all times during the construction period. These facilities must be removed from the site when the construction phase is completed.
35. No exotic plants may be used for rehabilitation purposes. Only indigenous plants of the area may be utilised.
36. 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.
37. Construction must include appropriate design measures that allow surface and sub-surface 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.
38. 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 59 of 2008).

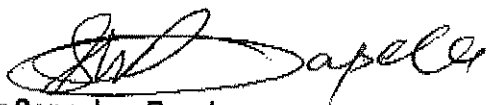
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39. A copy of this authorisation and the approved EMP must be kept at the property where the activity will be undertaken. The authorisation must be produced to any authorised official of the Department who requests to see it and must be made available for inspection by any employee or agent of the holder of the authorisation who works or undertakes work at the property.
40. Where any of the applicant's contact details change, including the name of the responsible person where the applicant is a juristic 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.

41. 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.
42. 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: 27-09-2011



Mr Sonnyboy Bapela

Acting Deputy Director-General: Environmental Quality and Protection
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 EIR dated August 2010;
- b) The comments received from the Directorate: Biodiversity and Conservation, organs of state and interested and affected parties as included in the EIR dated August 2010;
- c) Technical Study Module: Preliminary Design of raising of Tzaneen Dam Volume 7 dated May 2010;
- d) Mitigation measures as proposed in the EIR dated August 2010 and the EMP;
- e) The information contained in the specialist studies contained within Appendix D of the EIR and
- f) The objectives and requirements of relevant 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 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 need for the proposed project stems from the need to increase the assurance of water supply for irrigation of high value permanent crops, mainly citrus and augment the water supply for domestic use.
- d) The raising of the Tzaneen Dam wall will not require acquisition of additional land as the design flood level remains within the area purchased for the existing dam. The size of the downstream flood will also not be affected.
- e) The EIR dated August 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.
- f) The EIR dated August 2010 identified all legislation and guidelines that have been considered in the preparation of the EIR.

- g) The methodology used in assessing the potential impacts identified in the EIR dated August 2010 and the specialist studies have been adequately indicated.
- h) A sufficient public participation process was undertaken and the applicant has satisfied the minimum requirements as prescribed in the EIA Regulations, 2006 for public involvement.

3. Findings

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

- a) According to the Technical Study Module: Preliminary Design of raising of Tzaneen Dam Volume 7 dated May 2010, the flood hydrology for the raised Tzaneen Dam wall was investigated as part of the Preliminary Design Report for the proposed Nwamitwa Dam.
- b) Both the labyrinth spillway and the hydroplus fusegate options are considered to be technically feasible. However, given the fact that the labyrinth spillway option is the most cost effective solution coupled with the fact that this option has very low future maintenance costs, it is recommended that this method of raising the dam wall be adopted. Should it be discovered during the detailed design phase, that the potential impact of the extreme flood events or the integrity of the Sybrand and Marietjie van Niekerk Bridges is considered unacceptable; the hydroplus fusegate option would become the preferred option for the raising of Tzaneen Dam.
- c) The identification and assessment of impacts are detailed in the EIR dated August 2010 and sufficient assessment of the key identified issues and impacts have been completed.
- d) The procedure followed for impact assessment is adequate for the decision-making process.
- e) The proposed mitigation of impacts identified and assessed adequately curtails the identified impacts.
- f) All legal and procedural requirements have been met.
- g) The information contained in the EIR dated August 2010 is accurate and credible.

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.

