



## **environmental affairs**

Department:  
Environmental Affairs  
**REPUBLIC OF SOUTH AFRICA**

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**NEAS Reference: DEA/EIA/0000586/2011**

**DEA Reference: 12/12/20/2468**

**Enquiries: Nyiko Nkosi**

**Telephone: 012-395-1694 Fax: 012-320-7539 E-mail: nnkosi@environment.gov.za**

Mr J A Bester  
Department of Water Affairs  
Private Bag X313  
**PRETORIA**  
0001

Fax no: (012) 336-7399

### **PER FACSIMILE / MAIL**

Dear Mr Bester

**APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998: GN R. 543/544/545/546: PROPOSED CONSTRUCTION OF THE NCWABENI OFF-CHANNEL STORAGE (OCS) DAM, UMZUMBE LOCAL MUNICIPALITY, KWAZULU NATAL 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) 3207561;

By post: Private Bag X447,  
Pretoria, 0001; or

By hand: 2nd Floor, Fedsure Building, North Tower,  
Cnr. Lilian Ngoyi (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: Integrated Environmental Authorisations*) 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 Z Hassam Director: Appeals and Legal Review, of this Department at the above mentioned addresses or fax number. Mr Hassam can also be contacted at:

Tel: 012-310-3271

Email: [AppealsDirectorate@environment.gov.za](mailto:AppealsDirectorate@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 faithfully



**Mr Ishaam Abader**

**Deputy Director-General: Legal, Authorisations, Compliance and Enforcement**

**Department of Environmental Affairs**

**Date:** 27/8/2013

CC:	Mr Donaven Henning	Nemai Consulting	Tel: 011-781-1730	Fax: 011-781-1731
	Mr Sabelo Ngcobo	KZN DAEADR	Tel: 039-682-2040/5	Fax: 039-682-3325
	Ms LP Radebe	Umzumbe Local Municipality	Tel: 039-972-0005	Fax: 039-972-0099
	Mr S Malaza	Compliance Monitoring (DEA)	Tel: 012-310-3397	Fax: 012-320-5744

**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)**

<b>APPLICANT</b>	<b>INTERESTED AND AFFECTED PARTIES (IAPs)</b>
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"> <li>a notice indicating where and for what period the appeal submission will be available for inspection.</li> </ul>	5. Appellant must also serve on the Applicant within 10 days of lodging the notice, <ul style="list-style-type: none"> <li>a notice indicating where and for what period the appeal submission will be available for inspection by the applicant</li> </ul>
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

Construction of Ncwabeni Off-Channel Storage (OCS) dam, Umzumbe Local Municipality,  
Kwazulu Natal Province

Ugu District Municipality

<b>Authorisation register number:</b>	12/12/20/2468
<b>NEAS reference number:</b>	DEA/EIA/0000586/2011
<b>Last amended:</b>	First issue
<b>Holder of authorisation:</b>	DEPARTMENT OF WATER AFFAIRS
<b>Location of activity:</b>	KWAZULU NATAL PROVINCE: Within Umzumbe 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

## **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 –

### **DEPARTMENT OF WATER AFFAIRS**

with the following contact details –

Mr. J A Bester

Department of Water Affairs

Private Bag X313

**PRETORIA**

0001

Tel: (012) 336 8071

Fax: (012) 336 7399

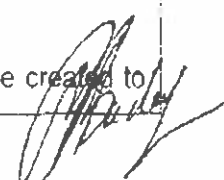
Call: (084) 517 5560

E-mail: [besterk@dwa.gov.za](mailto:besterk@dwa.gov.za)



to undertake the following activities (hereafter referred to as "the activity") indicated in Listing Notices 1, 2 or 3 (GN R. 544, 545 & 546):

Listed activities	Activity/Project description
<p><u>GN R. 544 Item 9:</u></p> <p><i>The construction of facilities or infrastructure exceeding 1000 metres in length for the bulk transportation of water, sewage or storm water -</i></p> <p><i>(i) with an internal diameter of 0,36 metres or more; or</i></p> <p><i>(ii) with a peak throughput of 120 litres per second or more,</i></p> <p><i>excluding where:</i></p> <p><i>a. such facilities or infrastructure are for bulk transportation of water, sewage or storm water or storm water drainage inside a road reserve;</i></p> <p><i>or</i></p> <p><i>b. where such construction will occur within urban areas but further than 32 metres from a watercourse, measured from the edge of the watercourse.</i></p>	<p>Rising main and gravity main to be built as part of conveyance system. The parameters for the conveyance system are as follows:</p> <ul style="list-style-type: none"> <li>• Total length of pipeline (rising plus gravity main) - D2 = <math>\pm 600\text{m}</math>; D3A = <math>\pm 1\ 600\text{m}</math>;</li> <li>• Rising main nominal diameter - D2 = <math>\pm 900\text{mm}</math>; D3A = <math>\pm 900\text{mm}</math>; and</li> <li>• Velocity in rising main - D2 = <math>\pm 1.78\ \text{m/s}</math>; D3A = <math>\pm 1.78\ \text{m/s}</math>.</li> </ul>
<p><u>GN R. 544 Item 11:</u></p> <p><i>The construction of:</i></p> <p><i>(i) canals;</i></p> <p><i>(ii) channels;</i></p> <p><i>(iii) bridges;</i></p> <p><i>(iv) dams;</i></p> <p><i>(viii) jetties exceeding 50 square metres in size;</i></p> <p><i>(ix) slipways exceeding 50 square metres in size;</i></p> <p><i>(x) buildings exceeding 50 square metres in size; or</i></p> <p><i>(xi) infrastructure or structures covering 50 square metres or more</i></p> <p><i>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</i></p>	<p>Construction of off-channel storage dam, diversion weir (as part of abstraction works) and approach channel within watercourse.</p>

Listed activities	Activity/Project description
setback line.	
<p><u>GN R. 544 Item 12:</u></p> <p>The construction of facilities or infrastructure for the off-stream storage of water, including dams and reservoirs, with a combined capacity of 50 000 cubic metres or more, unless such storage falls within the ambit of activity 19 of Notice 545 of 2010.</p>	<p>Construction of off-channel storage dam with the following gross storage:</p> <ul style="list-style-type: none"> <li>• D2 = <math>\pm 14.3</math> million m<sup>3</sup>; and</li> <li>• D3A = <math>\pm 14.2</math> million m<sup>3</sup>.</li> </ul>
<p><u>GN R. 544 Item 13:</u></p> <p>The construction of facilities or infrastructure for the storage, or for the storage and handling, of a dangerous good, where such storage occurs in containers with a combined capacity of 80 but not exceeding 500 cubic metres.</p>	Temporary storage of dangerous goods (e.g. fuel) during the construction phase.
<p><u>GN R. 544 Item 18:</u></p> <p>The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock from;</p> <p>(i) a watercourse.</p>	Construction activities (including bulk earthworks) to be undertaken within a watercourse to construct off-channel storage dam and relevant components of abstraction works (e.g. diversion weir).
<p><u>GN R. 544 Item 22:</u></p> <p>The construction of a road, outside urban areas,</p> <p>(i) with a reserve wider than 13,5 meters or,</p> <p>(ii) where no reserve exists where the road is wider than 8 metres, or</p>	Access roads to the dam wall and the weir as well as relocation of roads that will be inundated.
<p><u>GN R. 544 Item 23:</u></p> <p>The transformation of undeveloped, vacant or derelict land to –</p> <p>(ii) residential, retail, commercial, recreational, industrial or institutional use, outside an urban area and where the total area to be transformed is bigger than 1 hectare but less than 20 hectares; -</p> <p>except where such transformation takes place</p> <p>(i) for linear activities; or</p>	<p>The approximate inundation areas for the two alternative sites are as follows:</p> <ul style="list-style-type: none"> <li>o D2 = <math>\pm 0.95</math> km<sup>2</sup>; and</li> <li>o D3A = <math>\pm 0.98</math> km<sup>2</sup></li> </ul> <p>Borrow areas to be created to</p> 

Listed activities	Activity/Project description
(i) for purposes of agriculture or afforestation, in which case Activity 16 of Notice No. R545 applies	obtain construction material (concrete aggregates and earth embankment) - sizes to be confirmed.  Operator housing / offices and fencing to be built.
<u>GN R. 544 Item 24:</u> <i>The transformation of land bigger than 1000 square metres in size, to residential, retail, commercial, industrial or institutional use, where, at the time of the coming into effect of this Schedule such land was zoned open space, conservation or had an equivalent zoning</i>	The approximate inundation areas for the two alternative sites are as follows: <ul style="list-style-type: none"> <li>• D2 = <math>\pm 0.95 \text{ km}^2</math>; and</li> <li>• D3A = <math>\pm 0.98 \text{ km}^2</math>.</li> </ul>
<u>GN R. 544 Item 26:</u> <i>Any process or activity identified in terms of section 53(1) of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).</i>	Possible occurrence of sensitive biodiversity features at the dam sites.
<u>GN R. 544 Item 39:</u> <i>The expansion of</i> (i) canals; (ii) channels; (iii) bridges; (iv) weirs;  <i>within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, where such expansion will result in an increased development footprint but excluding where such expansion will occur behind the development setback line.</i>	Possible upgrading of existing road bridge or other infrastructure within 32m of a watercourse
<u>GN R. 544 Item 47:</u> <i>The widening of a road by more than 6 metres, or the lengthening of a road by more than 1 kilometre -</i> (i) where the existing reserve is wider than 13,5 meters; or	Widening or lengthening of existing roads to create access roads to the dam wall and the weir, and for the

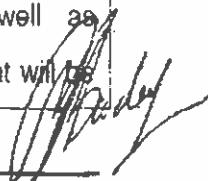


Listed activities	Activity/Project description
<p>(ii) where no reserve exists, where the existing road is wider than 8 metres –</p> <p>excluding widening or lengthening occurring inside urban areas.</p>	relocation of roads that will be inundated.
<p><u>GN R. 545 Item 3:</u></p> <p>The construction of facilities or infrastructure for the storage, or storage and handling of a dangerous good, where such storage occurs in containers with a combined capacity of more than 500 cubic metres.</p>	Temporary storage of dangerous goods (e.g. fuel) during the construction phase
<p><u>GN R. 545 Item 10:</u></p> <p>The construction of facilities or infrastructure for the transfer of 50 000 cubic metres or more water per day, from and to or between any combination of the following:</p> <p>(i) water catchments,</p> <p>(iii) impoundments,</p> <p>excluding treatment works where water is to be treated for drinking purposes.</p>	Water to be pumped from the Mzimkhulu River to the off-channel storage dam.
<p><u>GN R. 545 Item 15:</u></p> <p>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; except where such physical alteration takes place for:</p> <p>(i) linear development activities; or</p> <p>(ii) agriculture or afforestation where activity 16 in this Schedule will apply.</p>	<p>The approximate inundation areas for the two alternative sites are as follows:</p> <ul style="list-style-type: none"> <li>• D2 = <math>\pm 0.95 \text{ km}^2</math>; and</li> <li>• D3A = <math>\pm 0.98 \text{ km}^2</math></li> </ul>
<p><u>GN R. 545 Item 18:</u></p> <p>The route determination of roads and design of associated physical infrastructure, including roads that have not yet been built for which routes have been determined before 03 July 2006 and which have not been authorised by a competent authority in terms of the Environmental Impact Assessment Regulations, 2006 or 2009, made</p>	Relocation of existing road D859, which is administered by the Kwazulu-Natal Department of Transport.



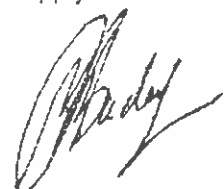
Listed activities	Activity/Project description
<p><i>under section 24(5) of the Act and published in Government Notice R385 of 2006 [if] –</i></p> <p><i>(ii) it is a road administered by a provincial authority;</i></p>	
<p><b><u>GN R. 545 Item 19:</u></b></p> <p><i>The construction of a dam, where the highest part of the dam wall, as measured from the outside toe of the wall to the highest part of the wall, is 5 metres or higher or where the high-water mark of the dam covers an area of 10 hectares or more.</i></p>	<p>Dam wall height from Non-overspill Crest Level (NOCL) to river bed:</p> <ul style="list-style-type: none"> <li>• D2 = <math>\pm</math> 48 m; and</li> <li>• D3A = <math>\pm</math> 47 m.</li> </ul>
<p><b><u>GN R. 546 Item 2:</u></b></p> <p><i>The construction of reservoirs for bulk water supply with a capacity of more than 250 cubic metres.</i></p> <p><b><i>(a) In KwaZulu-Natal Province</i></b></p> <p><i>iii. Outside urban areas, in:</i></p> <p><i>(dd) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</i></p>	<p>The construction of a reservoir for bulk water supply with a capacity of more than 250 cubic metres within a sensitive area.</p>
<p><b><u>GN R. 546 Item 4:</u></b></p> <p><i>The construction of a road wider than 4 metres with a reserve less than 13, 5 metres.</i></p> <p><b><i>(a) In KwaZulu-Natal province:</i></b></p> <p><i>ii. Outside urban areas, in:</i></p> <p><i>(ee) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</i></p>	<p>Access roads to the dam wall and the weir and relocation of roads that will be inundated.</p> <p>Possible occurrence of sensitive biodiversity features at affected areas</p>
<p><b><u>GN R. 546 Item 10:</u></b></p> <p><i>The construction of facilities or infrastructure for the storage, or storage and handling of a dangerous good, where such storage occurs in containers with a combined capacity of 30 but not exceeding</i></p>	<p>Temporary storage of dangerous goods (e.g. fuel) during the construction phase.</p> <p>Possible occurrence of</p>

Listed activities	Activity/Project description
<p>80 cubic metres.</p> <p><b>(a) In KwaZulu-Natal province:</b></p> <p>ii. Outside urban areas, in:</p> <p>(ee) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>(ii) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined;</p>	<p>sensitive biodiversity features at the dam sites</p>
<p><u>GN R. 546 Item 12:</u></p> <p>The clearance of an area of 300 square metres or more of vegetation where 75% or more of the vegetative cover constitutes indigenous vegetation.</p> <p><b>(b) Within critical biodiversity areas identified in bioregional plans;</b></p>	<p>Road and dam construction activities will involve extensive clearance of vegetation (300 square metres or more, where 75% or more of the vegetative cover constitutes indigenous vegetation). Possible occurrence of sensitive biodiversity features at affected areas.</p>
<p><u>GN R. 546 Item 13:</u></p> <p>The clearance of an area of 1 hectare or more of vegetation where 75% or more of the vegetative cover constitutes indigenous vegetation in:</p> <p><b>(a) Critical biodiversity areas and ecological support areas as identified in systematic biodiversity plans adopted by the competent authority.</b></p>	<p>Road and dam construction activities will involve extensive clearance of vegetation (1 hectare or more, where 75% or more of the vegetative cover constitutes indigenous vegetation). Possible occurrence of sensitive biodiversity features at affected areas.</p>

Listed activities	Activity/Project description
<p><u>GN R. 546 Item 14:</u></p> <p><i>The clearance of an area of 5 hectares or more of vegetation where 75% or more of the vegetative cover constitutes indigenous vegetation</i></p> <p><b>a) KwaZulu-Natal:</b></p> <p><i>i. All areas outside urban areas.</i></p>	<p>Road and dam construction activities will involve extensive clearance of vegetation (5 hectares or more, where 75% or more of the vegetative cover constitutes indigenous vegetation). Possible occurrence of sensitive biodiversity features at affected areas.</p>
<p><u>GN R. 546 Item 16:</u></p> <p><i>The construction of:</i></p> <p><i>(i) jetties exceeding 10 square metres in size;</i></p> <p><i>(ii) slipways exceeding 10 square metres in size;</i></p> <p><i>(iii) buildings with a footprint exceeding 10 square metres in size; or</i></p> <p><i>(iv) infrastructure covering 10 square metres or more</i></p> <p><i>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.</i></p> <p><b>(a) In KwaZulu-Natal:</b></p> <p><i>ii. Outside urban areas, in:</i></p> <p><i>(ff) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans:</i></p>	<p>Construction of off-channel storage dam, diversion weir (as part of abstraction works) and approach channel within watercourse. Possible occurrence of sensitive biodiversity features at affected areas.</p>
<p><u>GN R. 546 Item 19:</u></p> <p><i>The widening of a road by more than 4 metres, or the lengthening of a road by more than 1 kilometre.</i></p>	<p>Access roads to the dam wall and the weir as well as relocation of roads that will be</p> 

Listed activities	Activity/Project description
<p><b>(a) In KwaZulu-Natal province:</b></p> <p>ii. Outside urban areas, in:</p> <p>(ee) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>(ii) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined.</p>	<p>inundated. Possible occurrence of sensitive biodiversity features at affected areas.</p>
<p><u>GN R. 546 Item 24:</u></p> <p>The expansion of</p> <p>(d) infrastructure where the infrastructure will be expanded by 10 square metres or more</p> <p>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.</p> <p><b>(a) In KwaZulu-Natal</b></p> <p>ii. Outside urban areas, in:</p> <p>(ee) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p>	<p>Construction of off-channel storage dam, diversion weir (as part of abstraction works) and approach channel within watercourse. Possible occurrence of sensitive biodiversity features at affected areas.</p>

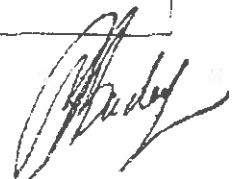
The below activity is not approved, as it is indicated on the EIR dated April 2013 on page 47 that for operational purposes of the OCS dam, a new high voltage power line will be constructed to supply electricity to the site, for which a separate EIA will be conducted.



Listed activities	Activity/Project description
<p><u>GN R. 544 Item 10:</u></p> <p>The construction of facilities or infrastructure for the transmission and distribution of electricity -</p> <p>(i) outside urban areas or industrial complexes with a capacity of more than 33 but less than 275 kilovolts;</p>	<p>Infrastructure to supply electricity to the new pump station</p>

Further the following activities are not approved as the activities are not presently enacted.

Listed activities	Activity/Project description
<p><u>GN R. 544 Item 19:</u></p> <p>Any activity which requires a prospecting right or renewal thereof in terms of section 16 and 18 respectively of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002).</p>	<p>Borrow areas to be created to obtain construction material (concrete aggregates and earth embankment).</p>
<p><u>GN R. 544 Item 20:</u></p> <p>Any activity requiring a mining permit in terms of section 27 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002) or renewal thereof.</p>	<p>Borrow areas to be created to obtain construction material (concrete aggregates and earth embankment).</p>
<p><u>GN R. 545 Item 20:</u></p> <p>Any activity which requires a mining right or renewal thereof as contemplated in sections 22 and 24 respectively of the Mineral and Petroleum /resources Development Act, 2002 (Act 28 of 2002).</p>	<p>Borrow areas to be created to obtain construction material (concrete aggregates and earth embankment) - sizes to be confirmed.</p>
<p><u>GN R. 545 Item 21:</u></p> <p>Any activity which requires an exploration right or renewal thereof as contemplated in sections 79 and 81 respectively of the Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002).</p>	<p>Borrow areas to be created to obtain construction material (concrete aggregates and earth embankment) - sizes to be confirmed.</p>
<p><u>GN R. 545 Item 23:</u></p> <p>Any activity which requires a reconnaissance permit as contemplated in section 74 of the Mineral Petroleum Resources Development Act, 2002 (Act 28 of 2002), excluding where such reconnaissance is conducted by means of a flyover.</p>	<p>Borrow areas to be created to obtain construction material (concrete aggregates and earth embankment) - sizes to be confirmed.</p>



as described in the Environmental Impact Assessment Report (EIAR) dated April 2013 at

Preferred Alternative	Latitude	Longitude
Ncwabeni (Site D2)	30° 36' 27.1"	30° 14' 22.2"

- for the proposed construction of Ncwabeni Off-Channel Storage (OCS) dam in one of the tributaries to the Mzimkhulu River, which falls within the jurisdiction of Umzumbe Local Municipality, Kwa-Zulu Natal Province, hereafter referred to as "the property".

The infrastructure associated with this facility includes:

- An OCS dam on Ncwabeni River (Site D2),
- An abstraction/gauging weir on the Mzimkhulu River,
- An abstraction works with a mechanism to remove silt,
- A pump station and pipeline to deliver water to the dam,
- An outlet infrastructure to make measured releases back to Mzimkhulu River, and
- Re-alignment of D859 Road and construction of new access road.

## Conditions of this Environmental Authorisation

### Scope of authorisation

1. The proposed construction of Off-Channel Storage dam at Ncwabeni River (site D2). with an alternative dam type CFR Dam and abstraction of weir at lower site within Mzimkhulu River 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 may 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.

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 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.
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 following Environmental Management Programmes (EMPrs) submitted as part of the Application for EA is hereby approved. This EMPrs must be implemented and adhered to.
  - 12.1. EMPr for pre-construction of Off-Channel Storage(OCS) dam
  - 12.2. EMPr for construction of OCS dam
  - 12.3. EMPr for Construction for re-alignment of D859 road
13. The Environmental Management Programme (EMPr) for abstraction weir, abstraction works, pipeline and access road submitted as part of Application for EA must be amended and submitted to the Department for written approval prior to commencement of the activity. The recommendations and mitigation measures recorded in the EIAR dated April 2013 and comments from Ezemvelo KZN Wildlife dated 12 July 2013 and condition of EA must be incorporated as part of the EMPr. Once approved, the EMPr must be implemented and adhered to.

### Monitoring

14. The applicant must appoint a suitably experienced 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 EMPr.
  - 14.1. The ECO must be appointed before commencement of any authorised activity/ies
  - 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. Baseline Monitoring must be undertaken to determine the pre-construction state of the receiving environment, to serves as a reference to measure the residual impacts of the project by evaluating the deviation from the baseline conditions and the associated significance of the adverse effects.
  - 14.4. The ECO must keep record of all activities on site, problems identified, transgressions noted and a task schedule of tasks undertaken by the ECO.
  - 14.5. 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.



### **Recording and reporting to the Department**

15. 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.
16. 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.
17. 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**

18. The authorised activity must not commence within twenty (20) days of the date of signature of the authorisation.
19. 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.
20. 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**

21. 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.



### **Operation of the activity**

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

### **Site closure and decommissioning**

23. Should the activity ever cease or become redundant, the applicant must 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**

24. The applicant must appoint a heritage specialist to be on site when the bush is cleared for the dam, the quarries, the road realignment and pipeline that will link the dam and the Mzimkhulu River in order to assess any heritage resources exposed during this process.
25. A second phase Heritage Impact Assessment must be undertaken that systematically surveys the footprint of the proposed dam identifying all affected graves and homesteads. Depending on the results of this survey, the recommended mitigation measures regarding the removal of the directly affected graves need to be confirmed. Public advertising and detailed consultation with affected family and community must be carried out before relocation of the graves. Approval from the affected family and permission from Amafa must be received before the exhumation process begins.
26. A 20m buffer must be enforced around all homesteads situated in close proximity to the footprint of the dam to ensure that any associated graves are not impacted on. No construction may take place within the buffer area and any graves found must be left in situ. The buffer must be highly visible to construction crew to avoid accidental damage occurs.
27. Alignment of new roads and pipelines must be adjusted where possible to avoid impacting on homesteads and associated graves.
28. Prior to the construction of the abstraction weir in the Mzimkhulu River, the area on the southern bank of the river must be surveyed by an archaeologist.
29. Apart from the abstraction weir, the abstraction works, the pump station, the pipeline, the spillway and permanent offices, the construction domain must be contained within the dam basin area as

much as possible to avoid disturbance outside of the eventual impoundment footprint. All external areas that are not associated with permanent infrastructure and the operation of the dam must be adequately rehabilitated.

30. The following EMPs must be developed as further information becomes available during the implementation of the project and these EMPs must be submitted to the Department for written approval:

30.1. Search, Rescue and Relocation Management Plan for red data, protected and endangered species, medicinal plants, heritage resources and graves must be conducted prior to the construction of the dam to confirm the presence or absence of species of special concern in the project area,

30.2. Ncwabeni OCS Dam Impoundment EMP;

30.3. Rehabilitation Management Plan for disturbed areas outside of the dam inundation area,

30.4. Operational EMP.

31. The Department of Agriculture, Forestry and Fisheries (DAFF) must be approached to obtain the required permits for the removal of protected trees.

32. Any permits required for the translocation of any species moved during the search and rescue prior to inundation must be obtained from the relevant permitting authority.

33. The CBA1 area in close proximity to the purchase line of the Ncwabeni alternative must be buffered by 40m. A formalised buffer zone is essential to prevent potential encroachment of the proposed development upon these important habitats and to ensure that the ecological integrity of the forest patches and ecotones are appropriately safeguarded. Furthermore, no access must be granted to any construction workers to the CBA1 or its buffer.

34. Monitoring must be undertaken just above the delineated estuary in order to monitor whether the estuarine ecological reserve is being met. Appropriate actions must be contained in the EMP in order to guide actions to be taken should the monitoring indicate the reserve is not being met.

35. Operational management of the off take weir must be carefully monitored

36. Water quality must be monitored below the works for the entire duration of construction in the UMzimkhulu River.

37. A vertical slot fish way channel must be incorporated into the weir design on the Mzimkhulu River. A follow-up monitoring programme must be done to determine the overall functionality of the fish way.



38. Apart from the abstraction weir, the abstraction works, the pump station, the pipeline, the spillway, a buffer of 100m, measured from the top of bank, must be established around river Freshwater Ecosystem Priority Area (FEPA).
39. Apart from the abstraction weir, the abstraction works, the pump station, the pipeline, the spillway, modifications to the bed and banks of river FEPAs must be avoided. No excavation and/or removal substrate material must be allowed, unless this is for rehabilitation purposes. All disturbances to the banks and bed, where this cannot be avoided, must be rehabilitated, and the EMPr must cater for this.
40. Riverine buffers must be maintained in a natural and healthy condition so as to support the movement of flora and fauna.
41. No activities will be allowed to encroach into a water resource without a water use authorisation being in place from the Department of Water Affairs.
42. Any work carried out on The Department of Transport road network will require written approval before commencement.
43. A permit must be obtained from Ezemvelo KZN Wildlife for the removal or destruction of indigenous protected and endangered plant and animal species.
44. Copies of permits in respect of 32, 33 & 44 above required must be submitted to the Department for record keeping.
45. No exotic plants may be used for rehabilitation purposes. Only indigenous plants of the area may be utilised.
46. The applicant is required to inform the Ezemvelo KZN Wildlife and this Department should the removal of protected species, medicinal plants and "data deficient" plant species be required.
47. The Gugamela Bridge must be reworked to accommodate movement of fish, etc as an offset for the destruction of the Ncwabeni site.
48. 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.
49. 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.
50. 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 must be disposed of at a landfill site licensed in terms of section 20 (b) of the National Environment Management Waste Act, 2008 (Act 59 of 2008).

**General**

51. 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.
52. 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.
53. National government, provincial government, local authorities or committees appointed in terms of the conditions of this authorisation or any other public authority must 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 August 2013



**Mr Ishaam Abader**

**Deputy Director-General: Legal, Authorisations, Compliance and Enforcement**  
**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 April 2013;
- b) The comments received from organs of state and interested and affected parties as included in the EIAR dated April 2013;
- c) Mitigation measures as proposed in the EIR dated April 2013 and the EMPr;
- d) The information contained in the specialist studies contained within Appendix E of the EIR
- e) Findings of the site visit conducted on 19 July 2013; 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) The findings of all the specialist studies conducted and their recommended mitigation measures.
- b) The need for the proposed project
- c) The EIR dated April 2013 identified all legislation and guidelines that have been considered in the preparation of the EIR dated April 2013.
- d) The methodology used in assessing the potential impacts identified in the EIR dated April 2013 and the specialist studies have been adequately indicated.
- 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. Findings

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 EIAR dated April 2013 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) The information contained in the EIR dated April 2013 is accurate and credible.
- e) EMP measures for the pre-construction, construction and rehabilitation phases of the development were proposed and included in the EIR 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 environmental authorisation is accordingly granted.

