

10 October, 2018

Our ref: BK/cm/2018

DGARD Ref: S24G/03/13-14/0268

Dear Interested and Affected Party:

**ENVIRONMENTAL AUTHORISATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 107 OF 1998 ("NEMA"): PROJECT REFERENCE S24G/03/13-14/0268: UNLAWFUL CONSTRUCTION OF A DAM AND A ROAD WITHIN A WETLAND ON PORTION 1 OF THE FARM GROENFONTEIN 126, TSHWANE METROPOLITAN MUNICIPALITY**

Notice is given in terms Section 24G (2) (b) of the National Environmental Management Act (Act 107 of 1998 – NEMA), that the above-mentioned application by Dura Equipment Sales (Pty) Ltd. for the unlawful construction of a dam and a road within a wetland was granted Environmental Authorisation (EA) on the 26<sup>th</sup> September 2018 by the Gauteng Department of Agriculture and Rural Development (GDARD) for the following NEMA listed activities:

In terms of the 2010 EIA Regulations –

- NEMA GN R. 544: 11: “The construction of: (iv) Dams, where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse or within 32 metres of a watercourse, excluding where such construction will occur behind the development setback line.”;
- NEMA GN R. 544: 18: “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 of more than 5 cubic metres from (i) watercourse. “

In terms of 2014 EIA Regulations –

- NEMA GN R. 983: 12: “The development of (iv) Dams, where the dam, including infrastructure and water surface area exceeds 100 square metres in size, where such development occurs (a) within a watercourse
- NEMA GN R. 984: 19: “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 of more than 5 cubic metres from (i) a watercourse.”

Key factors that were considered in making the decision:

In reaching its decision in respect of the application, the Department of Agriculture and Rural Development (“the Department”) has taken, inter alia, the following into consideration:

- 1) The S24G application dated 30 September 2013;
- 2) Information obtained from the Departmental information base including the Gauteng Conservation Plan (Version 3);
- 3) The findings of the site inspection conducted by officials of this Department on the 21 January 2014 and 22 March 2017;
- 4) The Environmental Impact Assessment Report received by this Department and compiled by Environmental Impact Management Services (Pty) Ltd on 30 September 2014 and 26 June 2015; and

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Directors: T Nkhahle, L Whitlow, A Smith.

- 5) Your payment and proof thereof of the imposed administrative fine of R369 000.00 (Three Hundred and Sixty-Nine Thousand Rand).

Findings:

In reviewing this information, the Department made the following findings –

- a) Biophysical
  - i. GDARD's information base indicated that the site is within an ecological support and irreplaceable area as the site lies within a primary vegetation. The Department is however, of the view that the development will not significantly contravene its policy on the protection of non-renewable resources provided that the specific conditions of this Authorisation are adhered to.
  - ii. No other sensitive environmental features were identified on site.
- b) Public Participation
  - i. The unlawful activity was advertised in the Hammanskraal News newspaper on the 29 May 2014.
  - ii. Site notices were placed on site.
  - iii. Adjacent land owners and the relevant authorities were informed of the process and invited to register as Interested and Affected Parties.
  - iv. Interested and Affected Parties were given thirty (30) days to lodge any objection and/or comment.
  - v. Comments and concerns were received from the registered Interested and Affected Parties and were addressed.
  - vi. Proof of publication of the advertisement, the site notice, notification to the adjacent landowners, tenants and residents' associations, and a list of all persons registered as Interested and Affected Parties as well as a report on comments received were submitted to the Section 24G Unit of this Department as required.
- c) Other considerations/ report
  - i. The section 24G unit of the Department of Agriculture and Rural Development received a signed submission by the Environmental Impact Management Services (Pty) Ltd stating that no similar unlawful activities would be undertaken in future within the Gauteng Province without prior written approval from this Department as well as Dura Equipment Sales (Pty) Ltd's commitment to comply with South African environmental legislation.
  - ii. Comments from the Department's Biodiversity Management Unit dated 18 September 2017
  - iii. Sufficient information was submitted to enable the Department to make an informed decision regarding this application.

The Environmental Authorisation is subject to the condition items summarised below:

- |  |  |
|--|--|
| • Approvals and Submissions                | • Compliance with Legislation and other Licenses / Permits |
| • Construction Conditions                  | • Closure Plan and Rehabilitation                          |
| • Operation and Management of the Activity | • General  |
| • Monitoring and Audits                    |  |

A copy of the full EA (including the reasons for the decisions) can be obtained upon request from Ms. Cheyenne Muthukarapan at [cheyenne@eims.co.za](mailto:cheyenne@eims.co.za) or 011 789 7170. Please include the EIMS project reference (0974) in your request.

Any affected person who wishes to appeal against this decision must lodge such an appeal in accordance with the procedure stipulated in The National Appeals Regulations of 08 December 2014 (as amended). An appellant must submit the appeal to the appeal administrator, and a copy of the appeal to the applicant, any registered interested and affected party and any organ of state with interest in the matter within 20 (twenty) days from:

- The date that the notification of the decision for an application for an environmental authorisation or a waste management licence was sent to the registered interested and affected parties by the Applicant; or
- The date that the notification of the decision was sent to the Applicant by the competent authority, issuing authority or licensing authority, in the case of decisions other than those referred to in paragraph above.

An appeal submission must be-

- a) Done in writing in the form of obtainable from the Department's Appeal Administrator at telephone number 011 240 3204 or email address [tsholofelo.mere@gauteng.gov.za](mailto:tsholofelo.mere@gauteng.gov.za) or the Department's website: [www.gauteng.gov.za](http://www.gauteng.gov.za); and
- b) Be accompanied by-
  - i. A statement setting out the grounds of appeal;
  - ii. Supporting documentation which is referred to in the appeal submission; and
  - iii. a statement, including supporting documentation, by the appellant to confirm compliance with section 4(1) of the National Appeals Regulation of 8 December 2014 (as amended).

Appeals including any supporting documents may be submitted by any of the following means:

**By hand:** Umnotho House, 56 Eloff Street, Marshalltown, Johannesburg

**By post:** MEC: Gauteng Agriculture and Rural Development

P.O. Box 8769

Johannesburg

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Sincerely,

Cheyenne Muthukarapan