



**MINISTER
ENVIRONMENTAL AFFAIRS
REPUBLIC OF SOUTH AFRICA**

Reference: LSA 163155

APPEAL DECISION

APPEAL AGAINST THE ENVIRONMENTAL AUTHORISATION GRANTED FOR THE PROPOSED CONSTRUCTION OF A 132KV POWER LINE AND ASSOCIATED INFRASTRUCTURE FOR THE KALKAAR CONCENTRATING SOLAR THERMAL POWER PROJECT ON THE REMAINDER OF PORTION 1 OF THE FARM KALKAAR 389, IN THE FREE STATE AND NORTHERN CAPE PROVINCE

1. INTRODUCTION

In terms of Regulation 25 of the Environmental Impact Assessment Regulations, 2014, published by Government Notice (GN) No. 38282 of 4 December 2014 (2014 EIA Regulations), regarding activities identified under section 24 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA), the Chief Director: Integrated Environmental Authorisations of the Department of Environmental Affairs (the Department) granted Environmental Authorisation (EA) to Solar Reserve South Africa (Pty) Ltd (the applicant), on 3 May 2017, for the construction of a 132kv power line and associated infrastructure on the remainder of portion 1 of the Farm Kalkaar 389, in the Free State and Northern Cape Provinces.

2. BACKGROUND AND APPEAL

- 2.1 In May 2016, the applicant lodged an application for the proposed construction of a 132kV power line and associated infrastructure for the evacuation of power from the Kalkaar concentrating solar thermal power project on the remainder of portion 1 of the farm Kalkaar 389, in the Free State and Northern Cape Provinces.
- 2.2 The applicant commissioned an independent Environmental Assessment Consultancy, namely Sivest Environmental, to conduct an Environmental Impact Assessment (EIA) for the above-mentioned application. The final Basic Assessment Report (BAR) for the project was received by the Department on 3 February 2017.
- 2.3 The Department was thereafter satisfied that the applicant complied with the minimum requirements formulated in the 2014 EIA Regulations and that the final BAR was adequate to assess the impacts associated with the proposed project. As a result thereof, the Department granted an EA to the applicant on 3 May 2017 for proposed 132kv power line and associated infrastructure.
- 2.4 Following the issuance of the aforementioned EA, the Directorate: Appeals and Legal Review received an appeal from the appellant on 23 May 2017. The Department provides comments on the grounds of appeal on 8 June 2017 and the applicant submitted its responses thereto on 9 June 2017

3. DECISION

- 3.1 In reaching my decision on the appeal against the aforementioned EA, I have taken the following into consideration:
- 3.1.1 Relevant material information contained in the project file (14/12/16/3/3/1/1577);
- 3.1.2 The appellant's grounds of appeal, received on 23 May 2017;
- 3.1.3. The comments received on the appeal from the Department, received on 8 June 2017; and
- 3.1.4 The applicant's response to the appeal, received on 9 June 2017;

- 3.2 In terms of section 43 (6) of NEMA, I have the authority, after considering the appeal, to confirm, set aside or vary the decision, provision, or condition of the Department, or to make any other appropriate decision.
- 3.3 Having considered the above mentioned information, and in terms of section 43(6) of NEMA, I have decided to dismiss the appeal by the appellant and to confirm the EA issued by the Department.
- 3.4 In arriving at my decision on the appeal, it should be noted that I have not responded to each and every statement set out in the appeal and where a particular statement is not directly addressed, the absence of any response should not be interpreted to mean that I agree with or abide by the statement made.
- 3.5 Furthermore, should the appellant be dissatisfied with any aspect of my decision, it may apply to a competent court to have this decision judicially reviewed. Judicial review proceedings must be instituted within 180 days of notification hereof, in accordance with the provisions of section 7 of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000):

4. THE REASONS FOR MY DECISION ARE AS FOLLOWS:

- 4.1. The appellant contends that the Public Participation Process (PPP) for the proposed project was not adequate in that the project was not advertised in the local newspaper and that no public meeting was held. The appellant contends, furthermore, that as an interested and affected party (I&AP), it was not consulted during the PPP and contends that no alternative routes were assessed for the proposed power line, even though alternatives were suggested to the applicant.
- 4.2. In addition thereto, the appellant contends that the environmental impact assessment was not adequate in that there was no assessment of the impacts on its game farming activities, eco-tourism and conservation. The appellant further contends that the assessment of avifaunal impacts, and in particular, vultures, was insufficient.

- 4.3. In response to the appeal by the appellant, the applicant submits that it placed site notices at various points along the power line corridors and at several public places. The applicant submits, furthermore, that it notified the affected landowners and stakeholders in writing, via email, sms or registered mail throughout the assessment process. In addition thereto, the applicant submits that it placed an advertisement in the Diamond Fields Advertiser newspaper, dated 23 June 2016.
- 4.4. The applicant submits, furthermore, that a public meeting was held at the Tokologo Local Municipality Offices in Boshoff. In addition thereto, the applicant submits, in its response to the grounds of appeal, that it had a telephonic discussion with the appellant, after the public meeting, on the concerns raised in its written submission to the applicant. The applicant submits that all matters pertaining to the written submission by the appellant and the telephonic conversation were adequately addressed and captured in the Comments and Responses Report (C&R Report).
- 4.5. The applicant submits, furthermore, that the impact of the proposed power line on the appellant's game farming and conservation activities was evaluated throughout the assessment process and the concerns raised by the appellant were addressed in the specialist reports and captured in the C&R Report.
- 4.6. According to the applicant, the Socio-Economic Impact Assessment specialist concluded that the project area and landscape is already impacted by man-made structures and that while power lines are not usually welcomed in rural areas, they are a very common feature of the rural landscape. The applicant further submits that there is no empirical evidence that power lines especially that of lower voltage, have indeed deterred potential tourists from visiting the area. In addition thereto, the applicant submits that there is an existing power line in the study area and submits, therefore, that the potential impact of a new power line next to an existing line should not impede current game farming activities.
- 4.7. The applicant submits, furthermore, that both an ecological and avifaunal impact assessment were undertaken and that neither assessment highlighted any areas of

concern. The applicant further submits that responses to comments in relation to impacts on vultures raised during the PPP were documented in detail in the C&R Report.

- 4.8. Regarding the assessment of alternatives, the applicant submits that for Corridor 2, two alternatives were assessed in terms of their respective impacts on the receiving environment. The applicant submits that the findings of this assessment concluded that only alternative 2 was environmentally sound and viable for the development, as the impacts could be managed and mitigated within reasonable parameters.
- 4.9. In evaluating the appeal by the appellant and the response thereto by the applicant, I note from the project file that site notices were placed at various points along the power line corridors and several public places such as libraries and municipal offices. In addition to this, notification of the project was published in the Diamond Fields Advertiser newspaper, dated 23 June 2016. I thus find that the PPP for the proposed project complied, in all material respects, with the minimum requirements for in the 2014 EIA Regulations and furthermore that there was adequate consultation on the proposed project with I&APs, including the appellant. I find that the appellant's participation during the PPP is furthermore borne out by the fact that responses to the appellant's concerns were documented in the C&R Report.
- 4.10. I further note from the project file that the socio-economic and avifaunal impact assessments took into consideration the concerns raised by the appellant. I am accordingly satisfied that the Department considered, evaluated and assessed all specialist reports and that these considerations were taken into account and where necessary, mitigated accordingly in the EA issued to the applicant.
- 4.11. In light of the foregoing, the appeal by the appellant is accordingly dismissed.



DR B E E. MOLEWA, MP

MINISTER OF ENVIRONMENTAL AFFAIRS

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