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20 November 2012

THARISA MINERALS (PTY) LTD

ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 AND EIA REGULATIONS 2006: DIVERSION OF AN EXISTING 275KV POWER LINE AND ASSOCIATED INFRASTRUCTURE AT THARISA MINE, WITHIN THE RUSTENBURG LOCAL MUNICIPALITY, NORTH WEST PROVINCE

Dear Interested and/or Affected Party (IAP),

Prior to diversion of the existing 275kV power line at Tharisa Minerals (Pty) Ltd (Tharisa), Tharisa requires an environmental authorisation from the National Department Environmental Affairs (DEA). This newsletter serves to inform you that the DEA has granted Tharisa a positive environmental authorisation (NEAS Reference: DEAT/EIA/16316/2012 and DEA Reference: 14/12/16/3/3/2/408).

It is a requirement that the relevant details of the DEA authorisation are provided as follows:

- The decision to grant a positive environmental authorisation was issued by DEA on Thursday 15 November 2012.
- Any appeals against the DEA decision must be done in accordance with Chapter 7 of Regulation R543 of June 2010, as promulgated in terms of National Environmental Management Act, 107 of 1998 (Appendix A) by the following methods:

By post: Private Bag X 447, Pretoria, 0001

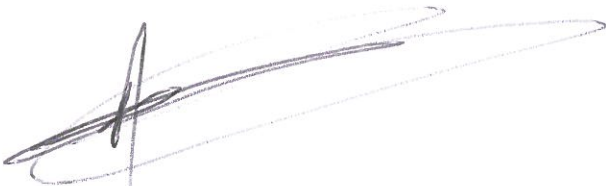
By fax: (012) 320 7561

By hand: 2nd floor, Fedsure Building, North Tower, Cnr Lilian Ngoyi (Van der Walt) and Pretorius Streets, Pretoria

- A copy of the authorisation will be forwarded to interested and affected parties (IAPs) on request.
- Reasons for the decision by the Department are attached in Appendix B.
- Notices for this decision (positive environmental authorisation) will be published in the following newspapers that were used during the public participation process (Daily Sun and Rustenburg Herald dated Thursday, 22 November 2012).

If you have any questions, please contact the undersigned.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Stella Moeketse', written over a faint, light-colored signature line.

Stella Moeketse

For Metago Environmental Engineers (Pty) Ltd part of SLR Group

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APPENDIX A: THE APPEAL PROCEDURE IN ACCORDANCE WITH CHAPTER 7 OF REGULATION R543 OF JUNE 2010, AS PROMULGATED IN TERMS OF NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 107 OF 1998.

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 appeal 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.

**THE APPEAL PROCEDURE IN ACCORDANCE WITH CHAPTER 7 OF
REGULATION R543 OF JUNE 2010, AS PROMULGATED IN TERMS OF
NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 107 OF 1998.**

**CHAPTER 7
APPEALS**

Application of this Chapter

58. (1) This Chapter applies to decisions that-

- (a) are subject to an appeal to the Minister or MEC in terms of section 43 (1) or (2) of the Act; and
- (b) were taken by an organ of state acting under delegation in terms of section 42 or 42A of the Act in the exercise of a power or duty vested by the Act or these Regulations in a competent authority.

(2) No appeal in terms of this Chapter is available if the Minister or MEC took decisions themselves in their capacity as the competent authority for the application for an environmental authorisation.

Jurisdiction of Minister and MEC to decide appeals

59. An appeal must be decided as provided for in section 43 of the Act.

Notice of intention to appeal

60. (1) A person affected by a decision referred to in these regulations who wishes to appeal against the decision, must submit a notice of intention to appeal with the Minister, MEC, or delegated organ of state, as the case may be, within 20 days after the date of the decision.

(2) If the appellant is an applicant, the appellant must provide each person and organ of state which was a registered interested and affected party in relation to the applicant's application, within 10 days of having submitted the notice contemplated in subregulation (1), with-

- (a) a copy of the notice referred to in subregulation (1); and
- (b) a notice indicating that the appeal submission will be made available on the day of lodging it with the Minister or MEC and where and for what period the appeal submission will be available for inspection by such person or organ of state.

(3) If the appellant is a person other than an applicant, the appellant must provide the applicant, within 10 days of having lodged the notice contemplated in subregulation (1), with-

- (a) a copy of the notice referred to in subregulation (1); and
- (b) a notice indicating where and for what period the appeal submission will be available for inspection by the applicant.

(4) The Minister, MEC or designated organ of state, may, as the case may be, in writing, on good cause extend the period within which a notice of intention to appeal must be submitted.

Submission of appeal

61. (1) An appeal lodged must be submitted to the appeal authority as indicated in section 43 of the Act.

(2) An appeal must be-

(a) submitted in writing; and

(b) accompanied by

(i) a statement setting out the grounds of appeal;

(ii) supporting documentation which is referred to in the appeal and which is not in the possession of the Minister, MEC, Minister of Mineral Resources or designated organ of state;

(iii) a statement by the appellant that regulation 60(2) or (3) has been complied with together with copies of the notices referred to in that regulation; and

(iv) the prescribed appeal fee, if any.

(3) The appellant must take into account any guidelines applicable to appeals as contemplated in section 24J of the Act.

Time within which appeal must be lodged

62. (1) An appeal as contemplated in regulation 61(1), must be submitted within 30 days after the lapsing of the 20 days contemplated in regulation 60(1).

(2) The Minister, MEC, Minister of Mineral Resources or designated organ of state, as the case may be, may, in writing, on good cause extend the period within which an appeal must be submitted.

Responding statement

63. (1) A person or organ of state that receives a notice in terms of regulation 60(2), or an applicant who receives a notice in terms of regulation 60(3), may submit to the Minister, MEC, Minister of Mineral Resources or designated organ of state, as the case may be, a responding statement within 30 days from the date the appeal submission was lodged with the Minister, MEC or Minister of Mineral Resources.

(2) (a) A person, organ of state or applicant who submits a responding statement in terms of subregulation (1), must within 10 days of having submitted the responding statement, serve a copy of the statement on the appellant.

(b) If the responding statement introduces any new information not dealt with in the appeal submission of the appellant, the appellant is entitled to submit an answering statement to such new information to the Minister, MEC, Minister of Mineral Resources or designated organ of state, as the case may be, within 30 days of being served a copy in accordance with subregulation (2)(a).

(c) The appellant must, within 10 days of having submitted the answering statement, serve a copy of the answering statement on the respondent who submitted the new information.

(3) The Minister, MEC, Minister of Mineral Resources or designated organ of state, as the case may be, may, in writing, on good cause extend the period within which responding statements in terms of subregulation (1) or an appellant's answering statement in terms of subregulation (2)(b) must be submitted.

Processing of appeal

64. (1) Receipt by the Minister, MEC, Minister of Mineral Resources or designated organ of state, as the case may be, of an appeal, responding statement or answering statement must be acknowledged within 10 days of receipt of the appeal, responding statement or answering statement.

(2) An appellant and each respondent is entitled to be notified of-

- (a) a direction in terms of section 43(7) of the Act, if the Minister, MEC or delegated organ of state, as the case may be, issues such a direction; and
- (b) the appointment of an appeal panel in terms of section 43(5) of the Act, if the Minister, MEC, Minister of Mineral Resources or designated organ of state, as the case may be, appoints an appeal panel for purposes of the appeal.

(3) The Minister, MEC, Minister of Mineral Resources or designated organ of state, as the case may be, may request the appellant or a respondent to submit such additional information in connection with the appeal as the Minister, MEC or Minister of Mineral Resources may require.

Appeal panel

65. (1) If the Minister, MEC or the Minister of Mineral Resources appoints an appeal panel, the Minister, MEC or Minister of Mineral Resources must furnish the panel with a written instruction concerning-

- (a) the issues in respect of which the panel must make recommendations; and
- (b) the period within which recommendations must be submitted to the Minister, MEC or Minister of Mineral Resources.

(2) A member of an appeal panel must be independent.

(3) If an appeal panel introduces any new information not dealt with in the appeal submission of the appellant or in the statements of the respondents, the appellant, each respondent and the applicant, if that applicant is not the appellant nor a respondent, are entitled to submit to the panel, within a period determined by the panel, any additional statements rebutting or supporting such new information.

(4) An appeal panel must submit its recommendations to the Minister, MEC or Minister of Mineral Resources in writing.

Decision on appeal

66. (1) The Minister, MEC, Minister of Mineral Resources or any other competent authority empowered under Chapter 5 of the Act to make a decision on an appeal, as the case may be, may combine his decision on appeals contemplated in regulation 60 where such appeals pertain to the same matter.

(2) The Minister, MEC, Minister of Mineral Resources or any other competent authority empowered under Chapter 5 of the Act to make a decision on an appeal, as the case may be, must reach a final decision on an appeal or appeals submitted, within 90 days of receipt of all relevant information, including any statements, supporting documentation, reports or any other additional information requested, or recommendations of an appeal panel which may assist the Minister, MEC, Minister of Mineral Resources or designated organ of state, as the case may be, in the decision making process.

(3) When the Minister, MEC or Minister of Mineral Resources has reached a decision on an appeal, the appellant and each respondent must be notified of the decision within 10 days of the decision being reached and of the extent to which the decision appealed against is upheld or overturned in writing.

(4) The decision contemplated in subregulation (3) must contain reasons for such decision.

APPENDIX B: 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 Scoping Report (SR) dated 14 February 2008, the Environmental Impact Assessment (EIA) Report and the draft Environmental Management Plan (EMPr) dated June 2008.
- b) The comments received from organs of state and interested and affected parties as included on the SR and EIA Report.
- c) The sense of balance of the negative and positive impacts and proposed mitigation measures as provided in the EIR Report and the EMPr dated June 2008.
- d) The information contained in the specialist studies contained in the EIA Report dated June 2008.
- e) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, (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 significant 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 was well explained and the Department considered the need of the project.
- c) The EIA Report dated June 2008 identified the relevant legislation and guidelines that have been considered in the preparation of the EIA Report.
- d) The methodology used in assessing the potential impacts identified in the EIA Report dated June 2008 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, 2006 for public involvement.
- f) The Environmental Authorisation issued by the North West Provincial Department of Economic Development, Environment, Conservation and Tourism (the then Department of Agriculture, Conservation and Environment) on 23 October 2009.

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 EIA Report dated June 2008 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 EIA Report dated June 2008 is accurate and credible.
- e) EMP measures for the pre-construction, construction and rehabilitation phases of the development were proposed and included in the EIA Report 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 potential detrimental environmental impacts resulting from the proposed activity can be mitigated to acceptable levels. The application is accordingly granted.