

**NOTICE OF APPEAL AGAINST THE GRANT OF ENVIRONMENTAL AUTHORISATION
NC 30/5/1/1/2/12131 PR**

SOUTH AFRICAN HERITAGE RESOURCES AGENCY

Appellant

In RE:

**REGIONAL MANAGER NORTHERN CAPE REGION
OF THE DEPARTMENT OF MINERAL RESOURCES**

Decision Maker

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

Interested Party

ALIDABIX (PTY) LTD

Right Holder

**NOTICE OF APPEAL IN TERMS OF SECTION 43 OF THE NATIONAL ENVIRONMENTAL
MANAGEMENT ACT NO. 107 OF 1998 (NEMA) OF THE GRANT OF THE ENVIRONMENTAL
AUTHORISATION FOR ACTIVITIES RELATED TO PROSPECTING RIGHT (NC
30/5/1/1/2/12131 PR) AND ASSOCIATED INFRASTRUCTURE ON PORTION 3 (OF A
PORTION OF PORTION 1 OF THE FARM STOMP OOR A) OF THE FARM STOMP OOR 109,
SITUATED IN THE MAGISTERIAL DISTRICT OF PRIESKA, NORTHERN CAPE PROVINCE**

AND

**REQUEST FOR THE SUSPENSION OF THE GRANT OF THE AFORESAID INTEGRATED
ENVIRONMENTAL AUTHORISATION FOR PROSPECTING ACTIVITIES AND ASSOCIATED
INFRASTRUCTURE PENDING THE OUTCOME OF THE APPEAL (IN LINE WITH THE
PROVISIONS OF SECTION 43(7) OF NEMA)**

INTRODUCTION

1. On the 27th September 2018, M and S Consulting (hereafter referred to as the Environmental Assessment Practitioner or EAP) created an application on the South African Heritage Resources Information System (SAHRIS) for the proposed Environmental Authorisation (EA) Application and Prospecting Right (PR) Application for prospecting activities on Portion 3 (a

portion of Portion 1 - Stomp Oor A) of the Farm Stomp Oor 109, Prieska District, Northern Cape Province. (SAHRIS Case ID 12973 – <https://www.sahra.org.za/sahris/cases/portion-3-portion-portion-1-stomp-oor-farm-stomp-oor-109>). Documents included in the initial application include the Basic Assessment Report (BAR) and associated appendices, such as a Desktop Heritage Impact Assessment (HIA).

2. An Interim Comment was issued by SAHRA on 25th October 2018 requesting that a desktop Palaeontological Assessment be conducted as part of the BAR and EA Application. A copy of this comment is annexed hereto marked "A1".
3. A desktop Palaeontological Impact Assessment (PIA) was submitted to the SAHRIS Case application on the 21/11/2018 (<https://www.sahra.org.za/sahris/heritage-reports/palaeontological-heritage-report-desktop-study>).
4. SAHRA was in the process of reviewing the submitted PIA, when the EAP uploaded a letter on the 28/11/2018 stating that the EA had been granted. The EA was granted on the 20/11/2018 (NC 30/5/1/1/2/12131 PR). A copy of the EA is annexed hereto marked as "A2". This appeal has been submitted within 20 days of the 28/11/2018.
5. As SAHRA was not able to provide review the report uploaded as referred to in section 3 above before the EA was granted, thus heritage specific conditions relating to the protection and management of heritage resources within the development area have not been included in the EA, only general conditions have been included at present. Please see condition 3.17 of the EA in this regard.
6. The Environmental Authorisation was granted notwithstanding that:
 - 6.1 The Interim Comment issued by SAHRA on the 25th October 2018 was not addressed prior to the granting of the EA.
 - 6.2 A Final Comment from SAHRA was not issued providing the competent authority with heritage related mitigation measures and conditions to be provided in the EA as per section 38(4) and 38(8) of the NHRA.

7. Accordingly, SAHRA hereby appeals against the granting of the Environmental Authorisation in terms of section 43 of the NEMA.
8. The purpose of this appeal is for the decision granting the Environmental Authorisation to be reconsidered and for the Environmental Authorisation to be set aside in its entirety and, given the extreme heritage sensitivity of the area, it is further requested that the Environmental Authorisation be suspended pending the outcome of the appeal in line with the provisions of section 43(7) of NEMA.

THE PARTIES

9. The Appellant is the South African Heritage Resources Agency (SAHRA), a public entity listed as such in terms of the Public Finance Management Act No 1 of 1999 and it is established in terms of section 11 of the National Heritage Resources Act No 25 of 1999 (the NHRA). SAHRA is entrusted with identifying, protection and management of heritage resources.

THE APPLICATION AREA

10. The application area is underlain by "*highly-fossiliferous crater lake deposits...that provide a rare glimpse of extinct biotas of the subcontinental interior shortly before the catastrophic end-Cretaceous Mass Extinction Event.*" See the submitted desktop PIA for more information (<https://www.sahra.org.za/sahris/heritage-reports/palaeontological-heritage-report-desktop-study>).
11. Palaeontological resources are protected under section 35 of the NHRA and therefore fall within the category of heritage resources that must be protected and or mitigated as part of section 38(4) of the NHRA.

THE ENVIRONMENTAL IMPACT ASSESSMENT PROCESS AND INTEGRATED ENVIRONMENTAL AUTHORISATION

12. A Final Comment with heritage specific conditions for the protection and mitigation of heritage resources should have been considered by the competent authority as per 38(8) of the NHRA but this is not the case.

GROUND OFS OF APPEAL

13. The evidence set out above supports the following grounds of appeal against the granting of the Environmental Authorisation for Prospecting Activities to the Applicant in respect of the properties:

- 13.1 That the Environmental Authorisation was granted without a Final Comment from SAHRA as per section 38(8) of the NHRA.

- 13.2 Further that the EA was granted without crucial heritage specific conditions for the protection and management of heritage resources as per section 38(4) of the NHRA.

APPLICATION FOR THE SUSPENSION OF THE INTEGRATED ENVIRONMENTAL AUTHORISATION

14. In line with the provisions of section 43(7) of the NEMA, an appeal will automatically suspend an environmental authorisation, directive, exemption, or other decision taken in terms of NEMA.
15. The Appellant hereby formally lodge an application for the suspension of the Applicants Environmental Authorisation pending the outcome of the appeal.
16. There will be no irreparable harm to the Applicant if the Environmental Authorisation is suspended pending the outcome of the appeal. Any harm which it may suffer would be purely financial; in any event, section 43(7) of the NEMA is directive in this regard.

17. In contrast, if the Applicant commences with prospecting activities in the highly heritage sensitive area pending the outcome of the appeal, there will be irreparable harm and damage to heritage resources if the appropriate mitigation measures are not followed.

CONCLUSION

18. In the circumstance, SAHRA request that the EA be set aside in its entirety.
19. SAHRA requests that the EA be suspended pending the finalization of the Appeal.

SIGNED at CAPE TOWN on this the ^{20th} day of December 2018 for the appellants



MR DUMISANI SIBAYI

EXECUTIVE OFFICER: Heritage Conservation Management

TO: The Director-General,
Department: Mineral Resources
Private Bag X 6093
Kimberley
For attention: Regional Manager: Northern Cape
Per facsimile: (053) 8071700
Per e-mail: Patricia.Makhuvele@dmr.gov.za

AND

TO: Department of Environmental Affairs
Attention: Directorate Appeals and Legal Review
Per e-mail: appealsdirector@environment.gov.za

AND

TO: Alidabix (Pty) Ltd
Attention: The Directors

Per address: 94 Central Road, Kimberley, 8301

Per telephone number: 053 832 3298

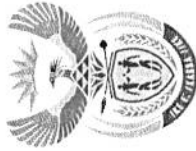
Per fax number: 053 832 3298

AND

TO: S and M Consulting

Attention: Tanja Jooste

Per email: joostetanja@gmail.com



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Private Bag X447, Pretoria, 0001, Environment House, 473 Steve Biko Road, Pretoria, 0002

Email: Appealsdirector@environment.gov.za

APPEAL RESPONSE REPORT

PROJECT NAME/TITLE: Environmental Authorisation for Prospecting Activities (NC 30/5/1/1/2/12131 PR)

PROJECT LOCATION: Portion 3 (Of A Portion Of Portion 1 Of The Farm Stomp Oor A) Of The Farm Stomp Oor 109, Situated In The Magisterial District Of Prieska, Northern Cape Province

PROJECT REFERENCE NUMBER: NC 30/5/1/1/2/12131 PR

DATE PROJECT/ACTIVITY AUTHORISED:

DETAILS OF THE APPELLANT	DETAILS OF THE APPLICANT
Name of appellant: South African Heritage Resources Agency	Name of applicant: Alidabix (Pty) Ltd
Appellant's representative (if applicable):	Applicant's representative (if applicable): The Directors
Postal address: PO Box 4637, Cape Town 8000	Postal Address: 94 Central Road, Kimberley, 8301
Email Address: dsibayi@sahra.org.za or smome@sahra.org.za	Email Address: Unknown
Telephone number: 021 462 4502	Telephone number: 053 832 3298
Fax Number: 021 462 4509	Fax number: 053 832 3298

GROUNDS OF APPEAL	RESPONDING STATEMENT BY THE APPLICANT	COMMENTS BY THE DEPARTMENT
1. That the Environmental Authorisation was granted without a Final Comment from SAHRA as per section 38(8) of the NHRA.		
2. Further that the EA was granted without crucial heritage specific conditions for the protection and management of heritage resources as per section 38(4) of the NHRA.		

ARR comments by Case Officer

Name & Surname:

Date:

Signature:

.....

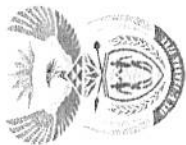
Approved by Supervisor

Name & Surname:

Date:

Signature:

.....



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

APPEAL QUESTIONNAIRE

An electronic copy of this questionnaire may be obtained from:

Mr Z Hassam at telephone: 012 399 9356 or e-mail:

AppealsDirectorate@environment.gov.za

Once completed, this document must be forwarded to:

E-mail: AppealsDirectorate@environment.gov.za

Physical Address: Department of Environmental Affairs, 473 Steve Biko Road, Environment House, Arcadia, Pretoria, 0002

Appellant's contact information:

Name: The South African Heritage Resources Agency _____

Address: 111 Harrington Street _____

Cape Town _____

Western Cape _____

Phone: 021 462 4502 _____

Cell: _____

Email: dsibayi@sahra.org.za _____

Project information:

Project name: Environmental Authorisation related to Prospecting Right and associated infrastructure on Portion 3 (a portion of Portion 1 - Stomp Oor A) of the Farm Stomp Oor 109, Prieska District, Northern Cape Province

Authorisation register number as on environmental authorisation: NC 30/5/1/1/2/12/131 PR) _____

Authorisation date as on environmental authorisation: 20/11/2018 _____

IMPORTANT! Please note:

- The decision of the department is reflected in the letter of authorisation or rejection. The conditions of approval are contained in the environmental authorisation document, attached to the authorisation letter.
- The appeal must be accompanied by all relevant supporting documents or copies of these that are certified as true by a commissioner of oaths.
- The grounds of your appeal and the facts upon which they rest must be set out. You should formulate your objections or concerns as averments and not as questions about the project. Please therefore refrain from material or remarks that do not contribute to the merits of your appeal.
- To assist in this regard, the following questions are listed as a guideline only – more space may be used if necessary:

1. Are you lodging this appeal as an individual or on behalf of a community/organisation?

Individual	Community/ organisation
------------	----------------------------

If on behalf of a community or organisation, please provide proof of mandate to do so.

Please see attached Notice of Appeal _____

2. Is your appeal based on factors associated with the process that was followed by the applicant in obtaining authorisation?

Yes	No
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Please provide reasons:

Please see attached Notice of Appeal _____

3. Is your appeal based on factors associated with environmental impacts not taken into account by the department in refusing or authorising the application?

Yes	No
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Please provide reasons:

Please see attached Notice of Appeal _____

4. Would you agree to the activity proceeding if your concerns can be addressed by rectifying the process or mitigating or eliminating the impacts of the activity?

Yes	No
-----	----

Please provide reasons:

Please see attached Notice of Appeal _____

5. Are you fundamentally opposed to any development activity on the site?

Yes	No
-----	----

Please provide reasons:

Please see attached Notice of Appeal _____

6. Do you have an objection in principle against the development?

Yes	No
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Please provide reasons:

Please see attached Notice of Appeal _____

7. Does your appeal contain any new information that was not submitted to the environmental consultant or department prior to the department's consideration of the application?

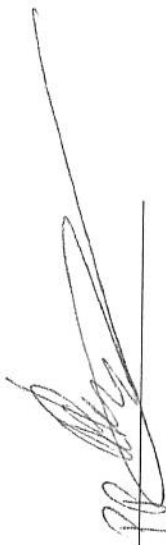
Yes	No
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If the answer above is yes, please explain why it should be considered by the Minister and why it was not made available to the environmental consultant or department during the application process.

Please see attached Notice of Appeal

8. **DECLARATION:**

I declare that the contents of this submission are to the best of my knowledge the truth and I regard this declaration as binding on my conscience.



APPELLANT

DATE:

20/12/18

Wilna Posthumus

From: Mmatsatsi Maboko [MMaboko@environment.gov.za]
Sent: Tuesday, January 22, 2019 3:19 PM
To: Bêrend van Deventer
Cc: ms.consulting@vodamail.co.za; Appeals
Subject: FW: APPEAL IN TERMS OF SECTION 43 OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT NO. 107 OF 1998 (NEMA) OF THE GRANT OF THE ENVIRONMENTAL AUTHORISATION FOR PROSPECTING ACTIVITIES NC 30/5/1/1/2/12131PR TO ALIDABIX (PTY) LTD

Attachments: A1_Case 12973 - Interim Comment.pdf; Appeal Response Report. Appeal against issuing of Environmental Authorisation in relation to Prospecting Activities NC_30_5_1_1_2_12131_PR.docx; Case 12973 Appeal Final_signed.pdf; Case12973_appealsquestionnaire_signed.pdf

Dear Berend

Kindly note that the Department has received an appeal against the EA issued to Alidabix. Kindly provide us with your responding statement on or before 11 February 2019.

Kind regards

Mmatsatsi Maboko
Appeals and Legal Review
Department of Environmental Affairs
Tel: (012) 399 8870
Email: mmaboko@environment.gov.za

"His grace is sufficient"

-----Original Message-----

From: Natasha Higgitt [<mailto:nhiggitt@sahra.org.za>]
Sent: 20 December 2018 04:17 PM
To: Appeals
Subject: APPEAL IN TERMS OF SECTION 43 OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT NO. 107 OF 1998 (NEMA) OF THE GRANT OF THE ENVIRONMENTAL AUTHORISATION FOR PROSPECTING ACTIVITIES NC 30/5/1/1/2/12131PR TO ALIDABIX (PTY) LTD

Good afternoon,

My apologies. It seems the documents were too big to be sent as one email. Please see attached first batch of documents.

Kind regards,

-----Original Message-----

From: SymantecMG@environment.gov.za <SymantecMG@environment.gov.za>
Sent: Thursday, December 20, 2018 4:05 PM
To: Natasha Higgitt <nhiggitt@sahra.org.za>; appealsdirector@environment.gov.za
Subject: Mail Size Limit Exceeded

The attached message contains content which violates the Department of Environmental Affairs email policy. The message was not delivered.

Natasha Higgitt
Heritage Officer: Archaeology, Palaeontology and Meteorites Unit

South African Heritage Resources Agency
- A nation united through heritage -

T: +27 21 462 4502/ 8660 | C:+27 82 507 0378 | F:+27 21 462 4509

E: nhiggitt@sahra.org.za | 111 Harrington Street | Cape Town |

www.sahra.org.za<<http://www.sahra.org.za/>>

[SAHRA Logo] [SAHRA Values] <www.sahra.org.za>

[SAHRA Logo]

'Please consider the environment before you print this email'

'Please consider the environment before you print this email'

This message and any attachments transmitted with it are intended solely for the addressee(s) and may be legally privileged and/or confidential. If you have received this message in error please destroy it and notify the sender. Any unauthorized usage, disclosure, alteration or dissemination is prohibited. The Department of Environmental Affairs accepts no responsibility for any loss whether it be direct, indirect or consequential, arising from information made available and actions resulting there from. The views and opinions expressed in this e-mail message may not necessarily be those of Management.

Tanja Jooste

From: Bêrend van Deventer [berend@inext.co.za]
Sent: 25 January 2019 11:45 PM
To: 'Mmatsatsi Maboko'
Cc: ms.consulting@vodamail.co.za; 'Appeals'; nhiggitt@sahra.org.za; 'Phillip Hine'; 'Simphiwe Mome'; 'Hano Hamman'; 'Nelson Mosiapo'; 'Tanja Jooste'
Subject: RE: APPEAL IN TERMS OF SECTION 43 OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT NO. 107 OF 1998 (NEMA) OF THE GRANT OF THE ENVIRONMENTAL AUTHORISATION FOR PROSPECTING ACTIVITIES NC 30/5/1/1/2/12131PR TO ALIDABIX (PTY) LTD
Attachments: 2019 01 25 - Appeal Response Report - Appeal against issuing of EA - PR - NC 5_1_1_2_12131 PR.docx; 2019 01 25 Response to Appeal lodged by SAHRA.pdf; Annexure B1 - Sensitivity Map.pdf; Annexure B2 - Resolution Authorising Appeal Response.pdf

Dear Mmatsatsi

Attached our response to the appeal with annexures.

Kind regards

Bêrend

-----Original Message-----

From: Mmatsatsi Maboko [mailto:MMaboko@environment.gov.za]
Sent: 22 January 2019 03:19 PM
To: Bêrend van Deventer
Cc: ms.consulting@vodamail.co.za; Appeals
Subject: FW: APPEAL IN TERMS OF SECTION 43 OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT NO. 107 OF 1998 (NEMA) OF THE GRANT OF THE ENVIRONMENTAL AUTHORISATION FOR PROSPECTING ACTIVITIES NC 30/5/1/1/2/12131PR TO ALIDABIX (PTY) LTD

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Kind regards

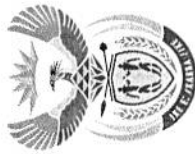
Mmatsatsi Maboko
Appeals and Legal Review
Department of Environmental Affairs
Tel: (012) 399 8870
Email: mmaboko@environment.gov.za

"His grace is sufficient"

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Sent: 20 December 2018 04:17 PM
To: Appeals
Subject: APPEAL IN TERMS OF SECTION 43 OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT NO. 107 OF 1998 (NEMA) OF THE GRANT OF THE ENVIRONMENTAL AUTHORISATION FOR PROSPECTING ACTIVITIES NC 30/5/1/1/2/12131PR TO ALIDABIX (PTY) LTD

Good afternoon,



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Private Bag X447, Pretoria, 0001, Environment House, 473 Steve Biko Road, Pretoria, 0002

Email: Appealsdirector@environment.gov.za

APPEAL RESPONSE REPORT

PROJECT NAME/TITLE: Environmental Authorisation for Prospecting Activities (NC 30/5/1/1/2/12131 PR)

PROJECT LOCATION: Portion 3 (Of A Portion Of Portion 1 Of The Farm Stomp Oor A) Of The Farm Stomp Oor 109, Situated In The Magisterial District Of Prieska, Northern Cape Province

PROJECT REFERENCE NUMBER: NC 30/5/1/1/2/12131 PR

DATE PROJECT/ACTIVITY AUTHORISED:

DETAILS OF THE APPELLANT	DETAILS OF THE APPLICANT
Name of appellant: South African Heritage Resources Agency	Name of applicant: Alidabix (Pty) Ltd
Appellant's representative (if applicable):	Applicant's representative (if applicable): The Directors
Postal address: PO Box 4637, Cape Town 8000	Postal Address: 94 Central Road, Kimberley, 8301
Email Address: dsibayi@sahra.org.za or smome@sahra.org.za	Email Address: Unknown
Telephone number: 021 462 4502	Telephone number: 053 832 3298
Fax Number: 021 462 4509	Fax number: 053 832 3298

GROUNDS OF APPEAL	RESPONDING STATEMENT BY THE APPLICANT	COMMENTS BY THE DEPARTMENT
<p>1. That the Environmental Authorisation was granted without a Final Comment from SAHRA as per section 38(8) of the NHRA.</p>	<p>For the protection of heritage resources, Alidabix proposes the following amendments and provisions to EMPr:</p> <p>the inclusion of Chance Fossil Finds Procedure for the non-invasive phases of the prospecting programme as outlined in tabular form on page 25 of the PIA; and</p> <p>the appointment of a professional palaeontologist and a qualified heritage practitioner before the commencement of the invasive phases of the prospecting programme and report on recommendations for any mitigation or monitoring measures to be following during siting, drilling and rehabilitation of the boreholes as</p>	

	<p>well as for conservation of sedimentary borehole core material for future palaeontological analysis.</p> <p>See attached our detail response - "2019 01 25 Response to Appeal lodged by SAHRA"</p>	
<p>2. Further that the EA was granted without crucial heritage specific conditions for the protection and management of heritage resources as per section 38(4) of the NHRA.</p>	<p>For the protection of heritage resources, Alidabix proposes the following amendments and provisions to EMPr:</p> <p>the inclusion of Chance Fossil Finds Procedure for the non-invasive phases of the prospecting programme as outlined in tabular form on page 25 of the PIA; and</p> <p>the appointment of a professional palaeontologist and a qualified heritage practitioner before the commencement of the invasive phases of the prospecting programme and report on recommendations for any mitigation</p>	

	<p>or monitoring measures to be following during siting, drilling and rehabilitation of the boreholes as well as for conservation of sedimentary borehole core material for future palaeontological analysis.</p> <p>See attached our detail response - "2019 01 25 Response to Appeal lodged by SAHRA"</p>	
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ARR comments by Case Officer

Name & Surname:

Date:

Signature:

.....

Approved by Supervisor

Name & Surname:

Date:

Signature:

.....

RESPONSE TO THE SUBMISSION OF AN APPEAL BY THE SOUTH AFRICAN HERITAGE RESOURCES AGENCY AGAINST THE GRANTING OF THE ENVIRONMENTAL AUTHORISATION FOR PROSPECTING ACTIVITIES NC 30/5/1/1/2/12131 PR TO ALIDABIX (PTY) LTD IN RESPECT OF PORTION 3 (A PORTION OF PORTION 1 - STOMP OOR A) OF THE FARM STOMP OOR 109, SITUATED IN THE MAGISTERIAL DISTRICT OF PRIESKA, NORTHERN CAPE PROVINCE.

BACKGROUND AND INTRODUCTION

1. Alidabix (Pty) Ltd ("Alidabix" or "Applicant") applied for an Environmental Authorisation ("EA") for prospecting activities on Portion 3 (a portion of Portion 1 - Stomp Oor A) of the farm Stomp Oor 109 ("Prospecting Right Area"). Although the Prospecting Right Area covers 2 737 (two thousand seven hundred and thirty seven) hectares, the invasive prospecting activities, *ie* drilling of boreholes, will only extent over an area of 0.55 (zero comma five five) hectares (half a hectare). The other prospecting activities will be non-invasive and will have no impact on the environment or any heritage resources.
2. The proposed borehole footprints on the surface area, are expected to not exceed 5m x 5m. The impact below surface for the percussion drill holes will be 16,5cm in diameter and the core drill holes will be less than 10cm in diameter. Preliminary borehole positions have been set out, but the actual final borehole locations will only be finalised after initial non-invasive prospecting activities have been completed.
3. The application for an EA was submitted to the Department of Mineral Resources ("DMR") in terms of the National Environmental Management Act, 1998 (Act 107 of 1998) ("NEMA"), as amended and in terms of GNR327 of GG40772 of the Amendment of the Environmental Impact Assessment Regulations Listing Notice 1 of 2014 as published on the 7th of April 2017("NEMA EIA Regulations"). The application reference number is: **NC 30/5/1/1/2/12131 PR.**
4. The Palaeontology Sensitivity Map published by South African Heritage Resources Agency ("SAHRA") on the South African Heritage Resources Information System ("SAHRIS") gives guidelines for the management of paleontological sensitive areas. Per the Palaeontology Sensitivity Map, the Prospecting Right Area falls within the green and blue zone and per the SAHRIS sensitivity rating the green zone has a moderate paleontological sensitivity and the blue zone a low paleontological sensitivity - see annexure B1. A literature study by Mr Hano Hamman, geologist and

director of Alidabix, did however reveal that this classification was flawed since paleontological finds have been made on the farm Stomp Oor 109 as a result of exploration activities during the 1970's and 1980's.

5. G&A Heritage Management Consultants ("G&A") was appointed by Alidabix to conduct a Desktop Heritage Impact Assessment ("HIA"). All the paleontological literature that was gathered by Mr. Hamman was forwarded to G&A and requested to be included in the HIA. The HIA together with the Final Basic Assessment Report was uploaded onto the SAHRIS (see paragraph 1 of the Notice of Appeal) on 27 September 2018.
6. On 25 October 2018, SAHRA requested that a desktop Paleontological Impact Assessment ("PIA") report be done for the Prospecting Right Area.
7. Dr. John Almond was engaged on 1 November 2018 to compile the desktop PIA report on the Prospecting Right Area. The desktop PIA report was completed by Dr. Almond on 21 November 2018 and uploaded to SAHRIS on the same day.
8. The DMR granted Alidabix the EA on 20 November 2018 under the reference number, **NC 30/5/1/1/2/12131 PR**.
9. On 27 November 2018, the EA was received by Alidabix.
10. On 28 November 2018, in terms of Section 4(2) of the NEMA EIA Regulations, all registered interested and affected parties were informed that the application for EA has been granted by the DMR.
11. On 20 December 2018, an appeal notification against the EA from the SAHRA was send to Alidbix's Environmental Assessment Practitioner ("EAP"), Mrs Tanja Jooste via email from Me Natasha Higgett. Attached to the email were:
 - 11.1. Interim Comment letter from SAHRA dated 25 October 2018;
 - 11.2. EA;
 - 11.3. "Notice of Appeal" setting out the grounds of the appeal;
 - 11.4. "Appeal Questionnaire"; and
 - 11.5. Appeal Response Report.

APPEAL AGAINST THE EA IN TERMS OF THE NEMA APPEAL REGULATIONS - RESPONSE TO THE GROUNDS (REASONS) SUBMITTED FOR THE LODGEMENT OF AN APPEAL

PROSPECTING RIGHT AREA

12. Although the Prospecting Right Area covers 2 737 (two thousand seven hundred and thirty seven) hectares, the invasive prospecting activities, *ie* drilling of boreholes, will only extent over an area of 0.55 (zero comma five five) hectares (half a hectare). The other prospecting activities will be non-invasive and will have no impact on the environment or any heritage resources.
13. The proposed borehole footprints on the surface area, are expected to not exceed 5m x 5m. The impact below surface for the percussion drill holes will be 16,5cm in diameter and the core drill holes will be less than 10cm in diameter. Preliminary borehole positions have been set out, but the actual final borehole locations will only be finalised after initial non-invasive prospecting activities (geological mapping & geophysical survey) have been completed.
14. The Palaeontology Sensitivity Map published by SAHRA on the SAHRIS gives guidelines for the management of paleontological sensitive areas. Per the Palaeontology Sensitivity Map, the Prospecting Right Area falls within the green and blue zone and per the SAHRIS sensitivity rating the green zone has a moderate paleontological sensitivity and the blue zone a low paleontological sensitivity - see annexure B1. A literature study by Mr Hano Hamman, geologist and director of Alidabix, did however reveal that this classification was flawed since paleontological finds have been made on the farm Stomp Oor 109 as a result of exploration activities during the 1970's and 1980's.
15. It should be noted that if it were not for previous prospecting activities, no paleontological information would have been available. It should also be noted that the Alidabix application process and the literature study by Mr. Hamman has already added value to the Palaeontology Sensitivity Map published by SAHRA by enabling SAHRA to update their database with the information generated by Alidabix during the application process.

DESKTOP HERITAGE IMPACT ASSESSMENT

16. G&A was appointed by Alidabix to conduct HIA. All the paleontological literature that was gathered by Mr. Hamman was forwarded to G&A and requested to be

included in the HIA. The information on paleontology in pages 19, 20, 21 and 22 of the HIA was copied and pasted out of literature provided by Mr. Hamman. The HIA together with the Final Basic Assessment Report was uploaded onto the SAHRIS (see paragraph 1 of the Notice of Appeal) on 27 September 2018.

17. The findings and conclusion of the HIA were:

17.1. No archaeological sites could be found that have been previously documented in the study area. It is anticipated that the area will contain scatters of Middle – and Late Stone Age tools with the possibility of manufacturing sites occurring locally.

17.2. The area was found to be important in terms of paleontology. Most of the paleontological deposits are located deeper than 10m underground. Information currently available is based on core drill samples taken from the area and as a result it is possible that the prospecting drilling could compliment the paleontological research rather than hinder it.

17.3. The HIA report stated that no fatal flaws were identified.

18. Recommendations of the HIA:

18.1. There is a possibility of finding surface Stone Age manufacturing sites in the area. It is recommended that the specific borehole locations be checked by a suitably qualified heritage practitioner when their locations have been finalized.

18.2. It is recommended that a suitably qualified palaeontologist be approached to assist with the core drill placements. This could result in the prospecting adding positively to the paleontological record rather than damage it.

19. SAHRA's comment on the HIA report, per their letter dated 25 October 2018 was:

19.1. The SAHRA Archaeology, Palaeontology and Meteorites (APM) Unit requests that a desktop Palaeontological Assessment be conducted as part of the BAR and EA Application due to the presence of significant palaeontological resources within the development area. The desktop assessment must be conducted by a qualified palaeontologist and must comply with the 2012 SAHRA Minimum Standards: Palaeontological Components of Heritage Impact Assessments.

PALEONTOLOGICAL IMPACT ASSESSMENT

20. Dr. John Almond was engaged on 1 November 2018 to compile the desktop PIA report on the Prospecting Right Area. The desktop PIA report was completed by Dr. Almond on 21 November 2018 and uploaded to SAHRIS on the same day.
21. The PIA report concluded and recommended that:
 - 21.1. The Precambrian basement rocks of the Namaqua-Natal Province that underlie the Stomp Oor 109 study area at depth and that are a primary target of mineral prospecting are of no palaeontological heritage significance; they are either too old or too highly-metamorphosed to contain fossils, or they are igneous in origin.
 - 21.2. Overlying Permo-Carboniferous glacial-related sediments of the Mbizane Formation (Dwyka Group) cropping out in the southern portion of the study area are - at most - of moderate palaeontological palaeosensitivity since they might contain plant remains and trace fossils.
 - 21.3. Most of the study area is mantled by superficial deposits of the Late Caenozoic Kalahari Group, including wind-blown sands, calcretes and alluvium along shallow water courses. These superficial sediments are generally of low palaeontological sensitivity in Bushmanland. However, important occurrences of fossil mammals have recently been recorded in association with stone artefacts within pan and alluvial gravel sediments near Copperton. Highly-fossiliferous crater lake deposits of Late Cretaceous age (c. 70 Ma = million years old) have been recorded on Farm Stomp Oor 109 and may be present at more than one site here, buried beneath the superficial sediment cover.
 - 21.4. It is therefore recommended that a site visit by a professional palaeontologist be commissioned by the developer well before the commencement of the invasive phases of the prospecting programme. The resulting palaeontological heritage assessment report should make recommendations for any mitigation or monitoring measures to be following during siting, drilling and rehabilitation of the boreholes as well as for conservation of sedimentary borehole core material for future palaeontological analysis.
 - 21.5. There are no objections on palaeontological grounds regarding the non-invasive phases of the proposed mineral prospecting programme on Farm Stomp Oor 109.

- 21.6. The ECO responsible for the mineral prospecting project should be aware of the potential for important fossil occurrences within near-surface or buried crater lake deposits and the necessity to conserve them for possible professional mitigation. A Chance Fossil Finds Procedure for the non-invasive phases of the prospecting programme is outlined in tabular form at the end of this report.
- 21.7. These recommendations should be included within the Environmental Management Programme ("EMPr") for the proposed mineral prospecting programme.

PROVISION FOR THE PROTECTION OF HERITAGE RESOURCES

22. For the protection of heritage resources, Alidabix proposes the following amendments and provisions to EMPr:
- 22.1. the inclusion of Chance Fossil Finds Procedure for the non-invasive phases of the prospecting programme as outlined in tabular form on page 25 of the PIA; and
- 22.2. the appointment of a professional palaeontologist and a qualified heritage practitioner before the commencement of the invasive phases of the prospecting programme and report on recommendations for any mitigation or monitoring measures to be following during siting, drilling and rehabilitation of the boreholes as well as for conservation of sedimentary borehole core material for future palaeontological analysis.
23. It should be noted that the EMPr and its contents form part of the conditions under which an EA is granted. The holder of the EA is required to adhere to the protocols and management and mitigation procedures contained within the EMPr, hence the above suggested amendments to the EMPr will provide the necessary protection and management of heritage resources.

SUMMARY

24. The HIA report stated that no fatal flaws were identified.
25. The PIA report had no objections on palaeontological grounds regarding the non-invasive phases of the proposed mineral prospecting programme on the Prospecting Right Area.

26. For the protection of heritage resources, Alidabix is prepared to amend its EMPr as set out in paragraph 22 above.
27. The prospecting drilling could compliment the paleontological research rather than hinder it.
28. We note that on paragraph 4 of the Appeal Questionnaire that SAHRA, the Appellant, would agree to the activities proceeding if its concerns can be addressed by rectifying or mitigating or eliminating the impacts of the activity. We believe that the above paragraphs 22 and 23, addresses the concerns of the Appellant raised in the Notice of Appeal.

CONCLUSION AND PRAYERS

29. The appeal lodged by the Appellant against the granting of the EA in terms of the NEMA Appeal Regulations should be dismissed based on the following:
 - 29.1. the HIA report stated that no fatal flaws were identified;
 - 29.2. the PIA report had no objections on palaeontological grounds regarding the non-invasive phases of the proposed mineral prospecting programme on the Prospecting Right Area; and
 - 29.3. for the protection of heritage resources, Alidabix will commit to amend its EMPr as set out in paragraph 22 above.

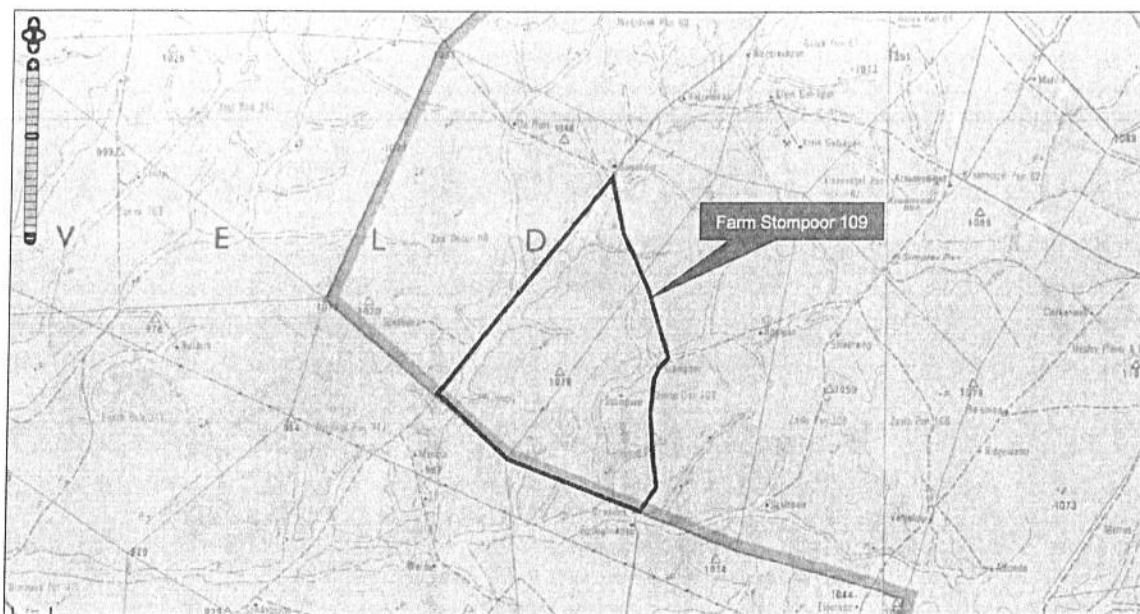
Signed at Kimberley on the 25th day of January 2019 for Alidabix / Applicant



Bêrend van Deventer
Director: Alidabix (Pty) Ltd

List of attached annexures:

- 1) **Annexure B1** - Sensitivity;
- 2) **Annexure B2** - Alidabix Resolution authorising Mr B van Deventer to lodge the response on behalf of Alidabix.



Colour	Sensitivity	Required Action
RED	VERY HIGH	field assessment and protocol for finds is required
ORANGE/YELLOW	HIGH	desktop study is required and based on the outcome of the desktop study, a field assessment is likely
GREEN	MODERATE	desktop study is required
BLUE	LOW	no palaeontological studies are required however a protocol for finds is required
GREY	INSIGNIFICANT/ZERO	no palaeontological studies are required
WHITE/CLEAR	UNKNOWN	these areas will require a minimum of a desktop study. As more information comes to light, SAHRA will continue to populate the map.

ALIDABIX PROPRIETARY LIMITED

REG. NO. 2017/471777/07

("the Company")

**DIRECTORS RESOLUTION PASSED IN TERMS OF THE COMPANY'S
MEMORANDUM OF INCORPORATION ON FRIDAY 25 JANUARY 2019**

RESPONSE TO APPEAL BY SAHRA AGAINST THE GRANTING OF AN EA

It was noted:

1. The Company applied for an Environmental Authorisation ("EA") for prospecting activities on Portion 3 (a portion of Portion 1 - Stomp Oor A) of the farm Stomp Oor 109.
2. The DMR granted the Company the EA on 20 November 2018 under the reference number, **NC 30/5/1/1/2/12131 PR**.
3. On 20 December 2018, the Company received an appeal notification against the EA from the South African Heritage Resources Agency ("SAHRA").

It was unanimously resolved, by all directors of the Company, that:

1. The Company responds to the appeal from SAHRA; and
2. for the purposes of the above resolution Mr. Bêrend van Deventer as director of the Company, is authorised on behalf of the Company, to do or cause all such things to be done and to sign all documentation, as he may find to be necessary, in order to give effect to and implement the above resolution.



NM Mosiapoa
Director



JN Hamman
Director



B van Deventer
Director

Tanja Jooste

From: Hennie [ms.consulting@vodamail.co.za]
Sent: 28 January 2019 09:55 AM
To: joostetanja@gmail.com
Subject: FW: APPEAL IN TERMS OF SECTION 43 OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT NO. 107 OF 1998 (NEMA) OF THE GRANT OF THE ENVIRONMENTAL AUTHORISATION FOR PROSPECTING ACTIVITIES NC 30/5/1/1/2/12131PR TO ALIDABIX (PTY) LTD

-----Original Message-----

From: Mmatsatsi Maboko [mailto:MMaboko@environment.gov.za]
Sent: Monday, January 28, 2019 9:45 AM
To: Bêrend van Deventer
Cc: ms.consulting@vodamail.co.za; Appeals; nhiggitt@sahra.org.za; 'Phillip Hine'; 'Simphiwe Mome'; 'Hano Hamman'; 'Nelson Mosiapo'; 'Tanja Jooste'
Subject: RE: APPEAL IN TERMS OF SECTION 43 OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT NO. 107 OF 1998 (NEMA) OF THE GRANT OF THE ENVIRONMENTAL AUTHORISATION FOR PROSPECTING ACTIVITIES NC 30/5/1/1/2/12131PR TO ALIDABIX (PTY) LTD

Dear Berend

The Department acknowledges receipt of your responding statement, received on 25 January 2019.

Kind regards

Mmatsatsi Maboko
Appeals and Legal Review
Department of Environmental Affairs
Tel: (012) 399 8870
Email: mmaboko@environment.gov.za

"His grace is sufficient"

-----Original Message-----

From: Bêrend van Deventer [mailto:berend@inext.co.za]
Sent: 25 January 2019 11:45 PM
To: Mmatsatsi Maboko
Cc: ms.consulting@vodamail.co.za; Appeals; nhiggitt@sahra.org.za; 'Phillip Hine'; 'Simphiwe Mome'; 'Hano Hamman'; 'Nelson Mosiapo'; 'Tanja Jooste'
Subject: RE: APPEAL IN TERMS OF SECTION 43 OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT NO. 107 OF 1998 (NEMA) OF THE GRANT OF THE ENVIRONMENTAL AUTHORISATION FOR PROSPECTING ACTIVITIES NC 30/5/1/1/2/12131PR TO ALIDABIX (PTY) LTD

Dear Mmatsatsi

Attached our response to the appeal with annexures.

Kind regards

Bêrend

-----Original Message-----

From: Mmatsatsi Maboko [mailto:MMaboko@environment.gov.za]
Sent: 22 January 2019 03:19 PM