



## environmental affairs

Department:  
Environmental Affairs  
REPUBLIC OF SOUTH AFRICA

Private Bag X 447, PRETORIA, 0001, Fedsure Building, 315 Pretorius Street, PRETORIA  
Tel (+ 27 12) 310 3911 Fax (+ 2712) 322 2662

Reference: 12/12/20/1241

Enquiries: Mr John Geeringh

Telephone: (012) 310 3491 Fax: (012) 320 7539 E-mail: [jgeeringh@deat.gov.za](mailto:jgeeringh@deat.gov.za)

Mr Neville Eve  
Transnet Limited  
Private Bag X4  
**GALLO MANOR**  
2052

Fax no: (011) 239 5360

**PER FACSIMILE / MAIL**

Dear Mr Eve

**APPLICATION FOR ENVIRONMENTAL AUTHORISATION R. 387: PROPOSED UPGRADING OF THE TRANSNET RAILWAY LINE FROM BETWEEN HOTAZEL AND DE AAR AND LOOPS 1-15 (R. 387 Items 1 and R. 386 Items 1(m) and (i), 4, 7, 12, 13, 14 and 15) (Reference number: 12/12/20/1241).**

With reference to the abovementioned application, pleased be advised that the Department has decided to grant authorisation. The environmental authorisation and reasons for the decision are attached herewith.

In terms of regulation 10(2) of the Environmental Impact Assessment Regulations, 2006, you are instructed to notify all registered interested and affected parties (IAPs), in writing and within ten (10) calendar days of the date of this letter, of the Department's decision in respect of your application as well as the provisions regarding the making of appeals that are provided for in the regulations.

Your attention is drawn to Chapter 7 of the Regulations which regulates appeal procedures. Attached please find a simplified copy of the appeals procedure to be followed. Kindly include a copy of this procedure with the letter of notification to IAPs.

A copy of the official appeal form can be obtained from:  
Mr PKM Retief, Appeals Administrator, Tel: 012 310 3705, [pretief@deat.gov.za](mailto:pretief@deat.gov.za); or  
Mr H Grové, Appeals Administrator, Tel: 012 310 3070, [hgrove@deat.gov.za](mailto:hgrove@deat.gov.za), at the Department.

Should you wish to appeal any aspect of the decision, you must, *inter alia*, lodge a notice of intention to appeal with the Minister, within 10 days of receiving notice of the decision, by means of one of the following methods:

By facsimile: (012) 320 7561;  
By post: Private Bag X447, Pretoria, 0001; or  
By hand: 2<sup>nd</sup> Floor, Fedsure Form Building, North Tower, cor. Van der Walt and Pretorius  
Streets, Pretoria.

Should the applicant decide to appeal, the applicant must serve a copy of its notice of intention to appeal on all registered IAPs as well as a notice indicating where, and for what period, the appeal submission will be available for inspection.

Please include the Department, attention of the Director: Environmental Impact Evaluation, in the list of IAPs, notified through your notification letter of the decision, for record purposes.

The authorised activities may not commence within thirty (30) days of the date of signature of the authorisation. Please further 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 sincerely



**Ms Lize McCourt**  
**Chief-Director: Environmental Impact Management**  
**Department of Environmental Affairs**

Date: 16 November 2009

CC: Mr Muller Coetzee

ERM

Fax: (021) 701 7900

**APPEALS PROCEDURE IN TERMS OF CHAPTER 7 OF R. 385 OF 2006 TO BE FOLLOWED BY THE APPLICANT AND INTERESTED AND AFFECTED PARTIES UPON RECEIPT OF NOTIFICATION OF AN ENVIRONMENTAL AUTHORISATION**

<b>APPLICANT</b>	<b>INTERESTED AND AFFECTED PARTIES (IAPs)</b>
1. Receive notice of Environmental Authorisation from the relevant Competent Authority	1. Receive notice of Environmental Authorisation from Applicant/Consultant
2. Within 10 days of receipt of notification, notify the relevant Competent Authority and all IAPs of intention to appeal	2. Within 10 days of receipt of notification, notify the relevant Competent Authority of intention to appeal
3. Notification served by the Applicant must include: 3.1. A copy of the notice of intention to appeal; and 3.2. A notice indicating where and for what period the appeal submission will be available for inspection by all IAPs	3. Appellant must serve on the Applicant 3.1. A copy of the notice of intention to appeal 3.2. A notice indicating where and for what period the appeal submission will be available for inspection by the applicant
4. The appeal must be submitted to the relevant Competent Authority or delegated organ of State within 30 days of lodging of the notice of intention to appeal	4. The appeal must be submitted to the relevant Competent Authority or delegated organ of State within 30 days of lodging of the notice of intention to appeal
5. A person or organ of state that receives notice of an appeal may submit a responding statement to the relevant Competent Authority or delegated organ of state within 30 days from the date that the appeal submission was made available for inspection by the appellant	5. An Applicant that receives notice of an appeal may submit a responding statement to the relevant Competent Authority or delegated organ of State within 30 days from the date the appeal submission was made available for inspection by the appellant

**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;
- c) the MEC if the decision was issued by the Head of Department (or another official) acting in his/ her capacity as the delegated Competent Authority;
- d) the delegated organ of state where relevant.

**2. An appeal lodged with:-**

- a) the Minister of Water and Environmental Affairs must be submitted to the Department of Environmental Affairs;
- b) the MEC must be submitted to the provincial department responsible for environmental affairs;
- c) the delegated organ of state, where relevant, must be submitted to the delegated organ of state.

**3. An appeal must be:-**

- a) on an official form obtainable or published by the relevant department;
- b) accompanied by:
  - a statement setting out the grounds of appeal;
  - supporting documentation which is referred to in the appeal and is not available to the relevant Competent Authority;
  - 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 prescribed appeal fee, if any.

**4. A copy of the official appeal form can be obtained from:**

See authorisation cover letter.



**environmental affairs**

Department:  
Environmental Affairs  
REPUBLIC OF SOUTH AFRICA

**Environmental Authorisation**

<b>Authorisation register number:</b>	12/12/20/1241
<b>Last amended:</b>	
<b>Holder of authorisation:</b>	TRANSNET
<b>Location of activity:</b>	BETWEEN HOTAZEL AND DE AAR, NORTHERN CAPE PROVINCE.

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## 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 activity specified below.

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 No. 107 of 1998) and the Environmental Impact Assessment Regulations, 2006 the Department hereby authorises –

Transnet Ltd

with the following contact details –

Neville Eve

Transnet Ltd

Private Bag X 4

**GALLO MANOR**

2052

Tel no: 011 231 6056

Fax no: 011 239 5360

to undertake the following activities (hereafter referred to as "the development"):

R. 386:

1: *The construction of facilities or infrastructure, including associated structures or infrastructure, for-*

(l): *the transmission and distribution of electricity above ground with a capacity of more than 33 kilovolts and less than 120 kilovolts;*

(m): *any purpose in the one in ten year flood line of a river or stream, or within 32m from the bank of a river or stream where the flood line is unknown, excluding for purposes associated with existing residential use, but including:*

i) *Canals;*

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- ii) Channels; -
  - iii) Bridges;
  - iv) Dams; and
  - v) Weirs.
- 4: The dredging, excavation, infilling, removal or moving of soil, sand or rock exceeding 5 cubic meters from a river, tidal lagoon, tidal river, lake, in stream dam, floodplain or wetland.
- 7: The aboveground storage of a dangerous good, including petrol, diesel, liquid petroleum gas or paraffin, in containers with a combined capacity of more than 30 cubic metres but less than 1000 cubic metres at any one location or site;
- 12: The transformation or removal of indigenous vegetation of 3 hectares or more or of any size where the transformation or removal would occur within a critically endangered or an ecosystem listed in terms of section 52 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);
- 13: The abstraction of groundwater at a volume where any general authorisation issued in terms of the National Water Act, 1998 (Act No. 36 of 1998) will be exceeded;
- 14: The construction of masts of any material or type and of any height, including those used for telecommunication broadcasting and radio transmission, but excluding –
- a) masts of 15 meters and lower exclusively used
    - i) by radio amateurs; or
    - ii) for lighting purposes
  - b) flag poles; and
  - c) lightning conductor poles;
- 15: The construction of a road that is wider than 4 meters or that has a reserve wider than 6 meters, excluding roads that fall within the ambit of another listed activity or which are access roads of less than 30 meters,

R. 387

- 1: The construction of facilities or infrastructure, including associated structures or infrastructure, for-
- (s) rail transportation, excluding railway lines and sidings in industrial areas and underground railway lines in mines, but including –
    - (i) railway lines;
    - (ii) stations; or
    - (iii) shunting yards;

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for the proposed upgrading of the Transnet railway line between Hotazel and De Aar and construction and upgrading of loops 1- 15 within the Northern Cape Province as described in the EIAR dated July 2009.

The development will take place in an existing railway line servitude from Hotazel to De Aar, the preferred alternative as indicated in the EIAR. The construction of 3 (three) new loops and the upgrading of 12 (twelve) loops will take place between Hotazel and De Aar as described in the EIAR dated July 2009.

The project consists of the following major components:

- 1 The upgrading of 12 of the existing loops between Hotazel and De Aar. The upgrading will entail extending the loops;
- 2 Other improvements associated with upgrading the existing loops includes the upgrade or construction of access roads and new or altered level crossings;
- 3 Construction of 3 (three) new loops of at least 1 200m in length;
- 4 The refurbishment/ recommissioning of the existing second railway line between Kimberley and De Aar;
- 5 Upgrading station yards at Hotazel, Mamathwane, Kimberley, De Aar and Postmasburg;
- 6 Upgrade the Postmasburg wagon maintenance facilities;
- 7 Providing additional locomotive staging facilities at the Beaconfield yard in Kimberley;
- 8 Building a new electrical substation near Emil; and
- 9 Additional signalling between Hotazel and Emil and Kimberley and De Aar.

The granting of this environmental authorisation is subject to the conditions set out below,

## Conditions

### Scope of authorisation

- 1.1 Authorisation of the development is subject to the conditions contained in this authorisation, which conditions form part of the environmental authorisation and are binding on the holder of the authorisation.
- 1.2 The holder of the authorisation shall be responsible for ensuring compliance with the conditions by any person acting on his or her behalf, including but not limited to, an

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- agent, sub-contractor, employee or person rendering a service to the holder of the authorisation.
- 1.3 The authorised development may only be carried out at the property indicated above and as described in the EIAR dated July 2009, preferred alternative as assessed in the EIAR and as shown on the map set included in the EIAR.
- 1.4 Any substantial changes to the project description set out in the EIAR and authorised under this authorisation must be approved, in writing, by the Department before such changes may be effected. In 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 and it may be necessary for the holder of the authorisation to apply for further authorisation in terms of the regulations.
- 1.5 This development must commence within a period of five (5) years from the date of issue. If commencement of the development does not occur within that period, the authorisation lapses and a new application for environmental authorisation must be made in order for the development to be undertaken.
- 1.6 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 development and associated infrastructure.
- 1.6.1 Relevant legislation that must be complied with by the holder of this authorisation include but is not limited to:
- Compliance with the requirements of Section 38 of the National Heritage Resources Act, Act 25 of 1999, including any comments and recommendations of the relevant heritage resources authority responsible for the area in which the development is proposed.
  - Provisions of the Occupational Health and Safety Act, Act 85 of 1993.
  - Provisions of the Environment Conservation Act, Act 73 of 1989.
  - Provisions of the Conservation of Agricultural Resources Act, Act 43 of 1983.
  - Provisions of the National Forests Act, Act 84 of 1998.
  - Provisions of the National Water Act, Act 36 of 1998.
  - Provisions of the Hazardous Substances Act, Act 15 of 1973.
  - Provisions of the Explosives Act, Act 26 of 1956.
  - Provisions of the Fencing Act, Act 31 of 1963.
  - Relevant local authority bylaws and regulations.

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- Should any activity be planned on site that is a listed activity in terms of the NEMA regulations, 2006, which is not covered by this authorisation, a separate application for such activity must be lodged with the relevant competent authority.

### Appeal of authorisation

- 1.7 The holder of the authorisation must notify every registered interested and affected party (IAP), in writing and within 10 (ten) calendar days, of receiving notice of the Department's decision to authorise the development.
- 1.8 The notification referred to in 1.7 must –
- 1.8.1 Specify the date on which the authorisation was issued;
  - 1.8.2 Inform the interested and affected party of the appeal procedure provided for in Chapter 7 of the regulations;
  - 1.8.3 Advise the interested and affected party that a copy of the authorisation will be furnished on request, and
  - 1.8.4 Give the reasons for the decision.

### Management of the activity

#### 1.9 Management during the construction phase:

- 1.9.1 The environmental management plan (EMP) for the construction phase included in the EIAR dated July 2009 and submitted to the Department, is hereby approved for implementation. The mitigation measures proposed in the EIAR dated July 2009 and requirements stipulated in the EMP as included in the EIAR dated July 2009 for environmental management during the construction phase forms part of the conditions of this environmental authorisation and must be implemented by the holder of this authorisation.
- 1.9.2 The holder of this authorisation must ensure the following measures are implemented during the construction phase of the railway line:
- All contractor staff must undergo environmental awareness induction training with regard to protection of the natural environment, the conditions of the environmental authorisation, the requirements of the EMP and the respect of the rights of landowners on whose properties construction takes place.

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- Measures for waste avoidance, minimisation and disposal of construction waste at an appropriately registered facility.
  - Measures for dust control during the construction phase.
  - Measures for noise control during the construction period where construction activities occur close to residences or built-up areas to limit the nuisance factor of noise.
  - Measures to ensure public access to any homesteads or amenities must at all times be guaranteed and shall not be restricted due to this development.
  - Archaeological remains, features and structures older than 60 years are protected by the National Heritage Resources Act, 1999 (Act No. 25 of 1999). Should any archaeological or palaeontological artefacts be exposed during excavation for the purpose of the proposed upgrading of the railway line, construction in the vicinity of the finding must be stopped. A heritage specialist must be called to the site for inspection. Under no circumstances shall any artefacts be destroyed or removed from the site. The South African Heritage Resource Agency must be informed of any new finds.
- 1.9.3 The approved construction EMP will be seen as a dynamic document. Should the construction activities exceed any predicted impact levels, the EMP must be amended to include any additional requirements. However, any proposed changes to the EMP must be submitted to the competent authority in writing.
- 1.9.4 Amendments to the EMP must be approved in writing by the competent authority before such changes can be implemented.

#### **Servitude works area and material lay down areas**

- 1.9.5 This development is authorised on condition that Transnet acquires the necessary servitude for the railway line upgrade where such is not already registered in the name of Transnet. Transnet must negotiate with affected landowners within the authorised route corridor alignment prior to the start of construction activities. Proof of such negotiations must be made available to the Department on request should any dispute arise.
- 1.9.6 In addition, any route adjustment, due to the specific local circumstances, which deviates outside the authorised route corridor alignment, should be

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- assessed and reported to the Department for acceptance in writing before implementation.
- 1.9.7 All construction works are limited to the servitude area. The works area must be properly demarcated.
- 1.9.8 No construction workers shall be allowed to reside on any site unless a written agreement with the affected landowner is obtained.
- 1.9.9 All work areas must be supplied with proper sanitation facilities.
- 1.9.10 No open fires are allowed on site for heating or cooking purposes. The Applicant shall ensure that the contractor have fire fighting equipment available at all work sites in the event of accidental fires.
- 1.9.11 Servitude vegetation clearing must be done in accordance with the recommendations of the EIAR and a search and rescue operation of protected species should be done. Rescued specimens can be transplanted immediately where possible or be stored in a nursery area for use later during the rehabilitation process.
- 1.9.12 No protected species of vegetation may be destroyed without the required permit from the Department of Agriculture, Fisheries and Forestry.
- 1.9.13 Noise abatement measures must be used to reduce the impact of noise associated with rail transport during the operational phase, especially in areas in close proximity to residences.
- 1.9.14 Dust suppression measures must be used to reduce the amount of dust that will be generated during the construction phase.

### **Construction camps**

- 1.9.15 No construction camp site may be established without written approval from the affected landowner.
- 1.9.16 The holder of this authorisation must have a specific management plan for management of the day to day operation of the construction camp sites, including measures for waste management, sanitation and water management.
- 1.9.17 Construction camps must be inspected weekly by the environmental control officer (ECO) for compliance with the management plan for camp sites.
- 1.9.18 Construction camp sites must be kept neat and the visual impact of camp sites must be mitigated to acceptable levels through screening.

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- 1.9.19 No water may be abstracted from or effluent or waste water released into natural sources without the required permits from the DWA and Transnet must have written agreements with landowners for use of any water from private boreholes or dams.

### **Workshop areas at construction camps**

- 1.9.20 Workshop areas must have a concrete floor area for servicing of vehicles.
- 1.9.21 All carbon containing fuels and lubricants must be stored inside a banded area which can accommodate 110 percent of the stored liquids.
- 1.9.22 All spills of carbon materials shall be contained and cleaned up immediately and polluted soils shall be disposed of in a registered waste site. Minor spills can be treated on site.
- 1.9.23 Should it be necessary to service any vehicles or equipment in the servitude construction area due to a breakdown, a drip tray shall be used to prevent carbon spills onto the soil.
- 1.9.24 All carbon waste material generated at the workshop shall be contained in proper storage drums for recycling or disposal at a registered waste site.

### **Wetland, river and stream crossings**

- 1.9.25 Where wetland, river or stream crossings are required, the approval of the DWA on the engineering design shall be obtained in writing before any construction commence on such sites.
- 1.9.26 Special care shall be taken when doing any construction work in wetland areas and the area of disturbance shall be kept to the absolute minimum.
- 1.9.27 All wetland areas disturbed during construction shall be rehabilitated to the written satisfaction of a representative of DWA.
- 1.9.28 All river and stream crossings shall be done in accordance with a DWA approved design drawing.
- 1.9.29 Vegetation at river and stream bank crossings may be cut and treated with a suitable registered herbicide to prevent further growth and root development. Under no circumstances will de-stumping of trees on river and stream banks be allowed as this may lead to unacceptable erosion.

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- 1.9.30 River and stream banks must be protected against possible erosion by carefully controlling access and construction activities in such areas.
- 1.9.31 Measures to ensure prevention of pollution of wetlands or rivers and streams during the construction phase must be implemented by the applicant.
- 1.9.32 Once construction at river, stream or wetland crossings are completed, the relevant DWA official must sign a release form indicating that rehabilitation was done satisfactorily at each crossing point. The release forms must be made available to the Department on request should any dispute arise.

### **Rehabilitation of works areas and construction camps**

- 1.9.33 Upon completion of construction the works area must be rehabilitated in accordance with the recommendations outlined in the Terrestrial Ecology Assessment Report.
- 1.9.34 All areas disturbed during the construction phase of the project excluding those areas where permanent structures are erected must be rehabilitated fully to the satisfaction of the Department
- 1.9.35 Once construction is completed, all affected landowners must sign a release form indicating that rehabilitation was done satisfactorily and that all outstanding issues or claims have been settled by Transnet. The release forms must be made available to the Department on request should any dispute arise.

### **Service infrastructure**

- 1.9.36 Disruption of service infrastructure must be kept to an absolute minimum. Should it be necessary to disrupt any services during the construction phase, the affected parties must be informed at least two (2) weeks in advance.
- 1.9.37 Should any accidental damage to service infrastructure take place during construction activities, Transnet must take immediate action to restore such disrupted service in the shortest time possible.
- 1.9.38 Any claims for damage to service infrastructure due to construction activities by landowners must be addressed within 30 days from such claim being submitted.

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- 1.9.39 Construction works on road crossings of the railway line must be done in accordance with a provincial roads department or SANRAL approved design drawings.
- 1.9.40 The use of existing roads to gain access to the servitude works area is preferred; however use of any private access roads must be agreed with the landowners in writing. All private roads are not to be used for the purpose of construction and must be marked clearly with no entry signs.
- 1.9.41 Transnet must ensure that contractors adhere to an agreed speed limit on private roads to prevent accidents and road damage.
- 1.9.42 Upon completion of construction all private roads must be rehabilitated to their original condition and to the satisfaction of the landowner.
- 1.9.43 No fences may be flattened for the purpose of construction without the consent from the landowner.
- 1.9.44 Where required deviations of fences may be done with the written consent of the landowner to allow for construction activities.
- 1.9.45 Upon completion of construction all damage to fencing shall be properly fixed to the satisfaction of the landowners.

### **Management during the operational phase.**

- 1.10 The operational management of the new railway line must be included in the Transnet Freight Rail environmental management system (EMS) for railway line servitudes.

### **1.11 Monitoring of the activity during construction**

- 1.11.1 The holder of this authorisation must appoint a suitably qualified and responsible person that will act as an environmental control officer (ECO) for the construction period that will have the responsibility of implementing the approved construction EMP as well as the conditions of this authorisation.
- The ECO shall be appointed before the start of construction and the competent authority must be notified of the details and contact numbers of the appointee in writing for record and communication purposes.
  - The ECO must compile and present the environmental awareness induction training referred to in 1.9.2 above.
  - The ECO shall submit a quarterly compliance report, in writing, to the Director: Environmental Impact Evaluation and copy the holder of this

authorisation with such report. This report shall include a description of all activities on site, problems identified, transgressions noted and remedial action implemented. The report must reflect the reference number of the project on the cover page.

- The ECO must monitor the construction works on a daily basis to ensure the holder of this authorisation complies with the conditions of this authorisation. Records relating to compliance monitoring must be kept on site and made available for inspection to any relevant and competent authority in respect of this development.
- The ECO may compile the compliance audit report referred to in 1.12 below upon completion of the construction phase.
- The ECO shall maintain the following on site:
  - A site diary.
  - Copies of all reports submitted to the Department.
  - A complaints register of all public complaints and the remedies applied to such complaints.
- The ECO must compile a report on all rehabilitation measures implemented for future monitoring and measurement of success of the rehabilitation measures during the operational phase of the development.
- The ECO must remain employed until all rehabilitation measures as well as site clean-up are completed, the release forms were signed by the affected landowners and DWA and the site is handed over to the holder of the authorisation for operation.

1.11.2 The holder of this authorisation must monitor the operational phase of the development once operation commence as part of the Transnet Freight Rail EMS. The operational phase commence when all construction activities on a phase of the railway line and associated infrastructure is completed.

1.11.3 Should the responsibility for compliance with this authorisation be transferred to any other juristic person, the transfer of the environmental authorisation from the initial holder of the authorisation to any other juristic person must be formally recorded in writing and a copy of the transfer document indicating the contact details of the juristic person must be submitted to the Director: Environmental Impact Evaluation for record purposes.

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## Reporting to the Department

1.12 The holder of the authorisation must submit an environmental compliance audit report to the Department: Attention of the Director: Environmental Impact Evaluation, upon completion of the construction activities as planned for the upgrading of the railway line and construction and upgrading of loops between Hotazel and De Aar and the associated infrastructure. The ECO may conduct this audit or Transnet may appoint an independent auditor. The environmental audit report must --

1.12.1 Indicate the date of the audit;

1.12.2 the name of the auditor;

1.12.3 the DEA project reference number; and

1.12.4 the outcome of the audit in terms of compliance with the Environmental Authorisation conditions as well as the requirements of the EMP.

## 1.13 Commencement

1.13.1 The authorised activities may not commence within thirty (30) days of date of signature of this authorisation. Commencement includes site establishment.

1.13.2 Should you be notified by the Minister of a suspension of the authorisation pending any appeals decision on the authorised activities, you may not commence with the activities unless authorised by the Minister in writing.

## 1.14 Notification to authorities

1.14.1 Thirty (30) days written notice must be given to the Department that construction of the facilities 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 construction activity will commence.

1.14.2 Thirty (30) days written notice must be given to the Department that the operational phase of the facilities will commence.

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### Site closure and decommissioning

- 1.15 Should the railway line ever become redundant and have to be decommissioned, the holder of the authorisation shall 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 for the decommissioning phase.

### General

- 1.16 A copy of this authorisation must be kept at the site office where the development will be undertaken. The authorisation 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.
- 1.17 Where any of the contact details of the holder of this authorisation change, including the name of the responsible person, the physical or postal address and / or telephonic details, the holder of the authorisation must notify the Department as soon as the new details become known.
- 1.18 Upon transfer of the management function of the development the future holder of the authorisation must take ownership of the implementation of the conditions of this environmental authorisation.
- 1.19 The holder of the authorisation must notify the Department, in writing and within 48 (fourty 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. 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 regulations.
- 1.20 National government, provincial government, local authorities or committees appointed in terms of the conditions of this authorisation or any other public authority shall not be held responsible for any damages or losses suffered by the holder of the authorisation 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 holder of the authorisation with the conditions of authorisation as set out in this

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document or any other subsequent document emanating from these conditions of authorisation.

Date of environmental authorisation: 16 November 2009



**Ms Lize McCourt**  
**Chief Director: Environmental Impact Management**  
**Department of Environmental Affairs**

## Annexure 1: Reasons for Decision

### 1. Background

The applicant, Transnet Limited, applied for authorisation to undertake the following activities –

R. 386:

- 1: *The construction of facilities or infrastructure, including associated structures or infrastructure, for-*
  - (l) *the transmission and distribution of electricity above ground with a capacity of more than 33 kilovolts and less than 120 kilovolts;*
  - (m) *any purpose in the one in ten year flood line of a river or stream, or within 32m from the bank of a river or stream where the flood line is unknown, excluding for purposes associated with existing residential use, but including:*
    - i) *Canals;*
    - ii) *Channels;*
    - iii) *Bridges;*
    - iv) *Dams; and*
    - v) *Weirs.*
- 4: *The dredging, excavation, infilling, removal or moving of soil, sand or rock exceeding 5 cubic meters from a river, tidal lagoon, tidal river, lake, in stream dam, floodplain or wetland.*
- 7: *The aboveground storage of a dangerous good, including petrol, diesel, liquid petroleum gas or paraffin, in containers with a combined capacity of more than 30 cubic metres but less than 1000 cubic metres at any one location or site;*
- 12: *The transformation or removal of indigenous vegetation of 3 hectares or more or of any size where the transformation or removal would occur within a critically endangered or an ecosystem listed in terms of section 52 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);*
- 13: *The abstraction of groundwater at a volume where any general authorisation issued in terms of the National Water Act, 1998 (Act No. 36 of 1998) will be exceeded;*



- 14: *The construction of masts of any material or type and of any height, including those used for telecommunication broadcasting and radio transmission, but excluding –*
- a) *masts of 15 meters and lower exclusively used*
    - i) *by radio amateurs; or*
    - ii) *for lighting purposes*
  - b) *flag poles; and*
  - c) *lightning conductor poles;*
- 15: *The construction of a road that is wider than 4 meters or that has a reserve wider than 6 meters, excluding roads that fall within the ambit of another listed activity or which are access roads of less than 30 meters,*

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- 1: *The construction of facilities or infrastructure, including associated structures or infrastructure, for-*
- (t) *rail transportation, excluding railway lines and sidings in industrial areas and underground railway lines in mines, but including –*
    - (i) *railway lines;*
    - (ii) *stations; or*
    - (iii) *shunting yards,*

*for the proposed upgrading of the Transnet railway line between Hotazel and De Aar and construction and upgrading of loops 1- 15 within the Northern Cape and Eastern Cape provinces as described in the EIAR dated July 2009.*

In terms of NEMA, section 24 C (2) and regulation GN R. 385: 3 the national department becomes the competent authority to issue an environmental authorisation, as the applicant is a parastatal company, namely Transnet Limited and the activity will take place over a provincial boundary.

The applicant appointed Environmental Resources Management Southern Africa (Pty) Ltd (ERM) to undertake a scoping / EIA process and to compile an EIAR as required by regulation GN R. 385: 27. ERM appointed various specialists whom compiled specialist

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studies and assessed the various potential impacts identified. Mitigation measures to mitigate potential impacts were identified and included in the EIAR.

## 2. 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 as accepted by the Department dated 12 November 2008;
- b) The information contained in the plan of study for the EIA as accepted by the Department dated 12 November 2008;
- c) The information contained in the EIAR dated July 2009, Volumes 1 and 2;
- d) The comments received from interested and affected parties (IAPs) as included in the EIAR;
- e) The comments and responses document appended to the EIAR;
- f) The comments from the authorities; and
- g) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998).

## 3. Key factors considered in making the decision

All information presented to the Department was taken into account in the Department's decision on the EIAR. Factors considered in making the decision are the following:

- The need and desirability for the proposed upgrading of the railway line is clearly understood.
- The potential impacts of the construction phase and operational phase of the proposed upgrading of the railway line is assessed in detail and no fatal flaws were identified on the preferred alternative.
- Feasible and reasonable alternative options including the do-nothing option were investigated as part of the assessment process.
- A sufficient public participation process was undertaken and the consultant has satisfied the minimum requirements as prescribed in the EIA Regulations, 2006 for public involvement.

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- The consultant appointed various specialists to assist with the assessment of potential impacts and the specialists have recommended feasible and implement able mitigation measures to minimise potential impacts.
- No significant environmental degradation will result directly from the activities applied for and authorised in this authorisation if the proposed mitigation measures in the EIAR which form part of this authorisation is implemented.
- The Applicant has the ability to implement the conditions of this authorisation.
- The requirements of the Regulations, 2006, have been complied with in respect of this application for authorisation for construction of the proposed railway line.

A summary of the potential impacts identified which, in the Department's view, were of the most significance is set out below:

- a) The potential impacts on land use;
- b) The potential impact on health, safety and security;
- c) The potential noise and dust impacts;
- d) The potential impacts on biodiversity in the areas;
- e) The potential impacts on water resources;
- f) The potential impacts on heritage resources; and
- g) The potential economical impacts (job creation, skills development).

All impacts identified were assessed in detail and mitigation measures were proposed to mitigate those impacts that could not be avoided in total to acceptable levels. The implementation of the mitigation measures is crucial to ensure that the project execution will have the minimum impact of the environment. No fatal flaws were identified by any specialist in relation to the proposed upgrading of the railway line between Hotazel and De Aar or by extending the existing loops and the construction of new loops and supporting infrastructure to accommodate the expected increased rail traffic volume.

#### 4. Findings

After consideration of the information and factors listed above, the department made the following findings -

- It is Transnet Limited's intention to increase the volume of containers and commodities such as manganese and iron ore traffic on the railway line.

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- The upgrading of the railway line between Hotazel and De Aar by extending the existing loops and the construction of new loops and supporting infrastructure will accommodate the expected increased volume.
- There will definitely be some positive socio-economic benefits associated with the project through job creation during the construction and operational phase.
- The proposed upgrade would contribute to economic development within the Northern and Eastern Cape provinces.
- It is a detailed EIAR in support of the application for authorisation that includes adequate identification and assessment of impacts for the decision-making process.
- The proposed development is compatible with the proposed site as it is an existing railway line.
- Issues identified during the process have been addressed adequately in the assessment and feasible mitigation measures were proposed.
- The procedure followed for the impact assessment has been adequate for the decision-making process and adequate assessment of the main identified issues and impacts have been done.
- A detailed public participation process was undertaken and the consultant has satisfied the minimum requirements as prescribed in the EIA Regulations, 2006 for public involvement.
- The IAPs had ample opportunity to participate in and comment on the process.
- Legal and procedural requirements have been met.
- Issues and comments raised by IAPs are included in the EIAR in a comments and response and the consultant has responded on issues and comments.
- The potential negative impacts associated with the proposal have been identified and feasible mitigation measures have been proposed.
- The applicant is capable of implementing the proposed conditions of the environmental authorisation and proposed mitigation measures.
- The principles of NEMA can largely be upheld.

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 application is accordingly authorised.

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