



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Private Bag X 447 · PRETORIA · 0001 · Environment House · 473 Steve Biko Road · Arcadia · PRETORIA
Tel (+ 27 12) 399 9372

DEA Reference: 14/12/16/3/3/2/864
Enquiries: Ms Mmamohale Kabasa
Telephone: (012) 399 9420 **E-mail:** MKabasa@environment.gov.za

Mr Pancho Ndebele
FG Emvelo (Pty) Ltd
Private Bag X9
BENMORE
2196

Telephone Number: (011) 523 6299
Email Address: pancho@emvelo.co.za

PER EMAIL / MAIL

Dear Mr Ndebele

REFUSAL OF ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) FOR THE 50 MW ILANGA CONCENTRATED SOLAR POWER 5 SOLAR ENERGY FACILITY ON PORTION 3 OF THE FARM MATJIESRIVIER 41 SOUTH-EAST OF THE TOWN OF UPINGTON WITHIN THE //KHARA HAIS LOCAL MUNICIPALITY IN THE NORTHERN CAPE PROVINCE

With reference to the above application, please be advised that the Department has decided to refuse authorisation. The Environmental Authorisation (EA) and reasons for the decision are attached herewith.

In terms of Regulation 4(2) of the Environmental Impact Assessment Regulations, 2014 (the Regulations), you are instructed to notify all registered interested and affected parties, in writing and within 14 (fourteen) days of the date of the EA, of the Department's decision in respect of your application as well as the provisions regarding the submission of appeals that are contained in the Regulations.

Your attention is drawn to Chapter 2 of Government Notice No. R.993, which prescribes the appeal procedure to be followed. An appellant must submit an appeal to the appeal administrator, and a copy of the appeal to the applicant, any registered interested and affected party and any organ of state with interest in the matter within 20 days from the date that the notification of the decision was sent to the registered interested and affected parties by the applicant.

By post: Private Bag X447,
Pretoria, 0001; or

By hand: Environment House
473 Steve Biko,
Arcadia,
Pretoria, 0083

If the applicant wishes to lodge an appeal, it must also serve a copy of the notice of intention to appeal on all registered interested and affected parties as well as a notice indicating where, and for what period, the appeal submission will be available for inspection, should you intend to submit an appeal.

MS

Appeals must be submitted in writing to:

Mr Z Hassam, Director: Appeals and Legal Review, of this Department at the above mentioned addresses. Mr Hassam can also be contacted at:

Tel: (012) 399 9356

Email: Appealsdirector@environment.gov.za

Please note that in terms of section 43(7) of the National Environmental Management Act, 1998, an appeal under section 43 of that Act will suspend the environmental authorisation or any provision or condition attached thereto. In the instance where an appeal is lodged, you may not commence with the activity until such time that the appeal is finalised.

For guidance on appeals submitted to the Minister in terms of NEMA and the SEMAs, please find a copy of the guideline on the administration of appeals on the Department's website: (https://www.environment.gov.za/documents/forms#legal_authorisations).

Kindly include a copy of this document with the letter of notification to interested and affected parties.

Yours faithfully



Mr Sabelo Malaza

Chief Director: Integrated Environmental Authorisations

Department of Environmental Affairs

Date: 10/11/2016

cc:	Ms J Thomas	Savannah Environmental (Pty) Ltd.	Tel: (011) 656 3237	Email: joanne@savannahsa.com
	Ms B Fisher	NCDENC	Tel: (053) 807 7431	Email: BFisher@ncpg.gov.za
	Mr Z Hassam	Appeals Authority (DEA)	Tel: (012) 399 9356	Email: AppealsDirectorate@environment.gov.za



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Refusal of Environmental Authorisation

In terms of Regulation 24(1)(b) of the Environmental Impact Assessment Regulations, 2014

The 50 MW Ilanga Concentrated Solar Power 5 Solar Energy Facility on Portion 3 of the Farm Matjiesrivier 41 south-east of the town of Upington within the //Khara Hais Local Municipality in the Northern Cape Province

Siyanda District Municipality

Application Reference Number:	<i>14/12/16/3/3/2/864</i>
Applicant:	<i>FG Emvelo (Pty) Ltd</i>
Location of activity:	<i>Portion 3 of Matjiesrivier 41 //Khara Hais Local Municipality Northern Cape Province</i>

Decision

The Department is satisfied, on the basis of information available to it, that the applicant should not 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 refused

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act 107 of 1998) and the Environmental Impact Assessment Regulations, 2014 the Department hereby refuses Environmental Authorisation for –

FG EMVELO (PTY) LTD

with the following contact details –

Mr Pancho Ndebele
FG Emvelo (Pty) Ltd
Private Bag X9

BENMORE

2196

Telephone Number: (011) 523 6299
Cell: (074) 349 4339
Fax: (086) 519 5139
Email Address: pancho@emvelo.co.za

to undertake the following activities (hereafter referred to as "the activity") indicated in Regulations GN R. 983 and GN R. 984:

Activity number	Activity description
<p><u>GN R. 983: Activity 12:</u> <i>"The development of-</i> (xii) <i>infrastructure or structures with a physical footprint of 100 square metres or more; where such development occurs-</i> (a) <i>within a watercourse;</i> (c) <i>if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse;"</i></p>	<p>Infrastructure associated with the CSP facility will be constituted within 32 m of a non-perennial stream.</p>
<p><u>GN R. 983: Activity 19:</u> <i>"The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from-</i> (i) <i>a watercourse;"</i></p>	<p>The facility and/or associated infrastructure will require the infilling or depositing of any material of more than 5 cubic metres into, or the excavation or moving of soil or rock of more than 5 cubic metres from a watercourse (ephemeral drainage lines).</p>
<p><u>GN R. 983: Activity 28:</u> <i>"Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture or afforestation on or after 01 April 1998 and where such development:</i> (ii) <i>will occur outside an urban area, where the total land to be developed is bigger than 1hectare;"</i></p>	<p>The development footprint for the proposed solar energy facility (infrastructure and associated areas) will cover an area greater than 1 hectare on land currently zoned for agriculture.</p>
<p><u>GN R. 984: Activity 1:</u> <i>"The development of facilities or infrastructure for the generation of electricity from a renewable resource where the electricity output is 20 megawatts or more"</i></p>	<p>The facility will consist of a CSP facility utilising trough technology with a generation capacity of up to 50MW.</p>

M.S

<p><u>GN R. 984: Activity 4:</u> <i>“The development of facilities or infrastructure, for the storage and handling of a dangerous good, where such storage occurs in containers with a combined capacity of more than 500 cubic metres”</i></p>	<p>The facilities or infrastructures for the storage or for the storage and handling, of a dangerous good will be required. The storage containers will have a combined capacity of more than 500 cubic metres.</p>
<p><u>GN R. 984: Activity 6:</u> <i>“The development of facilities or infrastructure for any purpose or activity which requires a permit or license in terms of national or provincial legislation governing the generation or release of emissions, pollution or effluent.”</i></p>	<p>A Water Use License will be required for the discharge of wastewater to the evaporation dams.</p>
<p><u>GN R. 984: Activity 15:</u> <i>“The clearance of an area of 20 hectares or more of indigenous vegetation, excluding where such clearance of indigenous vegetation is required for-</i> <i>i. The undertaking of linear activity or</i> <i>ii. Maintenance purposes undertaken in accordance with a maintenance management plan...”</i></p>	<p>The development footprint for the proposed CSP facility (infrastructure and associated areas) will require clearance of vegetation of an area greater than 20 hectares.</p>

as described in the Environmental Impact Assessment Report (EIAR) dated July 2016 at:

21 SG Code:

C	0	3	6	0	0	0	0	0	0	0	0	0	0	4	1	0	0	0	0	3
---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---

- for the proposed 50 MW Ilanga Concentrated Solar Power 5 Solar Energy Facility and its associated infrastructure located on Portion 3 of the Farm Matjiesrivier 41 within the //Khara Hais Local Municipality in the Northern Cape Province, hereafter referred to as “the property”.

The 50 MW Ilanga Concentrated Solar Power 5 Solar Energy Facility will comprise the following:

- Parabolic troughs (6m high) solar field with a development footprint up to 208 ha with a capacity of 50MW;
- Internal access roads 6m wide, 21 km in length;
- Molten salt storage tanks;

MS

- Auxiliary boilers;
- Water storage reservoir tank and associated infrastructure;
- Workshop building (maintenance) and office buildings;
- Packaged waste treatment plant;
- 5 X Lined evaporation ponds covering an area of 5 hectares; and
- Mirror assembly facility.

Legislative Requirements

Scope of authorisation

1. Authorisation is refused for the proposed 50 MW Ilanga Concentrated Solar Power 5 Solar Energy Facility and its associated infrastructure located on Portion 3 of the Farm Matjiesrivier 41 within the //Khara Hais Local Municipality in the Northern Cape Province.

Notification of authorisation and right to appeal

2. The holder of the authorisation must notify every registered interested and affected party, in writing and within 14 (fourteen) calendar days of the date of this environmental authorisation, of the decision to refuse the activity.
3. The notification referred to must –
 - 3.1. specify the date on which the authorisation was issued;
 - 3.2. inform the interested and affected party of the appeal procedure provided for in the National Appeal Regulations, 2014;
 - 3.3. advise the interested and affected party that a copy of the authorisation will be furnished on request; and
 - 3.4. give the reasons of the competent authority for the decision.
4. The holder of the authorisation must publish a notice –
 - 4.1. informing interested and affected parties of the decision;
 - 4.2. informing interested and affected parties where the decision can be accessed; and
 - 4.3. drawing the attention of interested and affected parties to the fact that an appeal may be lodged against this decision in terms of the National Appeal Regulations, 2014.
5. A shapefile of the refused preferred development layout/footprint must be submitted to this Department within two months from the date of this decision. The shapefile must be created using the

Hartebeesthoek 94 Datum and the data should be in Decimal Degree Format using the WGS 84 Spheroid. The shapefile must include at a minimum the following extensions i.e. .shp; .shx; .dbf; .prj; and, .xml (Metadata file). If specific symbology was assigned to the file, then the .avl and/or the .lyr file must also be included. Data must be mapped at a scale of 1:10 000 (please specify if an alternative scale was used). The metadata must include a description of the base data used for digitizing. The shapefile must be submitted in a zip file using the EIA application reference number as the title. The shape file must be submitted to:

Postal Address:

Department of Environmental Affairs
Private Bag X447
Pretoria
0001

Physical address:

Department of Environmental Affairs
Environment House
473 Steve Biko Road,
Arcadia,
Pretoria

For Attention: Mr Muhammad Essop
Integrated Environmental Authorisations
Strategic Infrastructure Developments
Telephone Number: (012) 399 9406
Email Address: MEssop@environment.gov.za

Date of refusal of environmental authorisation: 10/11/2016


Mr Sabelo Malaza

Chief Director: Integrated Environmental Authorisations
Department of Environmental Affairs

Annexure 1: 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 application form dated 18 November 2015.
- b) The information contained in the Draft Scoping Report (SR) received on 18 November 2015 and the comments provided by this Department 08 December 2015.
- c) The information contained in the Final SR received on 08 January 2016 and accepted on 16 February 2016.
- d) The information contained in the Draft Environmental Impact Assessment Report (EIAR) received on 21 April 2016 and the comments provided by this Department on 23 May 2016.
- e) The information contained in the Amended Environmental Impact Assessment Report (EIAR) received on 24 June 2016 and the comments provided by this Department on 14 July 2016.
- f) The information contained in the Final EIAR received on 27 July 2016.
- g) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act 107 of 1998).

2. Key factors considered in making the decision

A summary of the issues which, in the Department's view, were of the most significance is set out below-

- a) Layout of the proposed development in relation to the authorised facility on the site.
- b) Cumulative impacts on protected species.
- c) Consideration of specialist recommendation.
- d) Location of shared infrastructure.

3. Findings

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

- a) The proposed facility is located adjacent and around the authorised Site 1.4, 14/12/16/3/3/2/299 (Fresnel or Parabolic trough). The Layout Plan for Site 1.4 has not been finalised.
- b) It is unclear how the layout for Ilanga CSP 5 fits in with the authorised Site 1.4 as the technology type for Site 1.4 is yet to be finalised.

- c) The layout for the proposed Ilanga CSP 5 overlays the authorised Site 1.4. This has implications for the EMPr for the overlaid layouts and this has not been clarified.
- d) The applicant is pre-empting the Department's decision on the Layout Plan for the authorised Site 1.4.
- e) The cumulative impacts on protected species *Boscia albitrunca* and *Boscia foetida* are unacceptable. Further investigation into a possible offset agreement is required to reduce the ecological impacts to an acceptable level.
- f) The layout encroaches on the avifaunal high sensitive area in contradiction to the specialist recommendations. The applicant has failed to provide an acceptable explanation for deviating from this recommendation.
- g) No alternative water sources have been identified and assessed.
- h) No specification where the shared infrastructure is to be located.

In view of the above, the competent authority is of the opinion that the proposed listed activities will conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the listed activities may not be mitigated to acceptable levels and should therefore be prevented altogether.