



Prj10391  
LET7926

03 March 2014

ATTENTION: REGISTERED INTERESTED & AFFECTED PARTY

Dear Sir / Madam

**REFUSAL OF ENVIRONMENTAL AUTHORISATION FOR THE PROPOSED ESTABLISHMENT OF BLACK GOLD COAL ESTATES - LUSTHOF COLLIERY ON PORTION 4 AND 6 OF THE FARM LUSTHOF 60IT, CHIEF ALBERT LUTHULI LOCAL MUNICIPALITY, MPUMALANGA PROVINCE – DEDET REFERENCE: 17/2/3 GS-194**

You are hereby informed that the application for environmental authorisation for a Scoping & Environmental Impact Assessment conducted by JMA Consulting (Pty) Ltd on behalf of Black Gold Coal Estates, as described above, has **formally been refused** by the Mpumalanga Department of Economic Development, Environment & Tourism on **Tuesday the 25<sup>th</sup> of February 2014**.

Copies of this refused Environmental Authorisation are available to all registered I&AP's on request.

Registered I&AP's have the right to lodge an appeal against the decision of this Environmental Authorisation. Such an appeal must be lodged in terms of Chapter 7 of the EIA Regulations (GNR 543 of 18 June 2010) in terms of the National Environmental Management Act, 1998 (Act No.107 of 1998), as amended.

A notice of intention to lodge an appeal, as described in Chapter 7 of the EIA Regulations, must be lodged within **20 days of decision** i.e. before the **17<sup>th</sup> of March 2014** at the following address by means of the one of the following methods:

**By facsimile: 013 766 8445 / 4614**

**By post: Private Bag X 11215  
Nelspruit, 1200**

**By Hand: The Member of the Executive Council  
Department of Economic Development, Environment & Tourism  
Building 4, Government Boulevard,  
Riverside Park Extension 2**

2005/039663/07

**Below is contained the relevant section of the 2010 EIA Regulations relating to the Formal EIA Appeal Process. This will provide Registered I&AP's with all the required information needed to successfully lodge an appeal against the decision as indicated above.**

## **CHAPTER 7 APPEALS**

### ***Application of this Chapter***

58. (1) *This Chapter applies to decisions that-*
- (a) *are subject to an appeal to the Minister or MEC in terms of section 43 (1) or (2) of the Act; and*
  - (b) *were taken by an organ of state acting under delegation in terms of section 42 or 42A of the Act in the exercise of a power or duty vested by the Act or these Regulations in a competent authority.*
- (2) *No appeal in terms of this Chapter is available if the Minister or MEC took decisions themselves in their capacity as the competent authority for the application for an environmental authorisation.*

### ***Jurisdiction of Minister and MEC to decide appeals***

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

### ***Notice of intention to appeal***

60. (1) *A person affected by a decision referred to in these regulations who wishes to appeal against the decision, must submit a notice of intention to appeal with the Minister, MEC, or delegated organ of state, as the case may be, within 20 days after the date of the decision.*
- (2) *If the appellant is an applicant, the appellant must provide each person and organ of state which was a registered interested and affected party in relation to the applicant's application, within 10 days of having submitted the notice contemplated in subregulation (1), with-*
- (a) *a copy of the notice referred to in subregulation (1); and*
  - (b) *a notice indicating that the appeal submission will be made available on the day of lodging it with the Minister or MEC and where and for what period the appeal submission will be available for inspection by such person or organ of state.*
- (3) *If the appellant is a person other than an applicant, the appellant must provide the applicant, within 10 days of having lodged the notice contemplated in subregulation (1), with-*
- (a) *a copy of the notice referred to in subregulation (1); and*
  - (b) *a notice indicating where and for what period the appeal submission will be available for inspection by the applicant.*

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

### ***Submission of appeal***

61. (1) *An appeal lodged must be submitted to the appeal authority as indicated in section 43 of the Act.*
- (2) *An appeal must be-*
- (a) *submitted in writing; and*
  - (b) *accompanied by-*
    - (i) *a statement setting out the grounds of appeal;*
    - (ii) *supporting documentation which is referred to in the appeal and which is not in the possession of the Minister, MEC, Minister of Mineral Resources or designated organ of state;*
    - (iii) *a statement by the appellant that regulation 60(2) or (3) has been complied with together with copies of the notices referred to in that regulation; and*
    - (iv) *the prescribed appeal fee, if any.*
- (3) *The appellant must take into account any guidelines applicable to appeals as contemplated in section 24J of the Act.*

### ***Time within which appeal must be lodged***

62. (1) *An appeal as contemplated in regulation 61(1), must be submitted within 30 days after the lapsing of the 20 days contemplated in regulation 60(1).*
- (2) *The Minister, MEC, Minister of Mineral Resources or designated organ of state, as the case may be, may, in writing, on good cause extend the period within which an appeal must be submitted.*

### ***Responding statement***

63. (1) *A person or organ of state that receives a notice in terms of regulation 60(2), or an applicant who receives a notice in terms of regulation 60(3), may submit to the Minister, MEC, Minister of Mineral Resources or designated organ of state, as the case may be, a responding statement within 30 days from the date the appeal submission was lodged with the Minister, MEC or Minister of Mineral Resources.*
- (2) (a) *A person, organ of state or applicant who submits a responding statement in terms of subregulation (1), must within 10 days of having submitted the responding statement, serve a copy of the statement on the appellant.*
- (b) *If the responding statement introduces any new information not dealt with in the appeal submission of the appellant, the appellant is entitled to submit an answering statement to such new information to the Minister, MEC, Minister of Mineral Resources or designated organ of state, as the case may be, within 30 days of being served a copy in accordance with subregulation (2)(a).*

- (c) *The appellant must, within 10 days of having submitted the answering statement, serve a copy of the answering statement on the respondent who submitted the new information.*
- (3) *The Minister, MEC, Minister of Mineral Resources or designated organ of state, as the case may be, may, in writing, on good cause extend the period within which responding statements in terms of subregulation (1) or an appellant's answering statement in terms of subregulation (2)(b) must be submitted.*

### **Processing of appeal**

64. (1) *Receipt by the Minister, MEC, Minister of Mineral Resources or designated organ of state, as the case may be, of an appeal, responding statement or answering statement must be acknowledged within 10 days of receipt of the appeal, responding statement or answering statement.*
- (2) *An appellant and each respondent is entitled to be notified of-*
- (a) *a directive in terms of section 43(7) of the Act, if the Minister, MEC or delegated organ of state, as the case may be, issues such a directive; and*
- [reg. (64)(2)(a) amended by GNR1159/2010]*
- (b) *the appointment of an appeal panel in terms of section 43(5) of the Act, if the Minister, MEC, Minister of Mineral Resources or designated organ of state, as the case may be, appoints an appeal panel for purposes of the appeal.*
- (3) *The Minister, MEC, Minister of Mineral Resources or designated organ of state, as the case may be, may request the appellant or a respondent to submit such additional information in connection with the appeal as the Minister, MEC or Minister of Mineral Resources may require.*

### **Appeal panel**

65. (1) *If the Minister, MEC or the Minister of Mineral Resources appoints an appeal panel, the Minister, MEC or Minister of Mineral Resources must furnish the panel with a written instruction concerning-*
- (a) *the issues in respect of which the panel must make recommendations; and*
- (b) *the period within which recommendations must be submitted to the Minister, MEC or Minister of Mineral Resources.*
- (2) *A member of an appeal panel must be independent.*
- (3) *If an appeal panel introduces any new information not dealt with in the appeal submission of the appellant or in the statements of the respondents, the appellant, each respondent and the applicant, if that applicant is not the appellant nor a respondent, are entitled to submit to the panel, within a period determined by the panel, any additional statements rebutting or supporting such new information.*
- (4) *An appeal panel must submit its recommendations to the Minister, MEC or Minister of Mineral Resources in writing.*

## ***Decision on appeal***

- 66 .(1) *The Minister, MEC, Minister of Mineral Resources or any other competent authority empowered under Chapter 5 of the Act to make a decision on an appeal, as the case may be, may combine his decision on appeals contemplated in regulation 60 where such appeals pertain to the same matter.*
- (2) *The Minister, MEC, Minister of Mineral Resources or any other competent authority empowered under Chapter 5 of the Act to make a decision on an appeal, as the case may be, must reach a final decision on an appeal or appeals submitted, within 90 days of receipt of all relevant information, including any statements, supporting documentation, reports or any other additional information requested, or recommendations of an appeal panel which may assist the Minister, MEC, Minister of Mineral Resources or designated organ of state, as the case may be, in the decision making process.*
- (3) *When the Minister, MEC or Minister of Mineral Resources has reached a decision on an appeal, the appellant and each respondent must be notified of the decision within 10 days of the decision being reached and of the extent to which the decision appealed against is upheld or overturned in writing.*
- (4) *The decision contemplated in subregulation (3) must contain reasons for such decision.*

Any queries regarding the EIA Appeal process can be directed to JMA Consulting (Pty) Ltd.

### **DETAILS OF THE CONSULTANT**

**Consultant:** Kobus Du Plessis (Cand.Sci.Nat)  
JMA Consulting (Pty) Ltd  
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2210

Yours sincerely



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Kobus Du Plessis (Cand.Sci.Nat.)