

Holland & Associates



Environmental Consultants

Impact Assessments - Environmental Management Programs - Compliance Monitoring - Process Review

23 March 2016

Dear Interested and/or Affected Party

AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 11 AUGUST 2014 FOR THE CONSTRUCTION OF A 132kV TRANSMISSION POWER LINE ADJACENT TO THE EXISTING ESKOM TRANSMISSION POWER LINE FROM LONGYUAN MULILO DE AAR 2 NORTH WIND ENERGY FACILITY TO THE HYDRA SUBSTATION, NORTHERN CAPE PROVINCE (DEA REFERENCE NUMBER: 14/12/16/3/3/1/1166/AM2)

This letter serves to notify all registered Interested and Affected Parties (I&APs) of the Department of Environmental Affairs' (DEA) decision in respect of the Application for Amendment of the Environmental Authorisation issued on 11 August 2014, as amended, for the construction of a 132kV Transmission power line adjacent to the existing Eskom transmission power line from the Longyuan Mulilo De Aar 2 North Wind Energy Facility to the Hydra Substation in the Northern Cape Province. Furthermore, the provisions regarding the submission of appeals that are contained in the National Environmental Management Act (NEMA) (No. 107 of 1998) Environmental Impact Assessment (EIA) Regulations (2014) are also outlined herein, should an I&AP wish to appeal DEA's decision.

1. Decision

We wish to inform you that the DEA **has decided to amend the Environmental Authorisation (EA) dated 11 August 2014** as follows:

Amendment 1: Amendment of the Project Description as stated on pages 3 & 4 of the EA, as amended:

The description of the project included in the EA dated 11 August 2014 stated that each monopole will have a maximum footprint of 2.25m². The description of the monopole footprints in the EA have been amended to encompass a potential footprint ranging from 0.49m² to 7.29m² for each monopole.

Amendment 2: Correction of typographical/ editorial errors on page 5 of the EA, as amended:

The two editorial errors in the description of the property on page 5 of the EA, as amended, have been corrected in the EA.

Refer to DEA's amendment of the EA, included in Annexure A herewith, for further information.

2. Right to appeal

We would like to draw your attention to your right to appeal against the decision to the Minister of Environmental Affairs in terms of section 43 of the National Environmental Management Act 107 of 1998 read with the National Appeal Regulations (GN R. 993).

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 date¹ that the notification of the decision was sent to the applicant by the competent authority.

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

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

Appeals must be submitted in writing to:

Mr Z Hassam, Director: Appeals and Legal Review, of DEA at the above mentioned addresses. Mr Hassam can also be contacted at: Tel (012) 399 9356 Email: Appealsdirector@environment.gov.za.

An appeal submitted to the Minister must comply with the requirements of the National Appeal Regulations (refer to Annexure B herewith, for your convenience).

Should you require any further information or have any queries, please contact the undersigned.

Yours sincerely



NICOLE HOLLAND (Pr. Sci. Nat.)

For: Holland & Associates - Environmental Consultants

¹ Notification of the decision was sent to the Applicant by DEA on 16 March 2016.

Holland & Associates



Environmental Consultants

Impact Assessments - Environmental Management Programs - Compliance Monitoring - Process Review

23 Maart 2016

Geagte Belanghebbende en/of Geaffekteerde Party

WYSIGING VAN DIE OMGEWINGSMAGTIGING UITGEREIK OP 11 AUGUSTUS 2014 VIR DIE OPRIGTING VAN 'N 132kV KRAGTRANSMISSIELYN LANGS DIE BESTAANDE ESKOM KRAGTRANSMISSIELYN VANAF LONGYUAN MULILO DE AAR 2 NOORD WIND-ENERGIE-AANLEG NA DIE HYDRA SUBSTASIE IN DE AAR, NOORD-KAAPROVINSIE (DOS VERWYSINGSNOMMER: 14/12/16/3/3/1/1166/AM2)

Hierdie brief het ten doel om alle geregistreerde Belanghebbende en/of Geaffekteerde Partye (B&GPe) in kennis te stel van die Departement van Omgewingsake (DOS) se besluit betreffende die aansoek vir die wysiging van die Omgewingsmagtiging wat op 11 Augustus 2014, soos gewysig, uitgereik is vir die oprigting van 'n 132kV Transmissielyn aangrensend aan die bestaande Eskom transmissielyn vanaf die Longyuan Mulilo De Aar 2 Noord Windenergie-aanleg na die Hydra-substasie in De Aar, Noord-Kaapprovinsie. U word veral gewys op die appélvoorwaardes soos vervat in die Nasionale Wet op Omgewingsbestuur (Nr 107 van 1998) (NEMA) en die Regulasies (2014) vir Omgewingsinvloedbepalings (OIB), indien u van voorneme is om teen die DOS se besluit te appelleer.

1. Besluit

Ons stel u hiermee in kennis dat die DOS **besluit het om die Omgewingsmagtiging (OM) gedateer 11 Augustus 2014** as volg te wysig:

Wysiging 1: Wysiging van die Projekbeskrywing soos vervat op bladsye 3 & 4 van die OM, soos gewysig:

Die projekbeskrywing in die OM gedateer 11 Augustus 2014 noem dat elke enkelpaal 'n maksimum voetspoor van 2.25m² sal hê. Die beskrywing van die enkelpaal-voetspoor in die OM is aangepas na 'n voetspoor wat wissel van 0.49m² tot 7.29m² vir elke enkelpaal.

Wysiging 2: Regstelling van tipografiese/ redakteursfoute op bladsy 5 van die OM, soos gewysig:

Die twee redakteursfoute in die beskrywing van die eiendom op bladsy 5 van die OM, soos gewysig, is in die OM reggestel.

Vir meer inligting word u verwys na Bylae A wat die DOS se wysiging aan die OM bevat.

2. Reg tot appèl

Ons wil graag u aandag vestig op u reg om by die Minister van Omgewingsake teen hierdie besluit te appelleer. Dit moet geskied in terme van Afdeling 43 van die Wet op Nasionale Omgewingsbestuur (Nr 107 van 1998), wat gelees moet word tesame met die Nasionale Appèlregulasies (GK R. 993).

'n Persoon wat teen die besluit appelleer, moet die appèl binne 20 dae vanaf die datum¹ waarop die kennisgewing oor die besluit deur die bevoegde owerheid aan die applikant gestuur is by die Appèl-administrator indien, asook 'n afskrif daarvan stuur aan die Applikant, alle geregistreerde Belanghebbende en Geaffekteerde Partye en enige staatsinstansie wat 'n belang by die aansoek het.

Per pos: Privaatsak X447,
Pretoria, 0001; of

Per hand: Environment House
Steve Bikostraat 473,
Arcadia, Pretoria,
0083

Appèlle moet skriftelik ingedien word by:

Mnr Z Hassam, Direkteur: Appèlle en Regsoorsig van die DOS en wel by enige van die bostaande adresse. U kan ook met mnr Hassam in verbinding tree by Tel: (012) 399-9356 of E-pos: Appealsdirector@environment.gov.za.

'n Appèl wat by die Minister ingedien word moet voldoen aan die voorwaardes van die Nasionale Appèlregulasies (verwys na aangehegte Bylae B) wat vir u gerief hierby ingesluit is.

Tree asb met onderstaande in verbinding indien u enige verdere navrae het of inligting verlang.

Die uwe



NICOLE HOLLAND (Pr. Sci. Nat.)

Vir: Holland & Associates - Omgewingskonsultante

¹ Kennisgewing van die besluit is deur die DOS na die Applikant op 16 Maart 2016 gestuur.

ANNEXURE A:
DEPARTMENT OF ENVIRONMENTAL AFFAIRS' DECISION – 14 MARCH 2016

BYLAE A:
DEPARTMEENT VAN OMGEWINGSAKE SE BESLUIT – 14 MAART 2016



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: 14/12/16/3/3/1/1166/AM2

Enquiries: Ms Lesego Rabothata

Telephone: (012) 399 9383 **E-mail:** lrabothata@environment.gov.za

Ms Karen Low
Longyuan Mulilo De Aar 2 North (Pty) Ltd
P O Box 50
CAPE TOWN INTERNATIONAL AIRPORT
7525

Tel: (021) 934 5278
Email: Karen@mulilo.com

PER EMAIL / MAIL

Dear Ms Holland

AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 11 AUGUST 2014 FOR THE CONSTRUCTION OF A 132kV TRANSMISSION POWER LINE ADJACENT TO THE EXISTING ESKOM TRANSMISSION POWER LINE FROM LONGYUAN MULILO DE AAR 2 NORTH WIND ENERGY FACILITY TO THE HYDRA SUBSTATION, NORTHERN CAPE PROVINCE

The Environmental Authorisation (EA) issued for the above application by this Department on 11 August 2014 and your application for amendment to the EA received by this Department on 03 February 2016 refers.

Two amendments have been requested:

- (i) amendment of project description (i.e. amendment of monopole footprint) and (ii) amendment (correction) of typographical / editorial errors in the EA.

Based on a review of the reason for requesting an amendment to the above EA, this Department, in terms of Chapter 5 of the Environmental Impact Assessment Regulations, 2014, has decided to amend the EA dated 11 August 2014 as follows:

- (i) **Amendment 1-The project description as stated on pages 3 and 4 of the EA is amended as follows:**

Listed Activities

Listed Activity	Description in EA	Proposed amendment to description
<u>GN R.544 Item 11:</u> The construction of infrastructure or structures covering 50 square meters or more Where construction occurs within	The proposed length of the transmission line is approximately 25 km (25 000 m ²) and will consist of a 4x4 track (<4 m width) and approximately 118 monopoles, each having a maximum footprint of 2.25m ² , providing an area of	The proposed length of the transmission line is approximately 25 km (25 000 m ²) and will consist of a 4x4 track (<4 m width) and approximately 118 monopoles, each having a footprint ranging from 0.49m ² to 7.29m ² , providing

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<p>a watercourse or within 32 meters of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.</p>	<p>265.5m². There are 10 watercourse crossings, therefore triggering Activity 11.</p>	<p>an area ranging from 58m² to 860m². There are 10 water course crossings, therefore triggering Activity 11.</p>
<p><u>GN R.544 Item 18:</u></p> <p>The infilling or depositing of any material of more than 5 cubic meters into, or dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock or more than 5 cubic meters from:</p> <p>(i) A watercourse; ...but Excluding where such infilling, depositing, dredging, excavation, removal or moving;</p> <p>(a) Is for maintenance purposes undertaken in accordance with management plan agreed to by the relevant environmental authority; or (b) Occurs a developmental setback line.</p>	<p>The excavation per monopole is approximately 2.23 m³ and with 10 water course crossings, assuming that two monopoles will be located within 32 meters of each water course therefore, providing a total excavation of 44.6 m³ therefore triggering the 5 m³ threshold.</p>	<p>The excavation per monopole will range from approximately 1.5 m³ to 17.5 m³ and with 10 watercourse crossings, assuming that two monopoles will be located within 32 meters of each watercourse therefore, providing a total excavation of between 30 m³ to 350 m³ therefore triggering the 5 m³ threshold.</p>
<p><u>GN R. 546 Item 16:</u></p> <p>The construction of: (iv) Infrastructure covering 10 m² or more where such construction occurs within a watercourse or within 32 meters of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.</p>	<p>Approximately 6 km of the transmission line route will fall within the National Protected Area Expansion Strategy Focus Area (NPAESF): Senqu Caledon. Assuming approximately 5 monopoles per km, providing a total of 30 monopoles (each with a footprint of 2.25 m²) within the Senqu Caledon NPAESF area therefore, this activity will be triggered.</p>	<p>Approximately 6 km of the transmission line route will fall within the National Protected Area Expansion Strategy Focus Area: Senqu Caledon. Assuming approximately 5 monopoles (each with a footprint ranging from 0.49 m² to 7.29 m²) within the Senqu Caledon NPAESF area. Approximately 14.7 m² to 218.7 m² of infrastructure will be constructed in this NPAESF area; therefore this activity will be triggered.</p>

(ii) Amendment 2-Correction of typographical/ editorial errors on page 5 of the EA:

From:

-“for the construction of a 132 kV Switching Station (100m x 100m) on the remainder of Portion 6 of the Farm Pienaars Kloof No. 136 and 132 kV power line and the proposed transmission lines for will be 27 km”.

To:

“-for the construction of a 132 kV Switching Station (100m x 100m) on Portion 6 of the Farm Pienaars Kloof No. 136 and 132 kV power line and the proposed transmission line which will be 27km”.

This letter must be read in conjunction with the EA dated 11 August 2014.

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 Department’s decision in respect of the amendment made 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 applicant by the competent authority.

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

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

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

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: 14/03/2016

cc:	Nicole Holland	Holland and Associates	021 712 9120	Email: nicole@hollandandassociates
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**ANNEXURE B:
NATIONAL APPEAL REGULATIONS (GN R. 993)**

**BYLAE B:
NASIONALE APPELREGULASIES (GK R. 993)**

GOVERNMENT NOTICES

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

No. R. 993

8 December 2014

NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998
(ACT NO. 107 OF 1998)

NATIONAL APPEAL REGULATIONS

I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby make the regulations pertaining to the processing, consideration of, and decision on appeals, under section 44(1)(a) read with section 43(4) of the National Environmental Management Act, 1998 (Act No. 107 of 1998), as set out in the Schedule hereto.



BOMO EDITH EDNA MOLEWA
MINISTER OF ENVIRONMENTAL AFFAIRS

SCHEDULE

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CHAPTER 1

INTERPRETATION AND PURPOSE OF REGULATIONS

Interpretation

1. (1) In these Regulations any word or expression to which a meaning has been assigned in the Act, and unless the context requires otherwise—

“appeal administrator” means a holder of an office in the Department or Provincial Department responsible for environmental affairs who administers the appeal on behalf of the appeal authority;

“appeal authority” is the Minister, the MEC or a person delegated the power to decide on appeals by the Minister or MEC, as the case may be;

“appellant” means any person who is entitled to submit an appeal in terms of the legislation referred to in regulation 3(1) of these Regulations;

“decision-maker” means an official who has been delegated the authority to make a decision in terms of the laws referred to in regulation 3(1) of these Regulations;

“applicant” means a person to whom a decision has been issued in terms of the Act or specific environmental management Act;

“independent”, in relation to a person appointed as a member of an appeal panel or a person providing an appeal authority with expert advice as contemplated in regulation 6 of these Regulations, means—

- (a) that such a person has no business, financial, personal or other interest in the appeal in respect of which that person is appointed in terms of these Regulations other than fair remuneration for work performed in connection with that appeal; and
- (b) that there are no circumstances that may compromise the objectivity of that person in performing such work;

“the Act” means the National Environmental Management Act, 1998 (Act No. 107 of 1998).

- (2) When a period of days must be reckoned in terms of these Regulations, the period must be reckoned as from the start of the day following that particular day to the end of the last day of the period, but if the last day of the period falls on a Saturday, Sunday or public holiday, that period must be extended to the end of the next day which is not a Saturday, Sunday or public holiday, and the period of 15 December to 5 January must be excluded from the reckoning of days.
- (3) Where a prescribed timeframe is affected by one or more public holidays, the timeframe must be extended by the number of public holiday days falling within that timeframe.

Purpose of Regulations

2. The purpose of these Regulations is to regulate the procedure contemplated in section 43(4) of the Act relating to the submission, processing and consideration of, a decision on an appeal.

Application of Regulations

3. (1) These Regulations are applicable to an appeal in terms of section 43 of the Act to the Minister or MEC against a decision taken in terms of the:
- (a) Environment Conservation Act, 1989 (Act No. 73 of 1989);
 - (b) National Environmental Management Act, 1998 (Act No. 107 of 1998);
 - (c) National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);
 - (d) National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004); or
 - (e) National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008);

and subordinate legislation made in terms of any of these Acts.

- (2) No appeal is available if the Minister or MEC took the decision himself or herself in his or her capacity as the competent authority, issuing authority or licensing authority.
- (3) An appeal against a decision by an official or municipal manager acting under delegated authority from a metropolitan, district or local municipality must be submitted, processed and considered in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

CHAPTER 2

ADMINISTRATION AND PROCESSING OF APPEALS

Appeal submission

4. (1) An appellant must submit the 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:

- (a) the date that the notification of the decision for an application for an environmental authorisation or a waste management licence was sent to the registered interested and affected parties by the applicant; or
 - (b) the date that the notification of the decision was sent to the applicant by the competent authority, issuing authority or licensing authority, in the case of decisions other than those referred to in paragraph (a).
- (2) An appeal submission must be—
- (a) submitted in writing in the form obtainable from the appeal administrator; and
 - (b) accompanied by—
 - (i) a statement setting out the grounds of appeal;
 - (ii) supporting documentation which is referred to in the appeal submission; and
 - (iii) a statement, including supporting documentation, by the appellant to confirm compliance with regulation 4(1) of these Regulations.

Responding statement

5. The applicant, the decision-maker, interested and affected parties and organ of state must submit their responding statement, if any, to the appeal authority and the appellant within 20 days from the date of receipt of the appeal submission.

Appeal panel

6. (1) If the appeal authority reasonably believes that expert advice must be sought or that an appeal panel must be appointed, the appeal administrator must source an independent expert or constitute an independent appeal panel, or both, within 10 days from the date of receipt of an instruction from the appeal authority.
- (2) The appeal panel contemplated in subregulation (1) may consist of such number of independent experts and with such expertise as the Appeal Authority may deem necessary under the circumstances;
- (3) The expert or appeal panel must provide advice to the appeal administrator within 10 days from the receipt of an instruction from the appeal administrator.

Recommendations and decisions on appeals

7. (1) The appeal administrator must make a recommendation on the appeal to the appeal authority within 30 days of receipt of the responding statement referred to in regulation 5 of these Regulations, in the event that an independent expert has not been sourced or an independent appeal panel has not been constituted.
- (2) The appeal administrator must make a recommendation on the appeal to the appeal authority within 10 days of receipt of the advice referred to in regulation 6(2) of these Regulations, in the event that an independent expert has been sourced or an independent appeal panel has been constituted.
- (3) The appeal authority must reach a decision on an appeal, and notify the appellant, applicant, and any registered interested and affected party, within 20 days of the recommendation on the appeal by the appeal administrator.
- (4) The decision contemplated in subregulation (3) must contain written reasons for the decision.

Communication

8. (1) A person may deliver documents in terms of these regulations by using one of the delivery methods referred to in section 47D of the Act.
- (2) In order to meet the time periods determined in these regulations, the person referred to in subregulation (1), must also email, fax or hand deliver the document to the recipient, if the document is delivered by ordinary mail or registered mail.

CHAPTER 3

GENERAL MATTERS

Repeal of regulations

9. The regulations mentioned in the Table in Annexure 1 to these Regulations are hereby repealed or amended to the extent set out in the third column of the Table.

Transitional arrangements

10. (1) An appeal lodged prior to the commencement of these Regulations, and which is still pending when these Regulations takes effect, must be finalised in terms of the legislation that applied at the time when the appeal was lodged.
- (2) An appeal lodged after the commencement of the Environmental Impact Assessment Regulations, 2014 must be submitted, processed and considered in terms of these Regulations.

Short title and commencement

11. These Regulations are called the National Appeal Regulations, 2014, and take effect on the date of publication in the *Gazette*.