

Case ID: 1912



Province of the  
**EASTERN CAPE**  
Economic Development and  
Environmental Affairs

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Enquiries: Mr. T. Sigabi  
To: Ncera Macadamia Farming (Pty) Ltd  
Contact person: Mr. Wayne Simpson  
Telephone: 043 781 1909  
Fax: 086 740 8027

084 564 7288

Date: 26 April 2010

Date for intention to  
appeal: 21 May 2010

**RE: APPLICATION FOR AMENDMENTS TO CONDITIONS 3.1 AND 3.23 IN THE RECORD OF DECISION (ROD) ISSUED FOR THE PROPOSED NCERA MACADAMIA NUT PROJECT.**

Your application for amendment of the ROD for the above project, dated 08/04/10, refers.

This serves to amend the Environmental Authorization for the proposed Ncera Macadamia nut project issued by this Department on the 23<sup>rd</sup> of March 2010 (Ref: AR/7/F/2/6/08).

The amendments are effected in accordance with the following:

- (a) By the removal of the "the appointment of a full time ECO" clause in Condition 3.1 of the ROD.
- (b) By the substitution of the second sentence of condition 3.23 viz. "All buffers as described in the master plan and the West Bank Local Spatial Development Framework (WBLSDF) must be adhered to even if it means the total area of cultivation is decreased", with "All buffers in the master plan must comply with the provisions of the Conservation of Agricultural Resources Act No. 43 of 1983 (CARA), even if it means the total expected area of cultivation is decreased".

Reasons for amendment

The department is satisfied that, while responding to the applicant's expressed request, its requirements will not be compromised by the amendment of Condition 3.1. Furthermore, the amendment of Condition 3.23 was necessitated by the discovery of contradictory slope requirements between the WBLSDF and CARA i.r.o. orchard establishment which resulted in an unintended consequence.

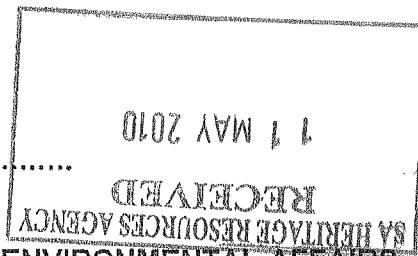
Attached herewith please find the amended Environmental Authorization.

Regards



**B.B. NONCEMBU**

**REGIONAL MANAGER: ENVIRONMENTAL AFFAIRS**



**B.B. NONCEMBU**  
REGIONAL MANAGER: ENVIRONMENTAL AFFAIRS  
AMATHOLE REGION

DATE: 06/05/2010





**Attention** : Wayne Simpson  
**Applicant** : Ncera Macadamia Farming (Pty) Ltd  
**Fax Number**: 043 736 9423

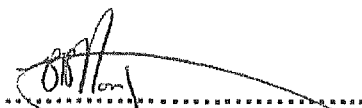
**Enquiries** : T. Sigabi  
**Our Ref** : AR/7/F/2/6/08

Dear Sir/ Madam

**APPLICATION FOR AN AMENDED ENVIRONMENTAL AUTHORIZATION FOR THE PROPOSED PREPARATION OF LAND FOR THE MACADAMIA PROJECT AND ASSOCIATED INFRASTRUCTURE.**

1. With reference to the above mentioned application, please be advised that the Department has decided to grant authorization. The Environmental Authorization and reasons for the decision are attached herewith.
2. In terms of Regulation 10(2) you are instructed to notify all registered interested and affected parties, in writing and within 5 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.
3. Your attention is drawn to Chapter 7 of the Regulations which regulate appeal procedures. Should you wish to appeal any aspect of the decision, you must, lodge a notice of intention to appeal with the MEC within 10 days of receiving this letter, by means of one of the following methods: By facsimile: [040] 6093211 By post: Private Bag X0054, BHISHO, 5605; By hand: 3<sup>rd</sup> floor Indwe House, BHISHO, 5605. Should you decide to appeal, you must serve a copy of your 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.

Yours faithfully



**B.B. NONCEMBU**  
**REGIONAL MANAGER: ENVIRONMENTAL AFFAIRS - AMATHOLE**

DATE: 06/05/2010

The case officer must please fax copies of this letter and the attached Environmental Authorization, as follows:

Organization	Contact Person	Fax number
Ncera Macadamia Farming (Pty) Ltd	Wayne Simpson	043 736 9423
Isixwiba Consulting	Chris Bradfield	043 841 1497





PROVINCE OF THE  
Eastern Cape

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DEPARTMENT OF ECONOMIC DEVELOPMENT AND ENVIRONMENTAL  
AFFAIRS

Amathole Region

## Environmental Authorization

[FOLLOWING SCOPING AND IMPACT ASSESSMENT REPORTS]

AUTHORIZATION REGISTER NUMBER	AR/7/F/2/6/08
LAST AMENDED	N/A
HOLDER OF AUTHORIZATION	Ncera Macadamia Farming
LOCATION OF ACTIVITY	Flintam Farm (Farms 1035, 1036, 1037 & 1038), East London.

### DEFINITIONS:

The following definitions are applicable to this Authorization:

"Department" – The Department of Economic Development and Environmental Affairs, Eastern Cape Province.

"EIA Regulations" – The Environmental Impact Assessment Regulations published in Government Notice No.R385, 386 & 387 of 21 April 2006 promulgated in terms of chapter 5 of the National Environmental Management Act, 1998 (Act 107 of 1998), as amended.

"Commencement" – Any physical activity on site that can be viewed as associated with the development inclusive of initial site preparation.

"EMP" – This refers to an Environmental Management Program/Plan.

"SAHRA" – South African Heritage Resources Agency.

"EIR" – Environmental Impact Report

## Decision

The Department is satisfied, on the basis of information available to it and subject to compliance with the Conditions of this Environmental Authorization, that the applicant should be authorized to undertake the activity specified below. Details regarding the basis on which the Department reached this decision are set out in Annexure 1.

### Activities authorized

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) as amended, and the Environmental Impact Assessment (EIA) Regulations, 2006, the Department hereby authorizes Ncera Macadamia Farming (Pty) Ltd being *the legal or natural person who has applied for this authorization* with the following contact details:

<b>Name</b>	Ncera Macadamia Farming (Pty) Ltd		
<b>Address</b>	R347, Old Pineapple Factory, Ncera		
<b>Telephone</b>	043 736 9423	<b>Fax</b>	043 736 9423
<b>Contact</b>	Wayne Simpson	<b>e-mail</b>	wasimp@mweb.co.za

To undertake the following activity / activities (hereafter referred to as "the activity" / "the activities"), in terms of the scheduled activity or activities listed in the table below:

<b>Detailed description of activity</b>	
<p>The proposed establishment of macadamia nut orchards on 300 hectares of land with associated infrastructure in accordance with the provisions of Locality Plan/ Drawing No. 402946 E.L. 004 as contained in Annexure 1 of the Ncera Macadamia Project: final Environmental Impact Report, compiled by isi-Xwiba Consulting, dated 18 September 2009. The activity entails the following:</p> <ul style="list-style-type: none"> <li>• The preparation of the proposed land for the Macadamia orchards; and</li> <li>• Associated infrastructure, which includes: <ul style="list-style-type: none"> <li>○ Processing plant</li> <li>○ Access roads</li> <li>○ Water supply scheme to provide for the irrigation of the macadamia nut trees</li> <li>○ Construction of two earth dams, one to serve as balancing dam and the other for storage.</li> </ul> </li> </ul>	
<b>Listed Activity[s]</b>	
This application relates to the following activities in Listing Notice No. R386:	
1(k)	The bulk transportation of sewage and water, including storm-water, in pipelines with –

	<ul style="list-style-type: none"> <li>i. An internal diameter of 0.36 metres or more; or</li> <li>ii. A peak throughput of 120 liters per second or more.</li> </ul>
1(m)	<p>The construction of facilities or infrastructure, including associated structures or infrastructure, for any purpose in the one in ten year flood line of a river or stream, or within 32 metres from the bank of a river or stream where the flood line is unknown, excluding purposes associated with existing residential use, but including:</p> <ul style="list-style-type: none"> <li>i. canals</li> <li>ii. channels</li> <li>iii. bridges</li> <li>iv. dams; and</li> <li>v. weirs</li> </ul>
12	The transformation or removal of indigenous vegetation of more than 3 hectares.
15	The construction of a road that is wider than 4 metres or that has a reserve wider than 6 metres, excluding roads that fall within the ambit of another listed activity or which are access roads of less than 30 metres long.
19	The development of a new facility for the conducting of manufacturing processes, warehousing, bottling, packaging which occupies an area of 1000 square metres.
Furthermore this application relates to the following activities in listing Notice No. R387:	
2	Any development activity, including associated structures and infrastructure, where the total area of the developed area is, or is intended to be, 20 hectares or more.
6	The construction of a dam where the highest part of the dam wall, as measured from the outside toe of the wall, is 5 metres or higher or where the high-water mark of the dam covers an area of 10 hectares or more.

At the locality defined in the Table below, and hereafter referred to as "the property":

<b>District</b>	Amathole
<b>Municipal Area</b>	Buffalo City Local Municipality
<b>Farm Name</b>	Flintam Farm
<b>Farm Number and Portion</b>	Farms 1035, 1036, 1037, 1038
<b>Erf Number and Township Extension or suburb</b>	East London
<b>Physical address</b>	R347, Old Pineapple factory, Ncera, East London

**The granting of this Environmental Authorization is subject to the  
Conditions set out below:**

**Conditions**

**1 Scope of authorization**

- 1.1 The authorization of this activity is subject to the Conditions contained in this Environmental Authorization and is binding on the holder of the authorization.
- 1.2 This authorization is specifically for the proposed establishment of the Macadamia nut orchards and associated infrastructure in accordance with the provisions of Drawing No. 402946 EL 004 as contained in Annexure 1 of the Ncera Macadamia Project final EIR compiled by isi-Xwiba Consulting cc., dated September 2009.
- 1.3 The holder of the Environmental Authorization shall be responsible for ensuring compliance with the Conditions by any person acting on his or her behalf, including but not limited to, an agent, sub-contractor, employee or person rendering a service to the holder of the Environmental Authorization.
- 1.4 The activity which is authorized may only be carried out at the property indicated on page 3 of 11 in this Environmental Authorization.
- 1.5 Any changes to, or deviations from the project description set out in this authorization must be approved, in writing, by this Department before such changes or deviations may be effected. In assessing whether to grant such approval or not, this Department may request such information as it deems necessary to evaluate the significance and impacts of such changes or deviations and it may be necessary for the holder of the authorization to apply for further authorization in terms of the EIA Regulations.
- 1.6 This activity must commence within a period of two (2) years from the date of issue. If commencement of the activity does not occur within that period, the authorization lapses and a new application for Environmental Authorization must be made in order for the activity to be undertaken.
- 1.7 This Environmental Authorization does not absolve the holder of the authorization from the responsibility to comply with any other statutory requirements that may be applicable to the undertaking of the activity.

## **2 Appeal of authorization**

- 2.1 The holder of the authorization must notify every registered interested and affected party, in writing and within seven (7) calendar days, of receiving notice of the Department's decision to authorize the activity.
- 2.2 The notification referred to in Condition 2.1 on page 4 of 11 in this Environmental Authorization must:
  - 2.2.1 Specify the date on which the authorization was issued.
  - 2.2.2 Inform interested and affected parties of the appeal procedure provided for in Chapter 7 of the EIA Regulations; and
  - 2.2.3 Advise the interested and affected party that a copy of the Environmental Authorization and reasons for the decision will be furnished on request.

## **3 Management of the activity**

- 3.1. The applicant must appoint an independent Environmental Control Officer (ECO) to monitor compliance with the Conditions of this authorization and guide the implementation of the final EMP to be submitted to this Department for approval.
- 3.2. The applicant must ensure that the final EMP is submitted to this Department for approval before construction commences.
- 3.3. The contractor must ensure that all disturbed areas are rehabilitated immediately or within three (3) months of the completion of construction activities to prevent soil erosion. Adequate erosion control mechanisms must be put in place to ensure that silting emanating from the excavations does not wash into the rivers or surface water
- 3.3. The contamination of soil through chemical pollution must be prevented. Any plant / equipment found to be contributing to this must be removed from the site.
- 3.4. All waste and any contaminated soil must be correctly disposed of at a registered waste disposal site.
- 3.5. The contractor must provide sufficient bins with lockable lids on-site to store solid waste produced on daily basis. Ablution facilities must be provided on-site for workers.
- 3.6. The suitable area for the construction camp site must be identified with the guidance of the ECO and must be clearly demarcated.

3.7. The holder of this authorization will be held liable in the event of non-compliance by any contractor associated with this activity.

3.8. Should any cultural or archaeological artefacts or evidence be discovered at any stage during construction or operation, the relevant authority (SAHRA) must be alerted and all operations ceased.

3.9. All natural features identified on the pipeline route or orchards must be clearly marked as no-go areas.

### ***Pipeline system***

3.10. The protected, endangered species and individual trees worthy of protection within the development footprint must be identified by a qualified botanist and clearly demarcated. This must be done in order to ensure that they are not removed or damaged without the necessary permits from the relevant regulatory authority.

3.11. The clearing of vegetation must be undertaken shortly before construction to limit the amount of time soil is exposed to the elements.

3.12. The pipeline must be installed within the existing road reserve for the rest of the project. Should the pipeline run next to the household properties, the owners must not be denied access to their homes for more than a day.

3.13. Should the pipeline route cross a wetland, above ground pipes must be used in order to minimise disturbance of wetland systems in the area.

3.13.1. In this regard an application for a licence to cross the wetland must be first obtained from the Department of Water Affairs (DWA).

3.13.2. Wetland boundaries must be delineated according to DWA wetland delineation guidelines.

3.14. Should the pipeline route cross a stream, river or channel, then all reasonable measures must be taken to ensure the stability of the water course is not detrimentally affected by:

- (a) impeding or diverting flow,
- (b) scouring, erosion or sedimentation of the watercourse is prevented, and
- (c) rehabilitation of the watercourse, including riparian and instream habitat, is undertaken after any impedance or diversion of flow.



- 3.15. Topsoil removal must be limited to what is strictly necessary, stockpiled for use in rehabilitation. Stockpiles must be placed in non-environmentally sensitive areas and be protected from erosion and contamination.
- 3.16. Any construction activity that takes place where the pipeline crosses the R 346 and the R 347 roads, the South African National Roads Agency must be notified and relevant permits be obtained thereof. Warning signage must be erected before construction activities commence.
- 3.17. The contractor must ensure that a Storm Water Management Plan (SWMP) is developed for the management of storage dams' overflow.

#### ***Orchard establishment***

- 3.18. The removal of vegetation must be restricted to those areas where it is strictly necessary for the carrying out of the work.
- 3.19. Vegetation on steep river banks and on drainage lines must be left intact and the areas declared as no-go areas. Trimming, mowing or grubbing must be done instead of removal of vegetation by heavy construction machinery and disturbance of species protected in terms of the National Forests Act No. 84 of 1998 be permitted by the Department of Agriculture, Forestry and Fisheries.
- 3.20. There must be no stockpiles, concrete batching, toilets or construction camps erected within 1:100 year flood-line of any water-course. No washing of any equipment within any water-course.
- 3.21. Water used for construction purposes may not be released into the water courses without having been adequately treated first.
- 3.22. Adequate bank stabilization and erosion protection measures must be provided immediately or within 48 hours of observation.
- 3.23. A master plan that indicates buffer zones around rivers and steep slopes must be developed before commencement of the operations. All buffers in the master plan must comply with the provisions of the Conservation of Agricultural resources Act No. 43 of 1983 (CARA) even if it means the total expected area of cultivation is decreased.
- 3.24. The SWMP must also devise ways to prevent surface run-off during irrigation and rainy seasons. Such a plan must be submitted to this Department for approval before the commencement of operational activities.

### ***Operational phase***

- 3.25. Regular visual monitoring must be undertaken on the pipeline and dams to identify leakages.
- 3.26. The access road must follow the existing tracks and all roads must be provided with adequate erosion protection measures.
- 3.27. The *Casuarina* spp. and Napier grass must be prevented from spreading into the surrounding indigenous vegetation and water courses; and quarterly inspections must be undertaken by the ECO and the proponent to ensure that these species are kept under control.
- 3.28. The use of pesticides must be limited to that which is strictly necessary and no pesticides may be used, mixed or disposed of where they may contaminate water courses.
- 3.29. All re-vegetated and rehabilitated areas must be monitored during the defects liability period to determine the effectiveness of the re-vegetation / rehabilitation measures.
- 3.30. It is the applicant's responsibility to control alien invasive species in the entire development footprint. An Alien Invasive Management Plan (AIMP) must be developed and submitted to this department for approval prior to the commencement of the operational phase. The AIMP must include monitoring of the alien invasive species occurrence in-site and the submission of a report on a quarterly basis.

#### **4 Monitoring**

The ECO must monitor compliance with the Conditions of this authorization and the implementation of the final EMP to be submitted to this Department for approval.

#### **5 Recording and reporting to the Department**

The holder of this authorization must within fourteen (14) days after completion of construction submit a closure report to this Department, reporting on compliance with the specifications as detailed under heading three (3), on pages 5, 6 & 7 of 11 in this Environmental Authorization.

#### **6 Commissioning of the activity**

Ten (10) days written notice must be given to the Department to indicate that the activity 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 activities will commence.

**7 Operation of the activity**

The alien plant monitoring and control programme must be implemented for the retention period of the project.

**8 Site closure and decommissioning**

The holder of this authorization must ensure that on completion of the activity the camp site is properly closed and rehabilitated. Such rehabilitation must take place within 3 months of the completion of construction activities.

**9 General**

9.1 A copy of this authorization must be kept at the property where the activity will be undertaken. The authorization must be produced to any authorized 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 authorization who works or undertakes work at the property.

9.2 Where any of the applicant's contact details change, including the name of the responsible person, the physical or postal address and / or telephonic details, the applicant must notify the Department as soon as the new details become known to the applicant.

9.3 The holder of the authorization must notify the Department, in writing and within 24 (TWENTY FOUR) hours, if Condition 1.3 on page 4 of 11 in this authorization cannot be or is not adhered to. In all other cases, the holder of the authorization must notify the Department, in writing, within 48 hours if any Condition of this Environmental Authorization is not adhered to. Any notification in terms of this Condition must be accompanied by reasons for the non-compliance.

9.4 Non-compliance with any Condition of this Environmental Authorization may result in criminal prosecution or other actions provided for in the National Environmental Management Act, 1998 (Act 107 of 1998) as amended, and the EIA Regulations, being instituted against the holder of the authorization or responsible person.

Date of Environmental Authorization: 06/05/2010

  
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**T. SIGABI**

**ENVIRONMENTAL OFFICER: EIM - AMATHOLE**

  
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**B.B. NONCEMBU**

**REGIONAL MANAGER: ENVIRONMENTAL AFFAIRS - AMATHOLE**

## Annexure 1: Reasons for Decision

### 1. Background

The applicant, Ncera Macadamia Farming (Pty) Ltd, applied for an Environmental Authorization to carry out the following activity:

- The preparation of the proposed land for the Macadamia orchards; and
- Associated infrastructure, which includes:
  - Processing plant
  - Access roads
  - Water supply scheme to provide for the irrigation of the macadamia nut trees
- Construction of two earth dams, one to serve as balancing dam and the other for storage.

The applicant appointed Isixwiba Consulting cc to undertake a Scoping and Impact Assessment process in this regard.

### 2. Information considered in making the decision

In reaching its decision, the Department took, *inter alia*, the following into consideration:

- 2.1. The information contained in the Scoping Report for the proposed preparation of land for the macadamia nut and associated infrastructure, as compiled by Isixwiba Consulting cc, dated January 2009.
- 2.2. The information contained in the Environmental Impact Assessment Report for the proposed preparation of land for the macadamia nut and associated infrastructure, as compiled by Isixwiba Consulting cc., dated September 2009.
- 2.3. The information contained in the draft EMP Report for the preparation of land for the macadamia nut and associated infrastructure, as compiled by Isixwiba Consulting cc, dated June 2009.
- 2.4. The objectives and requirements of relevant legislation, policies and guidelines, including the National Environmental Management Act, 1998 (Act No. 107 of 1998) as amended, and;
- 2.5. The site inspection conducted by Mr. T. Sigabi from this Department and Mr. C. J. Bradfield from Isixwiba Consulting cc.

### **3. Key factors considered in making the decision**

All information presented to the Department was taken into account in the Department's consideration of the application. A summary of the issues which, in the Department's view, were of the most significance is set out below:

- 3.1 The negative impacts associated with the proposed development are not unacceptable and can be adequately mitigated provided the Conditions of this Environmental Authorization are adhered to and fully implemented.
- 3.2 The project will create +/- 300 jobs, and thus will have positive socio-economic implications for the area.
- 3.3 The project is in line with the West Bank Local Spatial Development Framework.

### **4. Findings**

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

- 4.1 The application and supporting documentation complied with legal requirements.
- 4.2 This development will not have a significant negative impact on the environment provided the Conditions of this Environmental Authorization are adhered to and fully implemented.
- 4.3 There is need and desirability for the project.

In view of the above, the Department is satisfied that, subject to compliance with the Conditions contained in this Environmental Authorization, the proposed activities will not conflict with the general objectives of integrated environmental management as laid down in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) as amended, and that any potentially detrimental environmental impacts resulting from the proposed activity can be mitigated to acceptable levels. The application is accordingly granted.

