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Department:  
Economic Development, Environment,  
Conservation and Tourism  
North West Provincial Government  
**REPUBLIC OF SOUTH AFRICA**



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**Reference: REC19/2022NW**

**Attention: Mr. Marius Nel**  
P.O. Box 306  
**HARTEBEEFONTEIN**  
2600

Tel No.: (018) 431 0560  
Cell No.: 083 407 2313  
Email: [ronel@mnelboerdery.co.za](mailto:ronel@mnelboerdery.co.za)

Dear Sir

**ENVIRONMENTAL AUTHORISATION FOR THE RECTIFICATION OF AN UNLAWFUL CLEARANCE OF 26.4 HECTARES OF INDIGENOUS VEGETATION FOR THE ESTABLISHMENT OF GRAIN HANDLING AND STORAGE FACILITIES ON THE REMAINING EXTENT OF PORTION 4 OF THE FARM WAAGKRAAL 374 IO, LISTED ACTIVITY NUMBER 15 IN GN R. 325 AND LISTED ACTIVITY NUMBER 12(h)(iv) AND (vi) IN GN R. 324, CITY OF MATLOSANA, NORTH-WEST PROVINCE.**

Your application for Environmental Authorisation, in terms of Section 24(2)-(a) of the National Environmental Management Act, 1998 as amended (Act No. 107 of 1998) in respect of -

Government Notice No. R. 325 of the EIA Regulations of 04 December 2014 as amended for:

*The clearance of an area of 20 hectares or more, of indigenous vegetation (Listed Activity 15).*

Government Notice No. R. 324 of the EIA Regulations of 04 December 2014 as amended for:

*The clearance of an area of 300 square meters or more of indigenous vegetation in North-West Province within a critical biodiversity area; and in areas within a watercourse or wetland, or within 100 metres from the edge of a watercourse or wetland [Listed Activity 12(h)(iv) and (vi)].*

In terms of the Regulations of Chapter 5 of NEMA, 1998 refer.



**Let's Grow North West Together**



This Department has evaluated the **Environmental Impact Assessment Report** received on 25 May 2023 and considered proof of payment of administrative fine received on 31 July 2023 for the rectification of an unlawful clearance of 26.4 hectares of indigenous vegetation for the establishment of grain handling and storage facilities on the remaining extent of Portion 4 of the farm Waagkraal 374 IO, Maquassi Hills Local Municipality, North-West Province, to verify whether this activity will have significant negative impact on the environment.

**Enclosed please find the Environmental Authorisation and the conditions under which your application is authorised.**

Formal appeals regarding the Environmental Authorisation can be directed to the Appeal Administrator for Department of Economic Development, Environment, Conservation and Tourism, North-West Province. Such an appeal must be lodged in terms of the National Appeal Regulations of 08 December 2014.

**Yours Faithfully**



**Ms. Portia Krisjan**

**Director: Environmental Quality Management**

**Department of Economic Development, Environment, Conservation and Tourism**

**Date:** 16/10/2023

**Cc: AB Enviro-Consult cc**

Contact Person: Mr. JP de Villiers

Cell No.: 082 564 2642

Tel No.: (018) 294 5005

Fax No.: (018) 293 0671

Email: [jp@abenviro.co.za](mailto:jp@abenviro.co.za)

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## A. DEFINITIONS

**“activity”** means an activity identified in any notice published by the Minister or MEC in terms of Section 24D(1)(a) of the Act as a listed activity or specified activity.

**“commence”** means the start of any physical activity, including site preparation and any other activity on the site in furtherance of a listed activity or specified activity, but does not include any activity required for purposes of an investigation or feasibility study as long as such investigation or feasibility study does not constitute a listed activity or specified activity

**“development”** means the building, erection, construction or establishment of a facility, structure or infrastructure, including associated earthworks or borrow pits, that is necessary for the undertaking of a listed or specified activity, including any associated post development monitoring, but excludes any modification, alteration or expansion of such a facility, structure or infrastructure, including associated earthworks or borrow pits, and excluding the redevelopment of the same facility in the same location, with the same capacity and footprint.

**“expansion”** means the modification, extension, alteration or upgrading of a facility, structure or infrastructure at which an activity takes place in such a manner that the capacity of the facility or the footprint of the activity is increased.

**“independent”**, in relation to an EAP, a specialist or the person or the person responsible for the preparation of an environmental audit report, means

- a) that such EAP, specialist or person has no business, financial, personal or other interest in the activity or application in respect of which that EAP, specialist or person is appointed in terms of these Regulations; or
- b) that there are no circumstances that may compromise the objectivity of that EAP, specialist or person in performing such work excluding –
  - (i) normal remuneration for a specialist permanently employed by the EAP; or
  - (ii) fair remuneration for work performed in connection with that activity, application or environmental audit.


**“public participation process”** means a process in which potential interested and affected parties are given an opportunity to comment on, or raise issues relevant to, specific matters.

**“registered interested and affected party”**, in relation to an application, means an interested and affected party whose name is recorded in the register opened for that application in terms of Regulation 42.

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

**“the Department”** means the Department of Economic Development, Environment, Conservation and Tourism

**“state Department”** means any Department or administration in the national or provincial sphere of government exercising functions that involve the management of the environment.

 **“the Regulations”** means the Environmental Impact Assessment Regulations of 04 December 2014 as amended.



## B. Environmental Authorisation

Authorisation register number: REC19/2022NW

Holder of Environmental Authorisation: Mr. Marius Nel

Location of activity: The remaining extent of Portion 4 of the farm Waagkraal 374 IO, Maquassi Hills Local Municipality, North-West Province.

### 1. 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:

### 2. Activity authorised

By virtue of the powers delegated by the MEC in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) as amended and the Environmental Impact Assessment Regulations of 04 December 2014 as amended, the Director: Environmental Quality Management of the Department of Economic Development, Environment, Conservation and Tourism, authorises:-

**Mr. Marius Nel**  
P.O. Box 306  
**HARTEBEEFONTEIN**  
2600

Tel No.: (018) 431 0560  
Cell No.: 083 407 2313  
Email: [ronel@mnelboerdery.co.za](mailto:ronel@mnelboerdery.co.za)

to continue with the following activity:

*The clearance of 26.4 hectares of indigenous vegetation for the establishment of grain handling and storage facilities. 1 906 square metres of the area that has already been cleared is located within 100 metres from a non-perennial stream (Boesmanspruit). The property has existing facilities which includes:*

- A site entrance and electric fence;
- Office;
- Receiving weighing-in Weigh Bridge;
- Dispatching and receiving facility with a weighing-out Weigh Bridge
- Galvanized steel silos;
- Shed for storage of machinery and equipment; and
- Laydown area for the storage of silo bags.



The development will cover the footprint of 26.4 hectares.



Details regarding the basis on which the Department reached this decision are set out in Annexure 1.

**Site Location:**

Alternative Site	Latitude	Longitude
Remaining Extent of Portion 4 of the farm Waagkraal 374 IO ( <i>indigenous vegetation clearance; and grain handling and storage facilities development site</i> )	26° 56' 04.14"S	25° 56' 27.71"E

The development site is located approximately 14km south of Ottosdal, on the remaining extent of Portion 4 of the farm Waagkraal 374 IO, which falls within the jurisdiction of Maquassi Hills Local Municipality, North-West Province, hereafter referred to as "the property"

**3. Conditions**

**3.1 Scope of Environmental Authorisation**

- 3.1.1 The preferred Alternative Site (S1) **is approved**.
- 3.1.2 Authorisation of the activity is subject to the conditions contained in this Environmental Authorisation, which are binding on the holder of the Environmental Authorisation.
- 3.1.3 The holder of the Environmental Authorisation must be responsible for ensuring compliance with the conditions in this Environmental Authorisation. This includes any person acting on the holder's behalf, including, contractor, sub-contractor, employee, consultant or person rendering a service to the holder of the Environmental Authorisation.
- 3.1.4 The activity authorised may only be carried out at the property as described in Point 2 under site location.
- 3.1.5 This Environmental Authorisation does not negate the holder of the Environmental Authorisation's responsibility to comply with any other statutory requirements that may be applicable to the undertaking of the activity.
- 3.1.6 Relevant legislation that must be complied with by the holder of this Environmental Authorisation includes, *inter alia*:
- a) All provisions of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).
  - b) All provisions of the Conservation of Agricultural Resources Act, 1983 (Act No. 43 of 1983).
  - c) All provisions of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).
  - d) All provisions of the National Water Act, 1998 (Act No. 36 of 1998).



- e) All provisions of the National Environmental Management: Waste Act, 2008 (Act 59 of 2008) as amended.
  - f) All provisions of the Spatial Planning and Land Use Management Act, 2013 (Act No.16 of 2013).
  - g) All provisions of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993).
  - h) The development must adhere to the municipal by-laws.
- 3.1.7 The holder of an Environmental Authorisation has the responsibility to apply for Environmental Authorisation amendment to the competent authority for any alienation or deviation from project description / ownership.

#### **4. Appeal of Environmental Authorisation**

- 4.1 The holder of the Environmental Authorisation must notify every **registered** interested and affected party, in writing and within **14 days** of receiving an Environmental Authorisation from the Department.
- 4.2 The notification referred to in 4.1 must –
- 4.2.1 Inform interested and affected parties of the decision, reason for decision and where the decision can be accessed.
  - 4.2.2 Advise the interested and affected parties that a copy of the Environmental Authorisation and reasons for the decision will be furnished on request.
  - 4.2.3 Specify the date on which the Environmental Authorisation was issued.
  - 4.2.4 Inform the registered interested and affected parties of the appeal procedure provided for in Chapter 2 of the National Appeal Regulations (see Annexure 2).
- 4.3 An appeal against the decision must be lodged in terms of Chapter 2 of the National Appeal Regulations on Appeal form obtainable from:

**Ms. Carene Nieuwoudt**

**Department of Economic Development, Environment, Conservation and Tourism**

Room E30, Agricentre Building

Cnr. Dr. James Moroka & Stadium Road

**MMABATHO**

Tel No.: (018) 389 5986

Cell No.: 083 385 9486

E-Mail: [CNieuwoudt@nwpg.gov.za](mailto:CNieuwoudt@nwpg.gov.za)

- 4.4 An appeal made against this Environmental Authorisation will result in it being suspended; therefore the activity must not commence pending the lapse of 20 days after all interested and affected parties have been informed of this decision.



- 4.5 Should an appeal be lodged within 20 days after notification to all Interested and Affected parties of this decision, the activity may only commence once the decision by the MEC, as Appeal Authority, have been made.

## 5. Management of the activity

- 5.1 The Environmental Management Programme (EMPr) for the project submitted as part of application for Environmental Authorisation is **hereby approved**.
- 5.2 The recommendations and mitigation measures outlined in the Environmental Impact Assessment Report and the provisions of the EMPr compiled by AB Enviro-Consult cc, and received by the Department on 25 May 2023, must be adhered to.
- 5.3 Any proposed amendments to the EMPr (as a result of this Environmental Authorisation or otherwise) must be submitted in writing to Director: Environmental Quality Management for approval prior to the amendment being implemented. The proposed amendments will be decided upon by the Department within a period of **30 days** of receiving the submission.

## 6. Monitoring

- 6.1 The holder of Environmental Authorisation has the responsibility to ensure that the mitigation/ rehabilitation measures and recommendations referred to in the Environmental Impact Assessment Report are implemented, and to ensure compliance with the provisions of the EMPr.
- 6.2 The holder of Environmental Authorisation must ensure communications with key stakeholders in respect to monitoring of compliance with conditions of Environmental Authorisation and the EMPr, and also liaise with the Environmental Compliance and Enforcement Section of this Department. [Potchefstroom District Office contact details: Tel No. (018) 299 6686, Email: [RMolusi@nwpg.gov.za](mailto:RMolusi@nwpg.gov.za)].
- 6.3 It is the responsibility of the holder of this Environmental Authorisation to ensure that an ongoing management and monitoring of the impacts of the activities on the environment throughout the life cycle of the activities is put into practice.

## 7. Validity Period of the activities authorised

- 7.1 This Environmental Authorisation is valid for the period of **5 years** (i.e. these activities must be concluded within **5 year** from the date of issue of this Environmental Authorisation).
- 7.2 If the holder of the Environmental Authorisation anticipates that the conclusion of the activity would not occur within a **5 year** period, he/she must prior to the lapse of **5 years**, apply for an amendment of the Environmental Authorisation and show good cause and give reasons why an extension of the Environmental Authorisation should be granted.
- 7.3 Should the environmental authorisation expires, the said authorisation will be null and void, a new application for the environmental authorisation must be made in order for the activity to be undertaken.






## 8. Recording and reporting to the Department/ Environmental Audit Report

- 8.1 **14 days** written notice must be given to the Departments' Environmental Compliance and Enforcement Section that the activity will commence at [CNieuwoudt@nwpg.gov.za](mailto:CNieuwoudt@nwpg.gov.za) and [EMulibana@nwpg.gov.za](mailto:EMulibana@nwpg.gov.za).
- 8.2 All incidents of major hazardous substance spill must be reported to the Environmental Compliance and Enforcement Section within **48 hours** and action taken to remedy the situation must be outlined.
- 8.3 Records relating to monitoring and auditing must be kept on site and made available for inspection to any relevant and competent authority in respect of this development.

## 9. Specific Conditions

- 9.1 The applicant must adhere to the proposed mitigation measures and recommendations contained in the Environmental Impact Assessment Report compiled by AB Enviro Consult cc and received by the Department on 25 May 2023.
- 9.2 The development must be restricted to clearance of 26.4 hectares of indigenous vegetation for the establishment of grain handling and storage facilities on the Remaining Extent of Portion 4 of the farm Waagkraal 374 IO, Maquassi Hills Local Municipality, North-West Province.
- 9.3 All plant species of conservation importance (if any) must be removed from the demarcated area prior to construction commencing and must either be relocated outside of the construction area or donated to the South African National Biodiversity Institute (SANBI) in consultation with Biodiversity Management Directorate of this Department.
- 9.4 The applicant must consult the Department of Water and Sanitation (DWS) regarding clearance of 1906 square metres of vegetation within 100m of Boesmanspruit.
- 9.5 Activities that may cause soil and water pollution must be avoided. The use of chemicals and storage and handling of fuel must be undertaken on bunded and impermeable surface.
- 9.6 Stormwater management system must be developed to prevent pollution of any water resource including ground water component from occurring, recurring or continuing to occur. The stormwater management must be kept separate from sewage reticulation.
- 9.7 Should any archaeological artefacts be exposed during earth moving activities, construction in the vicinity of the finding must be stopped and the South African Heritage Resource Agency must be notified immediately (**within 48 hours**). Under no circumstances shall any artefacts be destroyed. Such an archaeological site must be marked and fenced off.
- 9.8 The fuel storage tanks must be located in portion of the construction camp where they do not pose high risk in terms of water pollution (i.e. they must be located away from the watercourse).
- 9.9  Topsoil must be removed and stockpiled aside for rehabilitation purposes, and it must be ensured that topsoil stockpiles are located outside of any drainage lines and area susceptible to erosion.



- 9.10 Dust suppression measures must be implemented at all times during construction to prevent the spreading of nuisance dust.
- 9.11 Ablution facilities must be provided to the workers during the construction phase. They must be serviced regularly to ensure proper operation, and they must be emptied at the municipal sewage treatment works to prevent any possible pollution.
- 9.12 All solid waste produced by the development during construction must be removed once a week to a licensed landfill site.
- 9.13 The holder of Environmental Authorisation is responsible for compliance with the provisions for duty of care and remediation of environmental damage in accordance with Section 28 of National Environmental Management Act, 1998 (Act No. 107 of 1998).
- 9.14 The holder shall adhere to, and ensure adherence by all contractors, sub-contractors and workers for this project, to all conditions listed herein, and all obligations, commitments, monitoring and proposed mitigation measures as outlined in the EMPr.

## **10. General**

- 10.1 A copy of this Environmental Authorisation must be kept at the property where the activity will be undertaken, and must be produced to any authorised official of the Department upon request.
- 10.2 The holder of the Environmental Authorisation must notify the Department (accompanied by reasons), in writing and within **48 hours**, if any condition of this Environmental Authorisation cannot be or is not adhered to. Non-compliance with a condition of this Environmental Authorisation may result in criminal prosecution or other actions provided for in the National Environmental Management Act, 1998 (Act No. 107 of 1998) and the Regulations.
- 10.3 No public authority shall be held responsible for any damages or losses suffered by the applicant or his successor in title in any instance for reasons of non-compliance by the applicant with the conditions of this Environmental Authorisation as set out in this document or any other subsequent document emanating from these conditions of this Environmental Authorisation.

### **Environmental Authorisation Approved By:**



**Ms. Portia Krisjan**

**Director: Environmental Quality Management**

**Department of Economic Development, Environment, Conservation and Tourism**

**Date:** 16/10/2023



## ANNEXURE 1: REASONS FOR AUTHORISATION

### 1. Background

The Applicant, **Mr. Marius Nel** applied for Environmental Authorisation to carry out the following activity:

*The rectification of an unlawful clearance of 26.4 hectares of indigenous vegetation for the establishment of grain handling and storage facilities on the remaining extent of Portion 4 of the farm Waagkraal 374 IO, Maquassi Hills Local Municipality, North-West Province*

The applicant appointed **AB Enviro Consult cc** to undertake Environmental Impact Assessment process as required by S24G NEMA.

### 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 Environmental Impact Assessment Report compiled by AB Enviro Consult cc and received by the Department on 25 May 2023.
- b) All mitigation measures and recommendations as proposed in the Environmental Impact Assessment Report and the Environmental Management Programme received by the Department on 25 May 2023.
- c) 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) as amended.
- d) The findings of a site visit undertaken by the Department officials Ms. Rofhiwa Musetsho and Mr. Reaobaka Molusi with Mr. JP de Villiers of AB Enviro Consult cc on 23 March 2023.

### 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:

- a) A sufficient public participation process was undertaken and the applicant has satisfied the minimum requirements as prescribed in the EIA Regulations of 2014 as amended for public involvement. The proposed development was advertised in the "Stellalander" newspaper dated 11 January 2023 as part of the public participation process.
- b) The legal and procedural requirements have been complied with and the information contained in the document is to the satisfaction of this Department.
- c) Recommendations of the Ecological Fauna and Flora Habitat Survey (report dated December 2022) undertaken by Anthene Ecological cc.

- d) Recommendations of the Heritage Impact Assessment (report dated 15 December 2022) undertaken by Apelser Archaeological consulting.
- e) Payment of administrative fine (proof of payment received by the department on 31 July 2023).

#### 4. Findings

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

- a) The proposed development is compatible with the general landuse of the property (agriculture), and it fits in with the surrounding environment that is consist of agricultural activities (irrigated cultivated lands).
- b) The grain handling and storage facility is required for storage of grain in a conducive environment after a harvest and ensuring that food security is maintained through the provision of good quality grain during dry seasons of the year.
- c) Although the screening tool report identified a very high sensitivity on aquatic and terrestrial biodiversity themes, the Ecological Fauna and Flora Habitat Survey (report dated December 2022) undertaken by Anthene Ecological cc concluded that the watercourse (Boesmanspruit and its riparian zone) is a substantial distance from the site, and the current developments at the site are unlikely to have detrimental impact on the watercourse situated north of the site. The study also confirmed that vegetation (grassland) at the site has already been modified and it is unlikely that any plant species of conservation concern occurs at the site or has occurred at the site prior to clearing of vegetation on the property.
- d) The South African Heritage Resources Agency has indicated that they have no objection to the proposed development and they support recommendations of the Heritage Impact Assessment Report (report dated 15 December 2022) compiled by Apelser Archaeological consulting.

In view of the above, the Department is satisfied that, subject to compliance with the conditions contained in the Environmental Authorisation, the activity will not conflict with the general objectives of Integrated Environmental Management laid down in terms of Section 23(2)(a-f) of Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the activity can be mitigated to acceptable levels. **The application is accordingly granted.**

*[Handwritten signature]*



## ANNEXURE 2: ADMINISTRATION AND PROCESSING OF APPEALS

### ADMINISTRATION AND PROCESSING OF APPEALS IN TERMS OF CHAPTER 2 OF THE NATIONAL APPEAL REGULATIONS, 2014 TO BE FOLLOWED BY THE APPLICANT, AND INTERESTED AND AFFECTED PARTIES UPON RECEIPT OF NOTIFICATION OF AN ENVIRONMENTAL AUTHORISATION

#### 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 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 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, which are:
  - (i) by faxing a copy of the notice or other document to the person, if the person has a fax number;
  - (ii) by e-mailing a copy of the notice or other document to the person if the person has an e-mail address; or
  - (iii) by posting a copy of the notice or other document to the person by ordinary mail, if the person has a postal address;
- (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.

