



**SUSTAINABLE
FUTURES ZA**

14 June 2010

DEA ref: 12/12/20/1817

Our ref: SE239

Dear Stakeholder,

**PROPOSED CONSTRUCTION OF A WIND MONITORING MAST ON A SITE NEAR
WESLEY, EASTERN CAPE PROVINCE**

**NOTIFICATION OF GRANTING OF AUTHORISATION BY DEA
PROJECT REFERENCE 12/12/20/1817**

Just Energy submitted an application for authorisation to the National Department of Environmental Affairs (DEA Ref No. 12/12/20/1817) for the establishment of a wind monitoring mast on Portion 2 of the farm Sandflat 149 near Wesley in the Eastern Cape.

As a registered interested and affected party on this project, you are duly notified that the Department has decided to grant Just Energy authorisation for the project (in terms of Section 10(2) of the Environmental Impact Assessment Regulations). The environmental authorisation (dated 10 June 2010) and conditions for authorisation, as well as reasons for the decision are attached to this letter of notification.

As an interested and affected party, your attention is drawn to Chapter 7 of the EIA Regulations which regulates appeal procedures. Should you wish to appeal any aspect of the decision by DEA, you are required to lodge a notice of intention to appeal with the Minister within ten (10) days of receiving notice of the decision. A copy of the official appeal form can be obtained from the following persons at the Department:

Mr. TH Zwane

Senior Legal Administration Officer (Appeals)

Tel: 012 310 3929

Email: tzwane@deat.gov.za

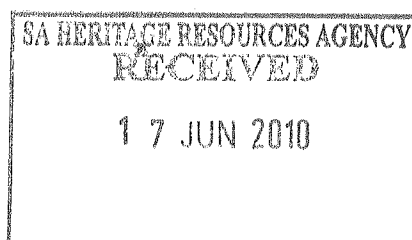
Ms. MM Serite

Legal Administration Officer (Appeals)

Tel: 012 310 3788

Email: mserite@deat.gov.za

WITH BGG



Please note that you may submit your appeal via:

Fax: (012) 310 3688

Post: Private Bag X447, Pretoria, 0001

By hand: 2nd Floor, Fedsure Form Building, North Tower, cnr Van der Walt and Pretorius Streets, Pretoria

Please note that appeals *should not be* addressed to the consultant (Savannah Environmental).

Kind regards

Shawn Johnston

Attached: Copy of the Environmental Authorisation

APPEALS PROCEDURE IN TERMS OF CHAPTER 7 OF R. 385 OF 2006 TO BE FOLLOWED BY THE APPLICANT AND INTERESTED AND AFFECTED PARTIES UPON RECEIPT OF NOTIFICATION OF AN ENVIRONMENTAL AUTHORISATION

APPLICANT	INTERESTED AND AFFECTED PARTIES (IAPs)
1. Receive notice of Environmental Authorisation from the relevant Competent Authority	1. Receive notice of Environmental Authorisation from Applicant/Consultant
2. Within 10 days of receipt of notification, notify the relevant Competent Authority and all IAPs of intention to appeal	2. Within 10 days of receipt of notification, notify the relevant Competent Authority of intention to appeal
3. Notification served by the Applicant must include: 3.1. A copy of the notice of intention to appeal; and 3.2. A notice indicating where and for what period the appeal submission will be available for inspection by all IAPs	3. Appellant must serve on the Applicant 3.1. A copy of the notice of intention to appeal 3.2. A notice indicating where and for what period the appeal submission will be available for inspection by the appellant
4. The appeal must be submitted to the relevant Competent Authority or delegated organ of State within 30 days of lodging of the notice of intention to appeal	4. The appeal must be submitted to the relevant Competent Authority or delegated organ of State within 30 days of lodging of the notice of intention to appeal
5. A person or organ of state that receives notice of an appeal may submit a responding statement to the relevant Competent Authority or delegated organ of state within 30 days from the date that the appeal submission was made available for inspection by the appellant	5. An Applicant that receives notice of an appeal may submit a responding statement to the relevant Competent Authority or delegated organ of State within 30 days from the date the appeal submission was made available for inspection by the appellant

NOTES:

1. An appeal against a decision must be lodged with:-

- the Minister of Water and Environmental Affairs if the decision was issued by the Director- General of the Department of Environmental Affairs (or another official) acting in his/ her capacity as the delegated Competent Authority;
- the Minister of Justice and Constitutional Development if the applicant is the Department of Water Affairs and the decision was issued by the Director- General of the Department of Environmental Affairs (or another official) acting in his/ her capacity as the delegated Competent Authority;
- the MEC if the decision was issued by the Head of Department (or another official) acting in his/ her capacity as the delegated Competent Authority;
- the delegated organ of state where relevant.

2. An appeal lodged with:-

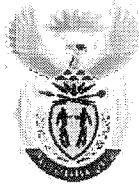
- the Minister of Water and Environmental Affairs must be submitted to the Department of Environmental Affairs;
- the Minister of Justice and Constitutional Development must be submitted to the Department of Environmental Affairs;
- the MEC must be submitted to the provincial department responsible for environmental affairs;
- the delegated organ of state, where relevant, must be submitted to the delegated organ of state.

3. An appeal must be:-

- on an official form obtainable or published by the relevant department;
- accompanied by:
 - a statement setting out the grounds of appeal;
 - supporting documentation which is referred to in the appeal and is not available to the relevant Competent Authority;
 - a statement that the appellant has complied with regulation 62 (2) or (3) together with copies of the notices referred to in regulation 62;
 - the prescribed appeal fee, if any.

4. A copy of the official appeal form can be obtained from:

See authorisation cover letter.



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Environmental Authorisation

Authorisation register number: 12/12/20/1817

Last amended: First issue

Holder of authorisation: Just Energy

Location of activity: Ngqushwa Local Municipality
within the Amatole District
Municipality, Eastern Cape
Province

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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.

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

Exemption

Just Energy is hereby exempted in terms of Regulation 51 of the EIA Regulations, 2006 as well as in terms of section 24M of the National Environmental Management Act (NEMA), 1998 (Act 107 of 1998) from assessing site alternatives with respect to the proposed development as required in terms of section 23(2)(g) of the EIA Regulations, 2006 and section 24(4)(b) of NEMA.


Activities authorised

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) and the Environmental Impact Assessment Regulations, 2006 the Department hereby authorises –

JUST ENERGY

with the following contact details –

Mr. Neil Townsend
Just Energy
2nd Floor, 27 Buitenkant Street
Brackenfell
Cape Town
8000

 16/6/2010

Tel: 082 410 4183

Fax: 021-671-8176

E-mail: nlownsed@oxfam.org.uk

to undertake the following activity / activities (hereafter referred to as "the activity");

GN R 386 (14) – The construction of masts of any material of type and of any height, including those used for telecommunications broadcasting and radio transmission, but excluding

(a) masts of 15m and lower exclusively used by

(i) radio amateurs; or

(ii) for lighting purposes;

(b) flagpoles; and

(c) lightning conductor poles.

for the proposed erection of a wind monitoring mast at the farm Sandflat 149 Portion 2, Wesley in the Eastern Cape Province.


The study area falls within the jurisdiction of *Ngqushwa Local Municipality within the Amatole District Municipality, Eastern Cape Province*, hereafter referred to as "the property".

The granting of this environmental authorisation is subject to the conditions set out below.

Conditions

Scope of authorisation


- 1.1 Authorisation of the activity is subject to the conditions contained in this authorisation, which form part of the environmental authorisation and are binding on the holder of the authorisation.
- 1.2 The holder of the authorisation shall be responsible for ensuring compliance with the conditions contained in this environmental authorisation. This includes any person acting on the holder's behalf, including but not limited to, an agent, servant, contractor, sub-contractor, employee, consultant or person rendering a service to the holder of the authorisation.

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- 1.3 The activity authorised may only be carried out at the property as described above and in page 1 of the BAR dated May 2010 and as shown on the locality maps in the BAR, dated May 2010.
- 1.4 Any changes to, or deviations from, the project description set out in this authorisation must be approved, in writing, by the Department before such changes or deviations may be effected. In assessing whether to grant such approval or not, the 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 authorisation to apply for further authorisation in terms of the regulations.
- 1.5 This activity must commence within a period of three (3) years from the date of issue. If commencement of the activity does not occur within that period, the authorisation lapses and a new application for environmental authorisation must be made in order for the activity to be undertaken.
- 1.6 This authorisation does not negate the holder of the authorisation's responsibility to comply with any other statutory requirements that may be applicable to the undertaking of the activity.
- 1.6.1 Relevant legislation that must be complied with by the holder of this authorisation includes, *inter alia*:
- Provisions of the National Environmental Management Act, 1998 (Act No 107 of 1998).
 - Provisions of the Aviation Act, 1962 (Act No 107 of 1998) and Civil Aviation Regulations (CAR's), 1977.
 - Provisions of the National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004).

Appeal of authorisation

- 1.7 The holder of the authorisation must notify every registered interested and affected party, in writing and within ten (10) calendar days, of receiving notice of the Department's decision to authorise the activity.
- 1.8 The notification referred to in 1.7 must –
- 1.8.1 specify the date on which the authorisation was issued;
- 1.8.2 inform the interested and affected party of the appeal procedure provided for in Chapter 7 of the regulations;

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- 1.8.3 advise the interested and affected party that a copy of the authorisation will be furnished on request; and
- 1.8.4 give the reasons for the decision.

Management of the activity

- 1.9 Site preparation and construction activities must be limited to the footprint described in the Basic Assessment Report dated May 2010.
- 1.10 The draft Environmental Management Plan (EMP) that was included in the BAR is herewith approved by this Department. The EMP must form part of the contractor's tender documentation for all contractors working on the project and must be endorsed contractually.
- 1.11 The applicant will have the responsibility of implementing the approved EMP.
- 1.12 The provisions of the EMP are an extension of the conditions of the Environmental Authorisation (EA) and therefore non-compliance with the EMP would constitute non-compliance with the EA.
- 1.13 The construction EMP must be seen as a dynamic document. However, any changes to the EMP, which is environmentally defensible, must be submitted to the Department of Environmental Affairs for acceptance before such changes could be effected.
- 1.14 Measures for the management of heritage resources if such are exposed during construction must be implemented. Should any heritage resources be exposed during excavation for the purpose of construction, construction in the vicinity of the finding must be stopped immediately. A registered heritage specialist must be called to the site for inspection. Under no circumstances shall any heritage material be destroyed or removed from the site. The relevant heritage resource agency must be informed about the finding.
- 1.15 All correspondence with regard to this application must be forwarded for attention to The Director: Environmental Impact Evaluation within the department.

Commencement of the activity

- 1.16 The authorised activity shall not commence within thirty (30) days of the date of signature of the authorisation.

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- 1.17 Should you be notified by the minister of a suspension of the authorisation pending appeal procedures, you shall not commence with the activity / ies unless authorised by the minister in writing.

Notification to authorities

- 1.18 Fourteen (14) days written notice must be given to the Department 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 activity will commence. This notification period may coincide with the period contemplated in 1.17 above.

Operation of the activity

- 1.19 Fourteen (14) days written notice must be given to the Department that the activity operational phase will commence.

Site closure and decommissioning

- 1.20 Should the activity ever cease or become redundant, the applicant shall undertake the required actions as prescribed by legislation at the time and comply with all relevant legal requirements administered by any relevant and competent authority at that time.

General

- 1.21 A copy of this authorisation must be kept at the property where the activity (ies) will be undertaken. The authorisation must be produced to any authorised 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 authorisation who works or undertakes work at the property.
- 1.22 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.
- 1.23 The holder of the authorisation must notify the Department, in writing and within 48 (forty eight) hours, if any condition of this authorisation cannot be or is not adhered to. Any notification in terms of this condition must be accompanied by reasons for the non-

compliance. Non-compliance with a condition of this authorisation may result in criminal prosecution or other actions provided for in the National Environmental Management Act, 1998 and the regulations.

- 1.24 National government, provincial government, local authorities or committees appointed in terms of the conditions of this authorisation or any other public authority shall not be held responsible for any damages or losses suffered by the applicant or his successor in title in any instance where construction or operation subsequent to construction be temporarily or permanently stopped for reasons of non-compliance by the applicant with the conditions of authorisation as set out in this document or any other subsequent document emanating from these conditions of authorisation.

Date of environmental authorisation: 10 June 2010



Ms Lize McCourt

CHIEF DIRECTOR: ENVIRONMENTAL IMPACT MANAGEMENT

Department of Environmental Affairs

Annexure 1: Reasons for Decision

1. Background

The applicant, Just Energy applied for authorisation to carry out the following activities –

GN R 386 (14) – The construction of masts of any material of type and of any height, including those used for telecommunications broadcasting and radio transmission, but excluding

- (a) masts of 15m and lower exclusively used by*
 - (i) radio amateurs; or*
 - (ii) for lighting purposes;*
- (b) flagpoles; and*
- (c) lightning conductor poles.*

The applicant appointed the Savannah Environmental to undertake an environmental assessment process in accordance with the EIA Regulations, 2006.

2. Information 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) Details provided of the qualifications of the EAP indicate that the EAP is competent to carry out the scoping and environmental impact assessment procedures.
- b) The BAR dated May 2010 included a description of the environment that may be affected by the activity and the manner in which the physical, biological, social, economic and cultural aspects of the environment may be affected by the proposed activity.
- c) The BAR dated May 2010 identified all legislation and guidelines that have been considered in the preparation of the BAR dated May 2010 and the legislation and guidelines that will be considered in the preparation of the Environmental Impact Assessment.

- d) The proposed methodology used in assessing the potential impacts identified in the BAR dated May 2010 and the proposed specialist studies have been adequately indicated.
- e) A sufficient public participation process was undertaken and the applicant has satisfied the minimum requirements as prescribed in the EIA regulations, 2006 for public involvement.

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) The applicant has met the requirements of the BAR as per the EIA Regulations, 2006.
- b) A detailed public participation process was undertaken and the consultant has satisfied the minimum requirements as prescribed in the EIA Regulations, 2006 for public involvement.
- c) As part of the EIA process, Savannah Environmental identified potential environmental impacts associated with the proposed construction and operation and proposed feasible mitigation measures to mitigate the identified impacts.
- d) No significant impacts were identified.
- e) Comments received from the Interested and Affected Parties (I&APs) were adequately addressed.

4. Findings


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

- The identification and assessment of impacts are detailed in the BAR dated May 2010.
- Sufficient assessment of the key identified issues and impacts have been completed.

[Signature] 10/6/2010

- The procedure followed for impact assessment is adequate for the decision-making process.
- The proposed mitigation of impacts identified and assessed; adequately curtail the identified impacts.
- All legal and procedural requirements have been met.
- The information contained in the BAR dated May 2010 is accurate and credible.
- EMP measures for the pre-construction, construction and rehabilitation phases of the construction of a monitoring mast included in the BAR and will be implemented to manage the identified environmental impacts during the construction process.
- The proposed development is compatible with the proposed site for the development.

In view of the above, the Department is satisfied that, subject to compliance with the conditions contained in the environmental authorisation, the proposed activity will not conflict with the general objectives of integrated environmental management laid down in Chapter 5 of the National Environmental Management Act, 1998 and that any potentially detrimental environmental impacts resulting from the proposed activity can be mitigated to acceptable levels. The application is accordingly authorised.

 10/6/2010

