



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

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NEAS Reference: DEA/EIA/0001171/2012

DEA Reference: 14/12/16/3/3/1/555

Enquiries: Sindiswa Dlomo

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Mr Jaap Kroon
Department of Water Affairs
Private Bag X313
PRETORIA
0001

Fax no: 012-336-6900 / 012-323-4470

PER FACSIMILE / MAIL

Dear Mr Kroon

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998: GN R.543/544: CONSTRUCTION OF A GAUGING WEIR ON THE LITTLE MOOI RIVER, WITHIN THE MPOFANA LOCAL MUNICIPALITY, KWAZULU-NATAL PROVINCE

With reference to the above application, please be advised that the Department has decided to grant authorisation. The environmental authorisation (EA) and reasons for the decision are attached herewith.

In terms of regulation 10(2) of the Environmental Impact Assessment Regulations, 2010 (the Regulations), you are instructed to notify all registered interested and affected parties, in writing and within 12 (twelve) days of the date of the EA, of the Department's decision in respect of your application as well as the provisions regarding the submission of appeals that are contained in the Regulations.

Your attention is drawn to Chapter 7 of the Regulations, which prescribes the appeal procedure to be followed. This procedure is summarised in the attached document. Kindly include a copy of this document with the letter of notification to interested and affected parties.

Should the applicant or any other party wish to appeal any aspect of the decision a notice of intention to appeal must be lodged by all prospective appellants with the Minister, within 20 days of the date of the EA, by means of one of the following methods:

- By facsimile: 012 320 7561;
- By post: Private Bag X447,
Pretoria, 0001; or
- By hand: 2nd Floor, Fedsure Building, North Tower,
Cnr. Lilian Ngoyi (Van der Walt) and Pretorius Streets,
Pretoria.

If the applicant wishes to lodge an appeal, it must also serve a copy of the 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, should you intend to submit an appeal.

Please include the Department (*Attention: Director: Integrated Environmental Authorisations*) in the list of interested and affected parties, notified through your notification letter to interested and affected parties, for record purposes.

Appeals must be submitted in writing to:

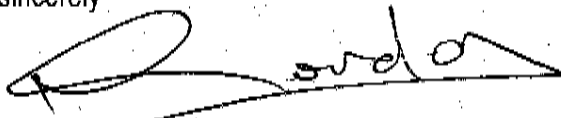
Mr T Zwane, Senior Legal Administration Officer (Appeals), of this Department at the above mentioned addresses or fax number. Mr Zwane can also be contacted at:

Tel: 012-310-3929

Email: tzwane@environment.gov.za

The authorised activities shall not commence within twenty (20) days of the date of signature of the authorisation. Further, please note that the Minister may, on receipt of appeals against the authorisation or conditions thereof suspend the authorisation pending the outcome of the appeals procedure.

Yours sincerely



Mr Mark Gordon
Chief Director: Integrated Environmental Authorisations
Department of Environmental Affairs
Date: 10 October 2012

CC:	Mr Samuel Pauw	Terra Works	Tel: 051-412-6350	Fax: 051-412-6351
	Ms K. Govender	TCTA	Tel: 033-267-7081	Fax: 086-296-0823
	Mr I Felton	KZN DEA	Tel: 033-343-8428	Fax: 033-347-1826
	Ms N. Zungu	Mpofana Local Municipality	Tel: 033-263-7700	Fax: 033-263-1127
	Mr T Zwane	Appeals Authority (DEA)	Tel: 012-310-3929	Fax: 012-320-7561
	Mr S Malaza	Compliance Monitoring (DEA)	Tel: 012-310-3397	Fax: 012-320-5744

APPEALS PROCEDURE IN TERMS OF CHAPTER 7 OF THE NEMA EIA REGULATIONS, 2010 (THE REGULATIONS) AS PER GN R. 543 OF 2010 TO BE FOLLOWED BY THE APPLICANT AND INTERESTED AND AFFECTED PARTIES UPON RECEIPT OF NOTIFICATION OF AN ENVIRONMENTAL AUTHORISATION (EA)

APPLICANT	INTERESTED AND AFFECTED PARTIES (IAPs)
1. Receive EA from the relevant Competent Authority (the Department of Environmental Affairs [DEA]).	1. Receive EA from Applicant/Consultant.
2. Within 12 days of date of the EA notify all IAPs of the EA and draw their attention to their right to appeal against the EA in terms of Chapter 7 of the Regulations.	2. N/A.
3. If you want to appeal against the EA, submit a notice of intention to appeal within 20 days of the date of the EA with the Minister of Water and Environmental Affairs (the Minister).	3. If you want to appeal against the EA, submit a notice of intention to appeal within 20 days of the date of the EA. with the Minister of Water and Environmental Affairs (the Minister).
4. After having submitted your notice of intention to appeal to the Minister, provide each registered IAP with a copy of the notice of intention to appeal within 10 days of lodging the notice.	4. After having submitted your notice of intention to appeal to the Minister, provide the applicant with a copy of the notice of intention to appeal within 10 days of lodging the notice.
5. The Applicant must also serve on each IAP: <ul style="list-style-type: none"> a notice indicating where and for what period the appeal submission will be available for inspection. 	5. Appellant must also serve on the Applicant within 10 days of lodging the notice, <ul style="list-style-type: none"> a notice indicating where and for what period the appeal submission will be available for inspection by the applicant.
6. The appeal must be submitted in writing to the Minister within 30 days after the lapsing of the period of 20 days provided for the lodging of the notice of intention to appeal.	6. The appeal must be submitted to the Minister within 30 days after the lapsing of the period of 20 days provided for the lodging of the notice of intention to appeal.
7. Any IAP who received a notice of intention to appeal may submit a responding statement to that appeal to the Minister within 30 days from the date that the appeal submission was lodged with the Minister.	7. An Applicant who received notice of intention to may submit a responding statement to the appeal to the Minister within 30 days from the date that the appeal submission was lodged with the Minister.

NOTES:

1. **An appeal against a decision must be lodged with:-**
 - a) 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;
 - b) 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;
2. **An appeal lodged with:-**
 - a) the Minister of Water and Environmental Affairs must be submitted to the Department of Environmental Affairs;
 - b) the Minister of Justice and Constitutional Development must be submitted to the Department of Environmental Affairs;
3. **An appeal must be:-**
 - a) submitted in writing;
 - b) accompanied by:
 - a statement setting out the grounds of appeal;
 - supporting documentation which is referred to in the appeal; and
 - a statement that the appellant has complied with regulation 62 (2) or (3) together with copies of the notices referred to in regulation 62.



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Environmental Authorisation

In terms of regulation 36 of the Environmental Impact Assessment Regulations, 2010

Construction of a gauging weir on the Little Mooi River, within the Mpofana Local Municipality,

KwaZulu-Natal Province

Umgungundlovu District Municipality

Authorisation register number:	14/12/16/3/3/1/555
NEAS reference number:	DEA/EIA/0001171/2012
Last amended:	<i>First issue</i>
Holder of authorisation:	<i>Department of Water Affairs</i>
Location of activity:	KWAZULU-NATAL PROVINCE: <i>Within Ward</i> <i>Mpofana Local Municipality</i>

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.

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 activities specified below.

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 EIA regulations.

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

Activities authorised

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act 107 of 1998) and the Environmental Impact Assessment Regulations, 2010 the Department hereby authorises –

DEPARTMENT OF WATER AFFAIRS

with the following contact details –

Mr Jaap Kroon

Department of Water Affairs

Private Bag X313

PRETORIA

0001

Tel: 012-336-8287

Fax: 012-336-6900

Cell: 083-627-5911

E-mail: kroonj@dwa.gov.za

to undertake the following activities (hereafter referred to as "the activity") indicated in Listing Notices 1, 2 or 3 (GN R. 544, 545 & 546):

Listed activities	Activity/Project description
<p><u>GN R. 544 Item 11:</u> The construction of: (v) weirs; where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.</p>	<p>The construction of a weir where the structure will gauge water released from the dam upstream</p>
<p><u>GN R. 544 Item 18:</u> The excavation and removal of soil or sand from (i) a watercourse.</p>	<p>The excavation and removal of soil or sand from a watercourse to construct the weir that will allow accurate monitoring of water levels and flow of volume. The weir will entail a 12m long horizontal crump weir with an 8m broad crested weir. These two structures will be separated by a dividing wall.</p>

as described in the Basic Assessment Report (BAR) dated July 2012 at:

Alternative S1	Latitude	Longitude
Preferred site	29° 19' 4.04" S	29° 43' 9.54" E

- for the construction of a gauging weir on the little Mooi River, within the Mpfana Local Municipality, KwaZulu-Natal Province, hereafter referred to as "the property".

Conditions of this Environmental Authorisation

Scope of authorisation

1. The preferred location for the construction of the Little Mooi River gauging weir and associated infrastructure located on farm Sans Souci B 8263. The structure will be situated roughly 380m downstream of where the P28-1 (North) road crosses the river at the bridge number CVH 1937 is approved.
2. 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.
3. The holder of the authorisation is 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.
4. The activities authorised may only be carried out at the property as described above.
5. 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.
6. This activity must commence within a period of three (3) years from the date of issue of this authorisation. 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.
7. Commencement with one activity listed in terms of this authorisation constitutes commencement of all authorised activities.
8. The holder of an environmental authorisation must notify the competent authority of any alienation, transfer and change of ownership rights in the property on which the activity is to take place.

Notification of authorisation and right to appeal

9. The holder of the authorisation must notify every registered interested and affected party, in writing and within 12 (twelve) calendar days of the date of this environmental authorisation, of the decision to authorise the activity.
10. The notification referred to must –
 - 10.1. specify the date on which the authorisation was issued;
 - 10.2. inform the interested and affected party of the appeal procedure provided for in Chapter 7 of the Environmental Impact Assessment Regulations, 2010;
 - 10.3. advise the interested and affected party that a copy of the authorisation will be furnished on request; and
 - 10.4. give the reasons of the competent authority for the decision.
11. The holder of the authorisation must publish a notice –
 - 11.1. informing interested and affected parties of the decision;
 - 11.2. informing interested and affected parties where the decision can be accessed; and
 - 11.3. drawing the attention of interested and affected parties to the fact that an appeal may be lodged against this decision in the newspaper(s) contemplated and used in terms of regulation 54(2)(c) and (d) and which newspaper was used for the placing of advertisements as part of the public participation process.

Management of the activity

12. The Environmental Management Programme (EMPr) submitted as part of the Application for EA is hereby approved. This EMPr must be implemented and adhered to.

Monitoring

13. The applicant must appoint a suitably experienced Environmental Control Officer (ECO) for the construction phase of the development that will have the responsibility to ensure that the mitigation/rehabilitation measures and recommendations referred to in this authorisation are implemented and to ensure compliance with the provisions of the EMPr.
 - 13.1. The ECO shall be appointed before commencement of any authorised activities.

- 13.2. Once appointed, the name and contact details of the ECO must be submitted to the *Director: Compliance Monitoring* of the Department.
- 13.3. The ECO shall keep record of all activities on site, problems identified, transgressions noted and a task schedule of tasks undertaken by the ECO.
- 13.4. The ECO shall remain employed until all rehabilitation measures, as required for implementation due to construction damage, are completed and the site is ready for operation.
- 13.5. 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.

Recording and reporting to the Department

14. All documentation e.g. audit/monitoring/compliance reports and notifications, required to be submitted to the Department in terms of this authorisation, must be submitted to the *Director: Compliance Monitoring* at the Department.
15. The holder of the authorisation must submit an environmental audit report to the Department within 30 days of completion of the construction phase (i.e. within 30 days of site handover) and within 30 days of completion of rehabilitation activities.
16. The environmental audit report must indicate the date of the audit, the name of the auditor and the outcome of the audit in terms of compliance with the environmental authorisation conditions as well as the requirements of the EMPr.
17. 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.

Commencement of the activity

18. The authorised activity shall not commence within twenty (20) days of the date of signature of the authorisation.
19. An appeal under section 43 of the National Environmental Management Act (NEMA), Act 107 of 1998 (as amended), does not suspend an environmental authorisation or exemption, or any provisions or conditions attached thereto, or any directive, unless the Minister, MEC or delegated organ of state directs otherwise.
20. Should you be notified by the Minister of a suspension of the authorisation pending appeal procedures, you may not commence with the activity until such time that the Minister allows you to commence with such an activity in writing.

Notification to authorities

21. 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, as well as a reference number. This notification period may coincide with the notice of intent to appeal period.

Operation of the activity

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

Site closure and decommissioning

23. 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.

Specific conditions

24. The working area must be clearly demarcated and visible. All employees must be made aware of these demarcations and limits of their working area.
25. Extreme care must be taken to ensure that river banks are not damaged during construction activities.
26. Stabilizing vegetation may only be removed where necessary. Access of construction machinery will need to be strictly controlled and restricted if possible.
27. River banks must be stabilized and re-vegetated after construction.
28. Flood protection must be secured by berms on both sides of the river bank.
29. No activities will be allowed to encroach into a water resource without a water use authorisation being in place from the Department of Water Affairs.
30. A permit must be obtained from the relevant nature conservation agency should removal or destruction of indigenous protected and endangered plant and animal species be required.

31. The location of the construction camp site must be identified in consultation with the appointed ECO.
32. Copies of all permits required for the proposed development must be submitted to the Department for record keeping and filing.
33. The temporary sanitary facilities must be situated 100m away from any watercourses, drainage areas and flood lines. These facilities must be properly maintained/service to avoid any environmental pollutant.
34. No exotic plants may be used for rehabilitation purposes. Only indigenous plants of the area may be utilised.
35. Liaison with land owners/farm managers is to be done prior to construction in order to provide sufficient time to decide on the preferred access point for construction personnel and vehicles.
36. The applicant is required to inform the Department of Forestry and Fisheries (DAFF) and this Department should the removal of protected species, medicinal plants and "data deficient" plant species be required.
37. Vegetation clearing must be kept to an absolute minimum. Mitigation measures must be implemented to reduce the risk of erosion and the invasion of alien species.
38. An integrated waste management approach must be implemented that is based on waste minimisation and must incorporate reduction, recycling, re-use and disposal where appropriate. Any solid waste shall be disposed of at a landfill licensed in terms of section 20 (b) of the National Environment Management Waste Act, 2008 (Act 59 of 2008).

General

39. A copy of this authorisation and the approved EMPr must be kept at the property where the activity/ will be undertaken. The authorisation and approved EMPr 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.
40. The holder of the authorisation must notify both the *Director: Integrated Environmental Authorisations* and the *Director: Compliance Monitoring* at 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.
41. 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 October 2012

A handwritten signature in black ink, appearing to read 'Mark Gordon', with a horizontal line underneath it.

Mr Mark Gordon

Chief Director: Integrated Environmental Authorisations

Department of Environmental Affairs

Annexure 1: Reasons for Decision

1. 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 BAR dated July 2012;
- b) The comments received from the eKZN Wildlife and Department of Water Affairs and interested and affected parties as included in the BAR dated July 2012;
- c) Mitigation measures as proposed in the BAR dated July 2012 and the EMP;
- d) The information contained in the specialist studies contained within Appendix D of the BAR;
- e) Findings of the site visit conducted on July 2012; and
- f) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act 107 of 1998).

2. 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 proposed infrastructure (Little Mooi gauging weir) will be used to supply information on the magnitude of flows in the upper reaches of the Little Mooi River. This will assist in the effective operation of the Spring Grove Dam (MMTS-2), which is currently under construction.
- b) The information to be provided by the Little Mooi River will be used together with the information obtained from the existing gauging weir at Hlatikulu River to assist operators of the Spring Grove Dam to synchronise releases with natural flow events in the little Mooi and Hlatikulu. This will then ensure optimal use of water stored from the Spring Grove Dam.
- c) The site chosen for the proposed gauging weir is considered important taking into consideration future management of the MMTS-1 and MMTS-2 as well when the proposed Mooi River Irrigation Board (MRIB) irrigation dams are incorporated into the system.

- d) The impact of the proposed development on the receiving environment (including fauna and flora) will be localised. Taking into consideration the entire footprint with the correct implementation of mitigation measures the impact will be negligible.
- e) The proposed gauging weir will not impact on the upstream road bridge and furthermore the weir will not require a fish passage as the height of the spillway will be very low.
- f) The proposed Little Mooi gauging weir will be used for water management in the Little Mooi Catchment.
- g) The findings of all the specialist studies conducted and their recommended mitigation measures.
- h) The BAR dated July 2012 identified all legislation and guidelines that have been considered in the preparation of the BAR dated July 2012.
- i) The methodology used in assessing the potential impacts identified in the BAR dated July 2012 and the specialist studies have been adequately indicated.
- j) A sufficient public participation process was undertaken and the applicant has satisfied the minimum requirements as prescribed in the EIA Regulations, 2010 for public involvement.

3. Findings

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

- a) The identification and assessment of impacts are detailed in the BAR dated July 2012 and sufficient assessment of the key identified issues and impacts have been completed.
- b) The site does not contain any palaeontological and archaeological findings of any significance, which will require the suspension of the proposed development.
- c) The Little Mooi Gauging weir is part of the three gauging weirs (including Mooi River gauging weir and Mpofana Gauging weir) that are required to assist and ensure the effective operation of the Spring Grove Dam when commissioned.
- d) The site for the proposed Little Mooi Gauging weir can be accessed via P28-1 and two other possible options..
- e) Fish migration will not be hindered as a result of the proposed development.
- f) The proposed project will create employment opportunities for the local people mainly during the construction phase of the project.
- g) The proposed weir will not have a significant impact on the landscape of the area.
- h) The procedure followed for impact assessment is adequate for the decision-making process.

- i) The proposed mitigation of impacts identified and assessed adequately curtails the identified impacts.
- j) The information contained in the BAR dated July 2012 is accurate and credible.
- k) EMPr measures for the pre-construction, construction and rehabilitation phases of the development were proposed and included in the BAR and will be implemented to manage the identified environmental impacts during the construction process.

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 granted.