



**Western Cape
Government**

Environmental Affairs and
Development Planning

**DIRECTORATE: ENVIRONMENTAL GOVERNANCE
SUB-DIRECTORATE: RECTIFICATION**

24G APPLICATION REF: 14/2/4/2/1/A5/55/0011/20

ENQUIRIES: Ziyaad Allie

The Director
Cecilia Boerdery (Pty) Ltd.
Farm Nancy
Cecilia Street
PAARL
7646

Tel: (021) 869 8567
Email: barend@hoekstrafruitfarms.co.za

Attention: Mr Barend Mouton

Dear Sir

APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): UNLAWFUL COMMENCEMENT OF A LISTED ACTIVITY: UNLAWFUL EARTHMOVING, EXCAVATION AND INFILLING ACTIVITIES IN A WATERCOURSE ON ERF 21353 (FARM NANCY), PAARL ROAD, PAARL

With reference to your application dated 06 August 2020 in terms of section 24G of the NEMA for the consequences of unlawful commencement of listed activities identified in terms of the NEMA, find below the decision in respect of your application.

ENVIRONMENTAL AUTHORISATION

A. DECISION

By virtue of the powers conferred by section 24G of the NEMA and the *Environmental Impact Assessment Regulations, 2014* ("EIA Regulations, 2014") (as amended), the competent authority herewith **grants environmental authorisation** to the applicant to continue with the listed activities specified in Section C below as described in the application dated 06 August 2020 and the Comments and Responses report of October 2020.

The granting of this Environmental Authorisation is for the continuation, conducting or undertaking of the listed activities as described in Section C below and is subject to compliance with the conditions set out in Section G. This Environmental Authorisation shall only take effect from the date on which it has been issued.

The Environmental Authorisation does not exempt the holder thereof from compliance with any other applicable legislation.

B. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

Cecilia Boerdery (Pty) Ltd.

c/o Mr Barend Mouton

Farm Nancy

Cecilia Street

PAARL

7646

Tel: 021 869 8567

Cell: 082 824 8240

Email: barend@hoekstrafruitfarms.co.za

The abovementioned applicant is the holder of this Environmental Authorisation and is hereinafter referred to as "the holder".

C. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
<p>Government Notice No. R544 of 18 June 2010 –</p> <p>Activity Number: 11</p> <p>Activity Description: <i>The construction of:</i></p> <p>(i) canals;</p> <p>(ii) channels;</p> <p>(iii) bridges;</p> <p>(iv) dams;</p>	<p>The construction of a berm which resulted in earthmoving, excavation and infilling activities in the Berg River on Erf 21353.</p>

<p>(v) weirs;</p> <p>(vi) bulk storm water outlet structures;</p> <p>(vii) marinas;</p> <p>(viii) jetties exceeding 50 square metres in size;</p> <p>(ix) slipways exceeding 50 square metres in size;</p> <p>(x) buildings exceeding 50 square metres in size; or</p> <p>(xi) infrastructure or structures covering 50 square metres or more 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>Government Notice No. R544 of 18 June 2010 –</p> <p>Activity Number: 18</p> <p>Activity Description: <i>The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from:</i></p> <p>(i) a watercourse;</p> <p>(ii) the sea;</p> <p>(iii) the seashore;</p> <p><i>but excluding where such infilling, depositing, dredging, excavation, removal or moving;</i></p> <p><i>(a) is for maintenance purposes undertaken in accordance with a management plan agreed to by the relevant environmental authority; or</i></p>	<p>The construction of a berm which resulted in earthmoving, excavation and infilling activities in the Berg River on Erf 21353.</p>

<p><i>(b) occurs behind the development setback line.</i></p>	
<p>Government Notice No. R. 983 of 4 December 2014</p> <p>Activity Number: 12</p> <p>Activity Description: <i>The development of-</i></p> <ul style="list-style-type: none"> <i>(i) canals exceeding 100 square metres in size;</i> <i>(ii) channels exceeding 100 square metres in size;</i> <i>(iii) bridges exceeding 100 square metres in size;</i> <i>(iv) dams, where the dam, including infrastructure and water surface area, exceeds 100 square metres in size;</i> <i>(v) weirs, where the weir, including infrastructure and water surface area, exceeds 100 square metres in size;</i> <i>(vi) bulk storm water outlet structures exceeding 100 square metres in size;</i> 	<p>The construction of a berm which resulted in earthmoving, excavation and infilling activities in the Berg River on Erf 21353.</p>
<p>Government Notice No. 983 of 4 December 2014 -</p> <p>Activity Number: 19</p> <p>Activity Description: <i>The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock from -</i></p> <ul style="list-style-type: none"> <i>(i) a watercourse;</i> 	<p>The construction of a berm which resulted in earthmoving, excavation and infilling activities in the Berg River on Erf 21353.</p>
<p>Government Notice No. 327 of 2014</p> <p>Activity Number: 12</p> <p>Activity Description: <i>The development</i></p>	

<p>of— (i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or (ii) infrastructure or structures with a physical footprint of 100 square metres or more; where such development occurs—</p> <p>(a) within a watercourse;</p> <p>(b) in front of a development setback; or</p> <p>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse.</p>	<p>The construction of a berm which resulted in earthmoving, excavation and infilling activities in the Berg River on Erf 21353.</p>
<p>Government Notice No. 327 of 2014</p> <p>Activity Number: 19</p> <p>Activity Description: <i>The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse; but excluding where such infilling, depositing, dredging, excavation, removal or moving—</i></p> <p>(a) will occur behind a development setback; (b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</p> <p>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies.</p>	<p>The construction of a berm which resulted in earthmoving, excavation and infilling activities in the Berg River on Erf 21353.</p>

The abovementioned list is hereinafter referred to as “the listed activities”.

D. PROPERTY DESCRIPTION AND LOCATION

The listed activities commenced on Erf 21353, Paarl Registration Division.

The SG digit code is: C05500080002135300000

The co-ordinates for the property boundary are:

Point	Latitude (S)	Longitude (E)
1	33° 45' 24.57" South	18° 58' 06.01" East
2	33° 45' 23.04" South	18° 58' 08.45" East
3	33° 45' 22.04" South	18° 58' 24.24" East
4	33° 45' 28.79" South	18° 58' 27.80" East

Refer to Annexure 1: Locality Plan and Annexure 2: Site Plan.

Herein-after referred to as "the site".

E. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER ("EAP")

Cornerstone Environmental Consultants (Pty) Ltd.

c/o Mari de Villiers

PO Box 12606

DIE BOORD

7613

Cell: 083 235 8733

Email: mari@cornerstoneenviro.co.za

F. DETAILS OF THE ACTIVITIES UNDERTAKEN

The activities undertaken commenced during the time between the first half of 2014 and the first half of 2015. This entailed the breaking of a section of an existing berm on Erf 21353, Paarl. The material was pushed approximately 30m to 60m closer to the edge of the Berg River's primary flow channel. The holder filled in the area behind the berm and planted vineyards on the additional land that was created. The area of additional vineyards gained by the applicant is approximately 0.9 hectares.

G. CONDITIONS OF AUTHORISATION

The following are conditions of authorisation that are set and must be implemented for this Environmental Authorisation.

PART I

Scope of authorisation

1. The holder is authorised to undertake the listed activities specified in Section C above in accordance with and restricted to the implemented Alternative described in the application and assessment report dated 06 August 2020 on the site as described in Section D above.
2. The rehabilitation activities associated with the berms must be concluded within 5 years from the date of this Environmental Authorisation.
3. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
4. Any changes to, or deviations from the scope of the alternative described in Section F above must be accepted or approved, in writing, by the competent authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the competent authority may request information to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

PART II

Written notice to the competent authority

5. Seven (7) calendar days' notice, in writing, must be given to the competent authority before continuation of commencement of the maintenance/rehabilitation activities.
- 5.1 The notice must make clear reference to the site details and 24G Reference number given above.
- 5.2 The notice must also include proof of compliance with the following condition 15.

PART III

Notification and administration of an appeal

6. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
 - 6.1 notify all registered Interested and Affected Parties ("I&APs") of –
 - 6.1.1 the outcome of the application;
 - 6.1.2 the reasons for the decision as included in Annexure 3;
 - 6.1.3 the date of the decision; and
 - 6.1.4 the date when the decision was issued.
 - 6.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the *National Appeals Regulations, 2014* detailed in Section I below.
 - 6.3 draw the attention of all registered I&APs to the manner in which they may access the decision.
 - 6.4 provide the registered I&APs with:
 - 6.4.1 the name of the holder (entity) of this Environmental Authorisation;
 - 6.4.2 name of the responsible person for this Environmental Authorisation;
 - 6.4.3 postal address of the holder;
 - 6.4.4 telephonic and fax details of the holder;
 - 6.4.5 e-mail address, if any, of the holder; and

6.4.6 the contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the *National Appeal Regulations, 2014*.

7. The listed activities, including site preparation, may not commence within 34 (thirty-four) calendar days from the date of issue of this Environmental Authorisation. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided.

PART IV

Management of the activity/development

8. The draft Environmental Management Programme ("EMPr") which included the Maintenance Management Plan and Rehabilitation Plan of August 2020 compiled by Cornerstone Environmental Consultants and submitted as part of the application for environmental authorisation is hereby approved and must be implemented.

9. The EMPr must be included in all contract documentation for all phases of implementation.

PART V

Monitoring

10. A copy of the Environmental Authorisation, EMPr, any independent assessments of financial provision for rehabilitation and environmental liability, closure plans, audit reports and compliance monitoring reports must be kept at the site of the authorised activities, and must be made available to anyone on request, including a publicly accessible website (if applicable).

11. Access to the site referred to in Section D must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the competent authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

PART VI

Auditing

12. In terms of regulation 34 of the *EIA Regulations, 2014* the holder must conduct environmental audits to determine compliance with the conditions of the Environmental

Authorisation and the EMPr and submit Environmental Audit Reports to the competent authority upon receiving such request in writing from the competent authority. The Audit Report must be prepared by an independent person and must consider all the information required in Appendix 7 of the *EIA Regulations, 2014* (as amended).

PART VII

Activity/ Development Specific Conditions

13. Should any heritage remains be exposed during excavations or any other actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape. Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape.

Heritage remains include: meteorites, archaeological and/or paleontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artefacts and bone remains; structures and other built features with heritage significance; rock art and rock engravings; and/or graves or unmarked human burials including grave goods and/or associated burial material.

14. A qualified archaeologist and/or palaeontologist must be contracted where necessary (at the expense of the holder) to remove any heritage remains. Heritage remains can only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant heritage resources authority.
15. The Riverine Zone Vegetation Rehabilitation Plan submitted as part of the application must be implemented and strictly adhered to and must be undertaken with the consultation of the relevant authorities.
16. Rehabilitation should involve the vegetation of the riparian zones, in both a lateral as well longitudinal direction and prevent the recolonization of the riparian zones with invasive alien vegetation.
17. The minimum requirement is that at least three wet zone plants and three woody species in the dry bank must be established with success over a two-year period.

H. GENERAL MATTERS

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.
2. Non-compliance with a condition or term of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.
3. The holder must submit an application for amendment of the Environmental Authorisation to the competent authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for Amendment in terms of Part 1 of the *EIA Regulations, 2014* must be submitted.

Please note that an amendment is not required if there is a change in the contact details of the holder. In this case, the competent authority must only be notified of such changes.

4. The manner and frequency for updating the EMPr is as follows:
Amendments to the EMPr must be done in accordance with regulations 35 to 37 of the *EIA Regulations, 2014* or any relevant legislation that may be applicable at the time.

I. APPEALS

Appeals must comply with the provisions contained in the *National Appeal Regulations, 2014*.

1. An appellant (if the holder) must –
 - 1.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator and a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder was notified by the competent authority of this decision.

2. An appellant (if NOT the holder) must –
 - 2.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator, and a copy of the appeal to the holder, any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder notified the registered I&APs of this decision.
3. The holder (if not the appellant), the decision-maker, I&APs and Organ of State must submit their responding statements, if any, to the Appeal Authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.
4. This appeal and responding statement must be submitted to the address listed below -
 - By post: Attention: Marius Venter
 Western Cape Ministry of Local Government, Environmental Affairs &
 Development Planning
 Private Bag X9186, Cape Town, 8000; or
 - By facsimile: (021) 483 4174; or
 - By hand: Attention: Mr Marius Venter (Tel: 021-483 3721)
 Room 809, 8th floor Utilitas Building
 1 Dorp Street, Cape Town, 8000; or
 - By e-mail: DEADP.Appeals@westerncape.gov.za

Note: You are also requested to submit an electronic copy (Microsoft Word format) of the appeal and any supporting documents to the Appeal Administrator to the address listed above and/ or via e-mail to DEADP.Appeals@westerncape.gov.za.

5. A prescribed appeal form, as well as assistance regarding the appeal processes is obtainable from the office of the appeal authority/ at: Tel. (021) 483 3721, E-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

J. CONSEQUENCES OF NON-COMPLIANCE WITH CONDITIONS

Non-compliance with a condition or term of this Environmental Authorisation or EMPr may result in suspension or withdrawal of this Environmental Authorisation and may render the holder liable for criminal prosecution.

K. DISCLAIMER

The Western Cape Government, appointed in terms of the conditions of this Environmental Authorisation, shall not be responsible for any damages or losses suffered by the holder, developer or his/her successor in any instance where construction or operation subsequent to construction is temporarily or permanently stopped for reasons of non-compliance with the conditions as set out herein or any other subsequent document or legal action emanating from this decision.

Yours faithfully

ADV. CHARMAINE MARÉ
DIRECTOR: ENVIRONMENTAL GOVERNANCE

Copied to: (1) Mari de Villiers (EAP)
(2) Cindy Winter (Drakenstein Municipality)

Email: mari@cornerstoneenviro.co.za
Email: Cindy.winter@drakenstein.gov.za

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: SITE PLAN



FOR OFFICIAL USE ONLY:

S24G REFERENCE: 14/2/4/2/1/A5/55/0011/20

ANNEXURE 3: REASONS FOR THE DECISION

This Environmental Authorisation is in respect of the consequences of commencement of the afore-mentioned illegal activities. An Environmental Assessment Practitioner ("EAP") was appointed to submit a section 24G Environmental Impact Assessment ("EIA") to the Department to obtain this Environmental Authorisation. The EIA was considered adequate for informed decision-making. In addition, the holder paid an administrative fine of R625 000 (Six hundred and twenty-five thousand Rand) to meet the requirements of section 24G of the *National Environmental Management Act, 1998* ("NEMA").

In reaching its decision, the competent authority, *inter alia*, considered the following:

- a) The information contained in the application form dated 06 August 2020, the Comments and Responses report of October 2020.
- b) The Environmental Management Programme ("EMPr") of August 2020 submitted together with the application.
- c) The Maintenance Management Plan of August 2020.
- d) The Rehabilitation Plan of August 2020.
- e) The Alien Vegetation Management Plan of August 2020.
- f) Relevant information contained in the Departmental information base, including, the Guidelines on Public Participation and Alternatives.
- g) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the NEMA.
- h) The comments received from Interested and Affected Parties ("I&APs") and the responses provided thereto.
- i) The sense of balance of the negative and positive impacts and proposed mitigation measures.
- j) The site visit conducted on 02 February 2021 attended by Officials from this Directorate.

All information presented to the competent authority was taken into account in the consideration of the application for environmental authorisation. A summary of the issues which, according to the competent authority, were the most significant reasons for the decision is set out below.

1. Public Participation Process

In terms of section 24G(1)(vii)(dd) of the NEMA, "...a description of the public participation process followed during the course of compiling the report, including all comments received from interested and affected parties and an indication of how the issues raised have been addressed ...", is required.

The public participation process conducted by the EAP comprised of the following:

- An advertisement was placed in the **Paarl Post** on 08 August 2019;
- A site notice was erected on 24 June 2020; and
- Letters were sent to interested and affected parties ("I&APs") and the municipal ward councillor.
- I&APs were afforded the opportunity to provide comments on the application.

1.1 Consultation with organs of state in terms of section 24O of the NEMA

The following organs of state provided comment on the application:

- Department of Agriculture, Forestry and Fisheries ("DAFF")
- Drakenstein Municipality ("DM")

A summary of the comments received, and the responses thereto follows below.

DAFF

DAFF stated that if alien and invader plants occur, they need to be controlled and removed (on-going clearing programs) as they can cause damage to the surrounding natural vegetation.

DM

DM stated that criminal incidents in the Arboretum have decreased markedly since the construction of embankment at Erf 21353. Hydroseeding of the eastern bank of the Arboretum (opposite Erf 21353) especially between the rocks on the bank is recommended. Any rehabilitation plan should include the continuous removal of alien vegetation, especially within the first two years. DM further stated that the removal of the islands in the Berg River at Erf 21353 will help with water flow and probably help to reduce the erosion risk of the riverbanks. Erf 21353's owner is advised to remove the two islands closest to Erf 21354. The EAP responded by stating that an alien vegetation control plan is included in the Environmental Management Plan (and Rehabilitation Plan) and states that follow-up of alien vegetation removal should remain a priority for at least five years after commencement of implementation of the rehabilitation plan.

All the concerns raised by I&APs were responded to and adequately addressed during the public participation process. Specific management and mitigation measures have been considered in this Environmental Authorisation and in the EMPr to adequately address the concerns raised.

The competent authority concurs with the EAP's responses to the issues raised during the public participation process and has included appropriate conditions in this Environmental Authorisation and in the EMPr.

2. Alternatives

2.1 Location/Site/Activity Alternatives

Alternative 1 (Herewith authorised)

This entails breaking of a section of an existing berm on Erf 21353, Paarl. The material was pushed approximately 30m to 60m closer to the edge of the Berg River's primary flow channel. The holder filled in the area behind the berm and planted vineyards on the additional land that was created. The area of additional vineyards gained by the applicant is approximately 0.9 hectares. The holder must implement the rehabilitation measures as per conditions of this Environmental Authorisation.

Alternative 2

The activity (construction and infilling of a berm for agricultural purposes) was undertaken in an attempt by the landowner to utilise the property (Erf 21353, Paarl) optimally for agricultural purposes. Property or location/site alternatives were therefore not considered for this activity.

2.2 The option of not implementing or continuing with the activity ("No-Go" Alternative)

The "no-go" alternative will not be possible to merely cease, or not implement continuation of the activity, nor to implement refusal of the commenced of the activity on application site, since the area is already planted with vineyards and the current activity entails an existing ongoing agricultural operation. Removal of the berm and rehabilitation of the affected site to its previous condition are not considered by the Applicant to be a feasible nor reasonable option, since this will entail removing a very large amount of material from the site, with substantial financial implications.

3. Environmental Impact Assessment (EIA) and Mitigation Measures

In reaching its decision, the competent authority, considered the following in respect of the EIA and mitigation measures:

3.1. Activity Need and Desirability

The Paarl Zoning Scheme was in place at the time when the activities were undertaken, i.e. during 2014/2015. The Paarl Zoning Scheme was repealed by the Drakenstein Municipality Zoning Scheme Bylaw in 2018. According to the Paarl Zoning Scheme, the zoning of the property was similar to that in the Zoning Bylaw of 2018, i.e. "Private Open Space" and "Agriculture". The use of the property for agricultural purposes was therefore most likely acceptable in terms of the property's land use rights at the time of commencement of the activity.

3.2. Regional/ Planning Context

According to the Drakenstein Municipality Zoning Scheme Bylaw of May 2018, two zonings are applicable to the property, i.e. "Agriculture Zone" and "Open Space Zone". The section of the property that applies is zoned "Open Space Zone". The current Bylaw does not distinguish between Private and Public Open Space. In term of the repealed Paarl Zoning Scheme, this section would have been zoned "Private Open Space".

3.3. Biophysical and Biodiversity Impacts

The Berg River and its fringe are mapped as an aquatic Critical Biodiversity Area (CBA) and a terrestrial CBA respectively. The wider riparian area within which the new lands have been established has been mapped as a watercourse ecological support area (ESA). Satellite imagery of the site prior to the construction of the new berm shows that the site was fringed by approximately 0.9 hectares of riparian vegetation and grass (most likely Kikuyu grass).

The vegetation naturally occurring on the site (historically) is mapped as Swartland Alluvium Fynbos. This vegetation occurs along watercourses and within valley bottoms of the region. The Berg River at the study site is considered to be of moderate to high ecological importance and sensitivity.

The river still offers important habitat within the region and should not be allowed to be further degraded. The risk of serious erosion of the opposite banks and the berm itself can significantly add high sediment loads during high flow and flood events. This will result in the deposition of sediment and erosion material in the Paarl canoe

club area. The loss of this riparian habitat and the loss of a functioning sediment transport/deposition regime preventing the formation of habitat makes future rehabilitation and restoration of the river more challenging and is considered a significant impact. The construction of the berm further resulted in significant hydraulic impacts which increased the increased flow of the watercourse and could cause potential damage to downstream properties.

It can be concluded that the construction of the berm resulted negative impacts to the immediate environment through sedimentation and deposition of soil as well as reduction in water quality. Furthermore, it resulted in the loss of riparian habitat and aquatic plants. The long-term effects of the berm construction may result in negative impacts on downstream users if proper mitigation measures as well as continuous monitoring and management of the berm is not instituted. Rehabilitation and maintenance, as has been made conditional of this environmental authorisation, is integral in ensuring adequate environmental management and mitigation.

4. NEMA Principles

The National Environmental Management Principles (set out in section 2 of the NEMA), which apply to the actions of all organs of state, serve as guidelines by reference to which any organ of state must exercise any function when taking any decision, and which must guide the interpretation, administration and implementation of any other law concerned with the protection or management of the environment), *inter alia*, provides for:

- the effects of decisions on all aspects of the environment to be taken into account;
- the consideration, assessment and evaluation of the social, economic and environmental impacts of activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;
- the co-ordination and harmonisation of policies, legislation and actions relating to the environment;
- the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures; and
- the selection of the best practicable environmental option.

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the EMPr, the competent authority is satisfied that the listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the NEMA and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

-----END-----