



REFERENCE: 14/2/4/2/1/F2/4/0016/19

ENQUIRIES: Ziyaad Allie

REGISTERED MAIL

The Directors
Kraalbosvlak Boerdery BK
P.O. Box 415
CITRUSDAL
7340

Tel: (022) 921 2169
Fax: (086) 518 9425
Email: admin@kraalbos.co.za

Attention: Ockert and Petro Rossouw

Dear Sir/Madam

APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): UNLAWFUL DEVELOPMENT OF DAMS AND THE CLEARANCE OF INDIGENOUS VEGETATION ON THE REMAINDER OF PORTION 1 OF FARM 404, CLANWILLIAM

With reference to your application received by the Department on 11 July 2019 and the 24G Assessment Report received by the Department on 29 October 2019 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 and environmental assessment received by the Department on 29 October 2019.

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

Kraalbosvlak Boerdery BK
 C/o Ockert & Petro Rossouw
 P.O. Box 415
 CITRUSDAL
 7340

Tel: (022) 921 2169/ 022 125 0316
 Email: admin@kraalbos.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
Government Notice No. R. 1182 of 1997 – Activity Number: 10 Activity Description: <i>“The cultivation or any other use of virgin ground.”</i>	The Lek and Boonste dams were constructed before 2000 which resulted disturbance of virgin soil.
Government Notice No. 327 of 2014 – Activity Number: 12 Activity Description: <i>“The development of— (i) dams or weirs, where the dam or weir,</i>	The Balanseer Dam, Lek dam, Boonste Dam and Besproeiingsdam are all visible on 2000 imagery. The Boonste dam was

<p><i>including infrastructure and water surface area, exceeds 100 square metres; or</i></p> <p><i>(ii) infrastructure or structures with a physical footprint of 100 square metres or more;</i></p> <p><i>where such development occurs—</i></p> <p><i>(a) within a watercourse;</i></p> <p><i>(b) in front of a development setback; or</i></p> <p><i>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse”</i></p>	<p>raised in 2016, the Besproeiingsdam was raised in 2019, and the HDPE lined dam was constructed in 2018. All the dams which were constructed exceed 100m².</p>
<p>Government Notice No. R327 of 2014 –</p> <p>Activity Number: 19</p> <p>Activity Description:</p> <p><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”</i></p>	<p>The Boonste-, Lek-, Balanseer- and Besproeiingsdam are all considered instream dams. As they are in-stream dams, more than 10 cubic metres of soil was removed from the streams to create the dams.</p>
<p>Government Notice No. R327 of 2014</p> <p>Activity Number: 27</p> <p>Activity Description:</p> <p><i>“The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—</i></p> <p><i>(i) the undertaking of a linear activity; or</i></p> <p><i>(ii) maintenance purposes undertaken in accordance with a maintenance management plan”</i></p>	<p>More than 1 hectare, but less than 20 hectares was cleared in the creation of the dams. Only the Balanseer dam and some of the Besproeiingsdam covers sections of land previously used for agriculture.</p>
<p>Government Notice No. R327 of 2014</p> <p>Activity Number: 48</p> <p>Activity Description: <i>The expansion of—</i></p> <p><i>(iv) dams, where the dam, including infrastructure and water surface area, is expanded by 100 square metres or more in size;</i></p> <p><i>(ii) dams or weirs, where the dam or weir, including infrastructure and water surface area, is expanded by 100 square metres or more;</i></p>	<p>In 2016 the Boonste dam was raised and the Besproeiingsdam is currently being raised. Both have been/are being expanded well above 100 square meters in size.</p>

<p>where such expansion [or expansion and related operation] occurs— (a) within a watercourse”</p>	
<p>Government Notice No. R327 of 2014 Activity Number: 66 Activity Description: “The expansion of a dam where— (i) the highest part of the dam wall, as measured from the outside toe of the wall to the highest part of the wall, was originally 5 metres or higher and where the height of the wall is increased by 2,5 metres or more; or (ii) where the high-water mark of the dam will be increased with 10 hectares or more”</p>	<p>The Boonste dam was raised in 2016 by approximately 3-4m.</p>
<p>Government Notice No. 325 of 2014 Activity Number: 16 Activity Description: “The development of a dam where the highest part of the dam wall, as measured from the outside toe of the wall to the highest part of the wall, is 5 metres or higher or where the highwater mark of the dam covers an area of 10 hectares or more”</p>	<p>The HDPE lined dam has a dam wall of more than 5m (15m)</p>
<p>Government Notice No. R324 of 2014 Activity Number: 12 Activity Description: “The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan. i. Western Cape ii. Within critical biodiversity areas identified in bioregional plans”</p>	<p>More than 300 square metres of indigenous vegetation was cleared for the dams and boreholes in areas indicated as Critical Biodiversity Areas.</p>
<p>Government Notice No. R.324 of 2014 Activity Number: 14 Activity Description: “The development of— (i) dams or weirs, where the dam or weir,</p>	<p>More than 300 square metres of indigenous vegetation was cleared for the dams and boreholes in areas indicated as Critical Biodiversity Areas.</p>

<p><i>including infrastructure and water surface area, exceeds 10 square metres; or</i></p> <p><i>(ii) infrastructure or structures with a physical footprint of 10 square metres or more;</i></p> <p><i>where such development occurs—</i></p> <p><i>(a) within a watercourse;</i></p> <p><i>(b) in front of a development setback; or</i></p> <p><i>(c) if no development setback has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse;</i></p> <p><i>i. Western Cape</i></p> <p><i>(ff) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans"</i></p>	
<p>Government Notice No. 324 of 2014</p> <p>Activity Number: 23</p> <p>Activity Description:</p> <p><i>The expansion of—</i></p> <p><i>(i) dams or weirs where the dam or weir is expanded by 10 square metres or more;</i></p> <p><i>or</i></p> <p><i>(ii) infrastructure or structures where the Physical footprint is expanded by 10 square metres or more; where such Expansion occurs—</i></p> <p><i>(a) within a watercourse;</i></p> <p><i>(b) in front of a development setback adopted in the prescribed manner; or</i></p> <p><i>(c) if no development setback has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse</i></p> <p><i>i. Western Cape</i></p> <p><i>Outside urban areas:</i></p> <p><i>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</i></p> <p><i>(bb) National Protected Area Expansion Strategy Focus areas;</i></p> <p><i>(cc) World Heritage Sites;</i></p> <p><i>(dd) Sensitive areas as identified in an environmental management framework</i></p>	<p>The Besproeiings and Boonste Dam have both been expanded by more than 10 square metres.</p>

<p><i>as contemplated in chapter 5 of the Act and as adopted by the competent authority;</i></p> <p><i>(ee) Sites or areas listed in terms of an international convention;</i></p> <p><i>(ff) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</i></p> <p><i>(gg) Core areas in biosphere reserves; or</i></p> <p><i>(hh) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined"</i></p>	
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The abovementioned list is hereinafter referred to as "the listed activities/development".

D. PROPERTY DESCRIPTION AND LOCATION

The listed activities commenced on Remainder of Farm 404 and Portion 1 of Farm 404, Clanwilliam. The farm/property is located approximately 33km north-west of Citrusdal on the Paleisheuwel road.

The SG digit codes are: RE/404: C02000000000040400000

1/404: C02000000000040400001

The co-ordinates for the property boundary are:

Farm RE/404	Latitude (S)	Longitude (E)
Point		
1	32° 25' 15.68" South	18° 47' 41.40" East
2	32° 25' 55.45" South	18° 47' 2.06" East
3	32° 26' 49.75" South	18° 48' 2.60" East

The co-ordinates for the site boundary are:

Point	Latitude (S)	Longitude (E)
1	32° 27' 0.63" South	18° 49' 15.05" East
2	32° 25' 51.14" South	18° 47' 34.57" East
3	32° 25' 40.77" South	18° 48' 14.13" East
4	32° 26' 43.33" South	18° 49' 16.84" East

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

Herein-after referred to as "the site".

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

GroenbergEnviro (Pty) Ltd

C/o Mr Pieter Badenhorst

PO Box 1058

WELLINGTON

7654

Cell: 082 776 3422

Email: pieter@groenbergenviro.co.za

F. DETAILS OF THE ACTIVITIES UNDERTAKEN

The activities entail the construction and expansion of 5 dams on the property. The farm/property is located approximately 33km north-west of Citrusdal on the Paleisheuwel road. Surface water supplying the farm is obtained from the Kleinvlei River, which is a tributary of the Bergvallei River, which in turn joins the Kruismans and eventually the Verlorenvlei River.

Four of the dams (Boonste dam, Lek dam, Balanseer dam and Besproeiings dam) are visible on the 2000 aerial photos.

On Farm RE/404 a total area of 0.59ha was cleared, while on Farm 1/404 an area of 1.42ha was cleared. It is proposed to enlarge the two dams on RE/404 from 0.35ha to

0.84ha and 0.24ha to 0.55ha respectively. This will lead to a future total clearing of 2.81ha.

The Kraalbosvlak Boerdery engaged in the following activities, including 2 existing upstream and downstream diversions:

The construction/ expansion of 5 Dams -

- High Density Poly Ethelene lined Dam storage with a capacity of 22 000m³ was constructed in 2018.
- Besproeiings Dam with an existing storage capacity 10 000m³. The dam wall was raised for a total storage capacity of 15000m³.
- Boonste Dam with a storage capacity 39 500m³ (existing on 2000 imagery). The dam wall was raised in 2016 by approximately 3-4m.
- Construction of the Lek Dam storage capacity <5000m³ (existing on 2000 imagery).
- Construction of the Balanseer Dam storage capacity <5000m³ (existing on 2000 imagery).

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 received by the Department on 29 October 2019 on the site as described in Section D above.
2. 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.
3. 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

Notification and administration of an appeal

4. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
 - 4.1 notify all registered Interested and Affected Parties ("I&APs") of –
 - 4.1.1 the outcome of the application;
 - 4.1.2 the reasons for the decision as included in Annexure 3;
 - 4.1.3 the date of the decision; and
 - 4.1.4 the date when the decision was issued.
 - 4.2 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.
 - 4.3 draw the attention of all registered I&APs to the manner in which they may access the decision.
 - 4.4 provide the registered I&APs with:
 - 4.4.1 the name of the holder (entity) of this Environmental Authorisation;
 - 4.4.2 name of the responsible person for this Environmental Authorisation;
 - 4.4.3 postal address of the holder;
 - 4.4.4 telephonic and fax details of the holder;
 - 4.4.5 e-mail address, if any, of the holder; and
 - 4.4.6 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*.

5. 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 III

Management of the activity/development

6. The draft Construction & Operational Management Programme ("EMPr") of October 2019 compiled by Groenberg Environmental and submitted as part of the application for environmental authorisation is hereby approved and must be implemented.

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

PART IV

Monitoring

8. The holder must appoint a suitably experienced Environmental Control Officer ("ECO") or site agent where appropriate, before commencement of any land clearing or construction activities to ensure compliance with the EMPr and the conditions contained herein.

9. 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 activity/ies, and must be made available to anyone on request, including a publicly accessible website (if applicable).

10. 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 V

Auditing

11. 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*.

PART VI

Activity/ Development Specific Conditions

12. 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.

13. 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.
14. The mitigation measures as outlined by the Freshwater Specialist in the Freshwater Assessment of January 2019 must be implemented within 5 years of the date of this decision.
15. The above mitigation measures stipulated in point 14. must be undertaken in conjunction with the Riparian and Wetland Rehabilitation Plan of September 2019 and the EMPr of October 2019.

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. If the holder does not continue, conduct or undertake listed activities within the period referred to in Condition 2 of Section G, this Environmental Authorisation shall lapse for that activity or activities, and a new application for Environmental Authorisation must be submitted to the competent authority. If the holder wishes to extend the validity period of the Environmental Authorisation, an application for amendment must be made on condition that the environmental authorisation is valid on the date of receipt of such amendment application.

Note that:

(1) In terms of regulation 28(1A) of the *EIA Regulations, 2014* the competent authority shall not accept or process an application for amendment of an environmental authorisation if such environmental authorisation is not valid on the day of receipt of such amendment application, but may consider an application for environmental authorisation for the same development.

(2) In terms of regulation 28(1B) of the *EIA Regulations, 2014* an environmental authorisation which is the subject of an amendment application remains valid pending the finalisation of the amendment application.

(3) It is an offence in terms of section 49A(1)(a) of the NEMA for a person to commence with a listed activity if the competent authority has not granted an environmental authorisation for the undertaking of the activity.

4. 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.

5. 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, the Municipality, committees or any other public authority or organisation 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

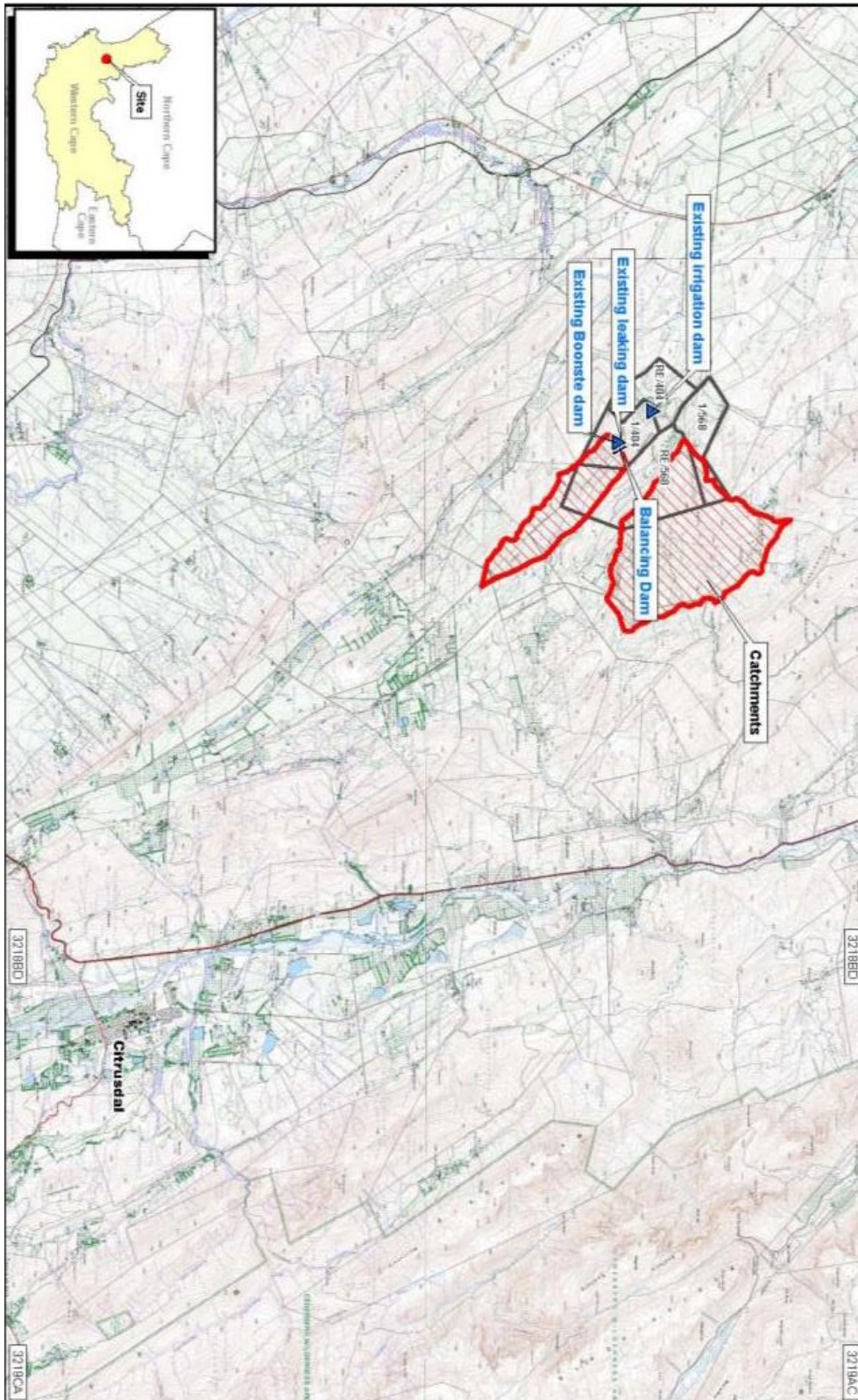
ADV. CHARMAINE MARÉ
DIRECTOR: ENVIRONMENTAL GOVERNANCE

DATE OF DECISION: _____

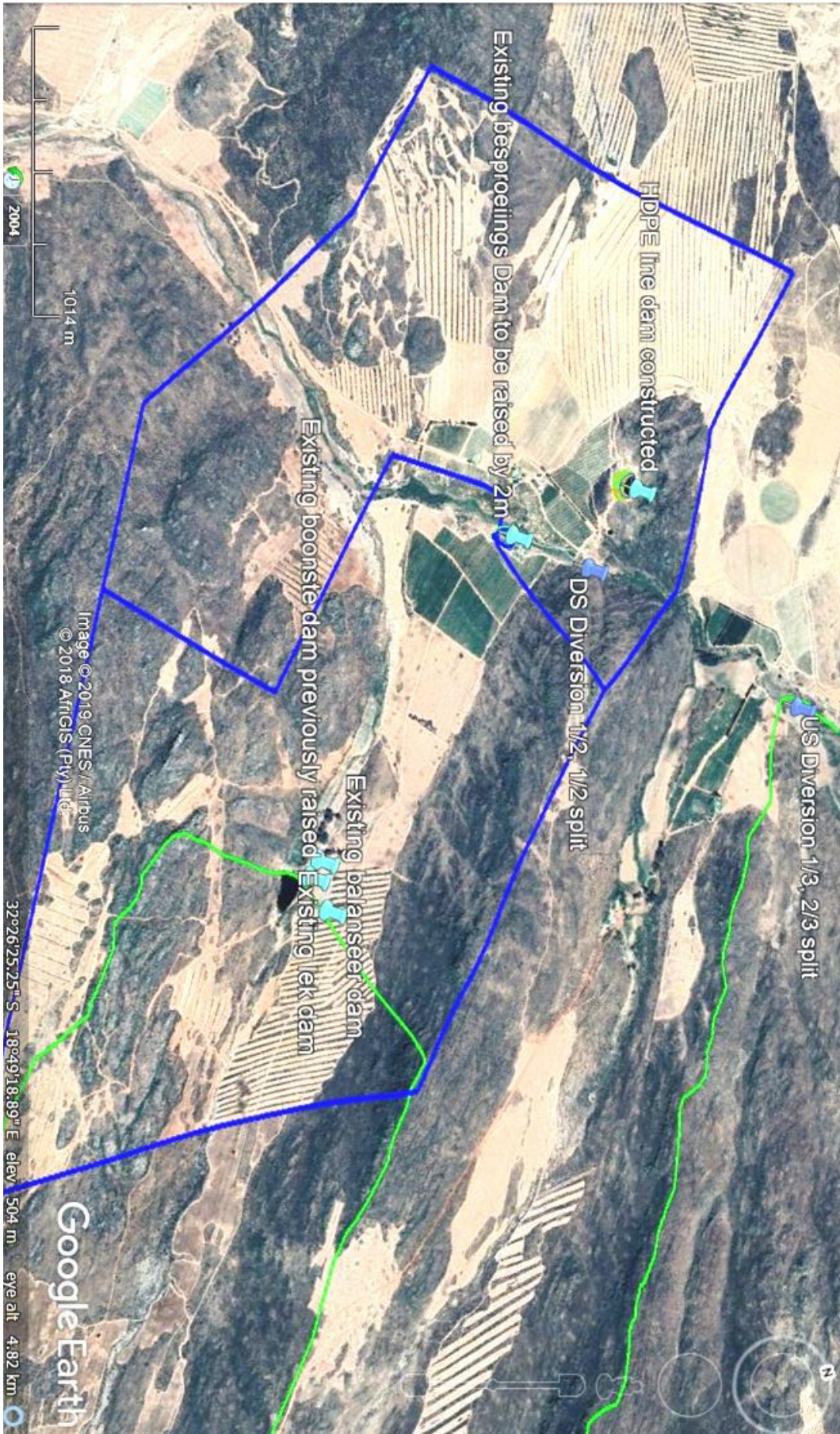
Copied to: (1) Therina Oberholzer (EAP)

Email: therina@pbps.co.za

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: SITE LAYOUT



FOR OFFICIAL USE ONLY:

S24G REFERENCE: 14/2/4/2/1/F2/4/0016/19

APPEAL REFERENCE: 14/3/6/F2/4/0477/20

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 R250 000 (Two hundred and fifty 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 received by the Department on 11 July 2019 and the Final 24G Assessment Report received by the Department on 29 October and the Construction and Operational Environmental Management Programme ("EMPr") submitted together with the Final 24G Assessment Report.
- b) Relevant information contained in the Departmental information base, including, the Guidelines on Public Participation and Alternatives.
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the NEMA.
- d) The comments received from Interested and Affected Parties ("I&APs") and the responses provided thereto.
- e) The sense of balance of the negative and positive impacts and proposed mitigation measures.
- f) The site visit conducted on 17 October 2019 conducted by officials from this Department.
- g) The appeal decision on the 24G administrative fine dated 29 October 2020.

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 **Ons Kontrei** newspaper on 26 October 2018;
- A site notice was erected on 12 July 2019; and
- Letters were sent to interested and affected parties ("I&APs") and the municipal ward councillor on 08 July 2019;
- 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:

- CapeNature
- Department of Water and Sanitation
- Department of Water and Sanitation-Berg Olifants Region ("DWS-BOR")

At the end of the public participation process, comments were received from CapeNature and the Department of Water and Sanitation. A summary of the comments received, and the responses thereto follows below.

CapeNature

CapeNature stated that the applicant engaged in several listed activities which resulted in the loss of biodiversity as well as flow modification to the watercourse and associated erosion. They further stated that they do not support new instream dams unless it can be shown that the downstream condition will be improved through various means such as improving ecological flow releases and rehabilitation. CapeNature was concerned with the fact that the activities have been undertaken in areas demarcated as Critical Biodiversity Areas ("CBAs") and Ecological Support Areas ("ESAs"). Furthermore, CapeNature stated that the Validation and Verification ("V&V") process for the groundwater abstraction has not yet been completed.

The EAP addressed all the concerns raised by CapeNature with the compilation of a rehabilitation plan to which CapeNature was satisfied.

Department of Water and Sanitation

The Department of Water and Sanitation stated that various sections of the *National Water Act, (Act 36 of 1998)* ("NWA") has been violated through the abstraction of groundwater without prior authorisation.

The EAP responded by stating that a Water Use Licence Application currently in process.

DWS-BOR

The DWS-BOR raised stated that the Water Use Authorisation & Registration Management System ("WARMS") is the national register for water users in South Africa. According to the WARMS register, Kraalbosvlak Boerdery registered the taking of water in terms of section 21 (a) of the NWA from a spring/fountain. There is no reference to any groundwater abstraction from boreholes. The DWS-BOR raised further comments related to information contained in the report to which the EAP responded adequately.

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 the construction/expansion of 5 Dams in their current position.:

- High Density Poly Ethelene lined Dam storage with a capacity of 22 000m³ was constructed in 2018.
- Besproeiings Dam with an existing storage capacity 10 000m³. The dam wall was raised for a total storage capacity of 15000m³.
- Boonste Dam with a storage capacity 39 500m³ (existing on 2000 imagery). The dam wall was raised in 2016 by approximately 3-4m.

- Construction of the Lek Dam storage capacity <math><5000\text{m}^3</math> (existing on 2000 imagery).
- Construction of the Balanseer Dam storage capacity <math><5000\text{m}^3</math> (existing on 2000 imagery).

This alternative was considered preferred since all the areas have been disturbed for a long period of time (since the early 2000s) with the exception of the HDPE dam. All of the activities have been effectively positioned for their intended use.

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

This alternative would entail demolishing the dams and rehabilitating the affected sites. The application concluded that this alternative has been considered, but is not a viable option for the following reasons:

- Availability of water for irrigation during the summer months will be of great concern.
- The applicant will not be gaining financial benefits.
- Better management of both water resources and water use will not be achieved.
- No job security for existing workers and future workers.

Therefore, this alternative is not deemed preferred.

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 development is in line with its existing land use which is agricultural. The development of the dams, boreholes and pipelines are for the utilisation of the existing agricultural land use.

3.2. Regional/ Planning Context

The activities undertaken are within the Provincial Spatial Development Framework ("PSDF"). Furthermore, the activities will not compromise the integrity of the Municipal Spatial Development Framework or Integrated Development

Plan as it is situated within an agricultural area and serves as an expansion of its existing use.

3.3. Biophysical and biodiversity Impacts

The activities undertaken has resulted in localised biodiversity impacts. The constructed and expanded dams are in-stream dams and thus has resulted in negative impacts on flow as well as use for downstream users. Although it is noted that according to the Freshwater specialist that after mitigation and rehabilitation the impacts of the dams will be low to very low impact, the effects and negative impacts already caused by the dam construction on the wetlands and watercourse cannot be ignored. Furthermore, the activities have been undertaken in Critical Biodiversity as well as Ecological Support Areas, which ultimately exacerbates the overall negative impacts of the unlawful activities.

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.

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