



REFERENCE NO: 14/3/1/B5/14/0421/19

Mr Schalk Albertyn
Chief Executive Officer
Tulbagh Water Users Association
PO Box 3395
MATIELAND
7602

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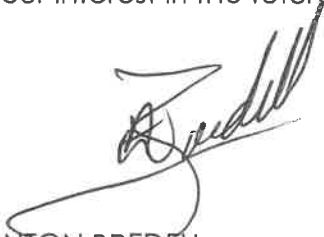
Dear Mr Albertyn

APPEAL LODGED IN TERMS OF SECTION 43(2) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AGAINST THE PROPOSED EXPANSION OF THE INSTREAM MISGUND STORAGE DAMS ON REMAINDER OF PORTION 14 OF FARM 51, TULBAGH RD

1. Your appeal lodged in terms of section 43(2) of the *National Environmental Management Act, 1998 (Act No. 107 of 1998)* ("NEMA") against the Environmental Authorisation issued for the expansion of the Misgund Storage Dams on the Remainder of Portion 14 of Farm 51, Tulbagh, refers.
2. After careful consideration of the ground of appeal, as well as supporting documentation received, I have decided to confirm the decision of the delegated competent authority.
3. The reasons for the confirmation of the aforementioned decision of the delegated officer are listed below and includes responses to the issues you have raised.
4. **REASONS FOR THE DECISION**
The following are reasons to confirm the Environmental Authorisation issued by the Delegated Competent Authority:
 - 4.1 The *NEMA EIA Regulations, 2014 (Government Notice 325 of 7 April 2017)* does not require that a site inspection be conducted, though wherever possible an inspection is conducted. Having considered the contents of the Basic Assessment Report ("BAR") and the Maintenance Management Plan, the Competent Authority made a decision as sufficient information was placed before him in order to make an informed decision without having to conduct a site inspection.
 - 4.2 The applicant has permission from the neighbouring property owner to enlarge the dam known as Boonste dam, located on Portion 2 of Farm 51 (Kleinfontein) and is in the process of formalising a servitude right in this regard.

- 4.3 Confirmation of the volume of abstraction or any investigation in respect of such extraction must be addressed by the Department of Water Affairs and Sanitation as it falls outside of the jurisdiction of my powers as the Competent Authority.
- 4.4 The Freshwater Specialist, everWater Freshwater Consulting Services states that *"If the applicant, through a proper metering system, adheres to taking no more than 789 740m³ per annum from the larger freshwater system, the impact on the downstream features should remain unchanged from the current impact."*

Your interest in the future of our environment is appreciated.



ANTON-BREDELL

**WESTERN CAPE MINISTER OF LOCAL GOVERNMENT,
ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

DATE: 20/1/2020

cc. Ms. Therina Oberholzer

Pieter Badenhorst Professional Services

Email: therina@pbps.co.za



REFERENCE NO: 14/3/1/B5/14/0421/19

Mr Christiaan Orffer
The Board of Directors
JP Orffer en Seun (Pty) Ltd
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TULBAGH
6820

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Email: Misgund@breede.co.za

Dear Mr Orffer

APPEAL LODGED IN TERMS OF SECTION 43(2) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AGAINST THE PROPOSED EXPANSION OF THE INSTREAM MISGUND STORAGE DAMS ON REMAINDER OF PORTION 14 OF FARM 51, TULBAGH RD

1. The appeal lodged in terms of section 43(2) of the *National Environmental Management Act, 1998 (Act No. 107 of 1998)* ("NEMA") against the Environmental Authorisation issued for the expansion of the Misgund Storage Dams on the Remainder of Portion 14 of Farm 51, Tulbagh, refers.
2. After careful consideration of the ground of appeal, as well as supporting documentation received, I have decided to confirm the decision of the delegated competent authority.
3. The abovementioned EA and the conditions under which the authorisation was granted must be complied with.
4. **AMENDMENTS/EXCLUSIONS TO THE ENVIRONMENTAL AUTHORISATION:**
 - 4.1 Section G of the abovementioned EA is excluded from this authorisation.
 - 4.2 Condition E8 of the EA is excluded from this authorisation.
 - 4.3 The following conditions of the EA are substituted and must be complied with:

SECTION E: CONDITIONS

Condition E2:

*"The holder must commence with the listed activities on site within a period of **five (5) years** from the date of issue of this Appeal Environmental Authorisation."*

Condition E7:

"7. The holder of the appeal Environmental Authorisation must within fourteen (14) days of the appeal decision ensure, in writing, that all the registered interested and

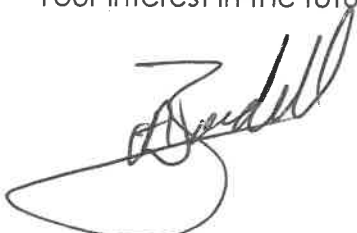
affected parties are provided with access to the appeal decision and the reasons for such a decision."

5. REASONS FOR THE DECISION

The following are reasons to confirm the Environmental Authorisation issued by the Delegated Competent Authority:

- 5.1 The *NEMA EIA Regulations, 2014 (Government Notice 325 of 7 April 2017)* does not require that a site inspection be conducted, though wherever possible an inspection is conducted. Having considered the contents of the Basic Assessment Report ("BAR") and the Maintenance Management Plan, the Competent Authority made a decision as sufficient information was placed before him in order to make an informed decision without having to conduct a site inspection.
- 5.2 The applicant has permission from the neighbouring property owner to enlarge the dam known as Boonste dam, located on Portion 2 of Farm 51 (Kleinfontein) and is in the process of formalising a servitude right in this regard.
- 5.3 Confirmation of the volume of abstraction or any investigation in respect of such extraction must be addressed by the Department of Water Affairs and Sanitation as it falls outside of the jurisdiction of my powers as the Competent Authority.
- 5.4 The Freshwater Specialist, everWater Freshwater Consulting Services states that *"If the applicant, through a proper metering system, adheres to taking no more than 789 740m³ per annum from the larger freshwater system, the impact on the downstream features should remain unchanged from the current impact."*

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ANTON BREDELL

**WESTERN CAPE MINISTER OF LOCAL GOVERNMENT,
ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

DATE: 20/11/2020