

REFERENCE: 16/3/3/1/E3/1/1060/21
NEAS REFERENCE: WCP/EIA/0000997/2021
ENQUIRIES: Ntanganedzeni Mabasa
DATE OF ISSUE: 12 May 2022

The Board of Directors
Montdry (Pty) Ltd
102 Bath Street
MONTAGU
6720

Attention: Mr. Wim Joubert

Tel: 023 614 1665
Email: wim@capedriedfruit.com

Dear Sir

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014: THE PROPOSED EXPANSION OF MONDRY DAM C AND ASSOCIATED INFRASTRUCTURE ON PORTIONS 3, 11 AND 17 OF FARM NO. 67, WELTEVREDEN, BARRYDALE.

1. With reference to the above application, the Department hereby notifies you of its decision to **grant** the environmental authorisation and **adopt** the Maintenance Management Plan, attached herewith together with the reasons for the decision.
2. In terms of Regulation 4 of the Environmental Impact Assessment Regulations, 2014, (as amended), you are instructed to ensure, within 14 days of the date of the environmental authorisation, that all registered Interested and Affected Parties ("I&APs") are provided with access to and reasons for the decision, and that all registered I&APs are notified of their right to appeal.
3. Your attention is drawn to Chapter 2 of the National Appeal Regulations, 2014 (as amended), which prescribes the appeal procedure to be followed. This procedure is summarized in the attached environmental authorisation.

Yours faithfully

MR. ZAAHIR TOEFY
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

CC: (1) Amanda Fritz-Whyte (PHS Consulting)
(2) Ron Brunings (Swellendam Municipality)

Email: amanda@phsconsulting.co.za
Email: rbrunings@swellenmun.co.za

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ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014: THE PROPOSED EXPANSION OF MONDRY DAM C AND ASSOCIATED INFRASTRUCTURE ON PORTIONS 3, 11 AND 17 OF FARM NO. 67, WELTEVREDEN, BARRYDALE.

With reference to your application for the abovementioned, find below the outcome with respect to this application.

DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014, the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activities specified in section B below with respect to the Preferred Alternative described in the Basic Assessment Report ("BAR"), received on 27 January 2022 and the additional information, received on 10 May 2022.

In terms of the NEMA, viz, the EIA Regulations, 2014 (Listing Notices 1 and 3 of 2014 in Government Gazette No. 40772 of 7 April 2017) the Competent Authority hereby adopts the Maintenance Management Plan for the proposed expansion of Montdry Dam C and associated infrastructure on Portions 3, 11 and 17 of Farm No. 67, Weltevreden, Barrydale.

The applicant for this Environmental Authorisation is required to comply with the conditions set out in section E below.

A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

Montdry (Pty) Ltd
c/o Mr Wim Joubert
102 Bath Street
MONTAGU
6720

Tel: 023 614 1665
Email: wim@capedriedfruit.com

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

B. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Project Description
<p>Listing Notice 1 – Activity Number: 19</p> <p>The infilling or depositing of any material of more than 10 cubic metres of 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;</p> <p>-but excluding where such infilling, depositing, dredging, excavation, removal or moving;</p> <ul style="list-style-type: none"> a) Will occur behind a development setback line; b) Is for maintenance undertaken in accordance with maintenance management plan; c) falls within the ambit of activity 21 of this Notice, in which case that activity applies; d) occurs within existing harbours that will not increase the development footprint of the harbour or port; or e) where such a development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies. 	<p>The upgrade of the existing pump station on the Tradou River, the pipeline crossing the river and the relocation of the downstream diversion will include activities within a watercourse resulting in the infilling and removal of material of more than 10 cubic metres.</p>
<p>Listing Notice 1 Activity Number 27</p> <p>The clearance of an area of 1ha or more, but less than 20ha of indigenous vegetation, except where such clearance of indigenous vegetation is required for –</p> <ul style="list-style-type: none"> (i) The undertaking of a linear activity, or (ii) maintenance purposes undertaken in accordance with a maintenance management plan. 	<p>The expansion of the dam and associated infrastructure will require the clearance of an area of indigenous vegetation exceeding of 1ha in size.</p>
<p>Listing Notice 1 Activity Number 48</p> <p>The expansion of –</p> <ul style="list-style-type: none"> i. infrastructure or structures where the physical footprint is expanded by 100 square metres or more or; ii. dams or weirs, where the dam or weir, including infrastructure and water surface area is expanded by 100 square metres or more; <p>where such expansion occurs –</p>	<p>The expansion of the dam and associated infrastructure will exceed 100m² in size.</p>

<p>a) within a watercourse; b) in front of a development setback; or c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of the watercourse;</p> <p>excluding –</p> <p>(aa) the expansion of infrastructure or structures within existing ports or harbours that will not increase the footprint of the port or harbour; (bb) where such expansion activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies; (cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies; (dd) where such expansion occurs within an urban area; (ee) where such expansion occurs within existing roads, road reserves or railway line reserves.</p>	
<p>Listing Notice 1 Activity 50</p> <p>The expansion of facilities or infrastructure for the off-stream storage of water, including dams and reservoirs, where the combined capacity will be increased by 50 000m³ or more.</p>	<p>The increased storage capacity of the dam will exceed 50 000m³.</p>

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

The holder is herein authorised to undertake the following alternative that includes the listed activities as it relates to the development:

The development entails the enlargement of an existing storage dam and the development and expansion of associated infrastructure on Portions 3, 11 and 17 of Farm No. 67 Weltevreden, Barrydale, which includes the following:

- The enlargement of Dam C from 15 900m³ to a gross storage capacity of 190 000m³ with a dam wall height of 13m and a 315mm diameter and a 250mm diameter outlet pipes.
- The 315mm diameter outlet pipe will be connected to a new pumpstation (approximately 120m² in size) at the downstream toe of the raised embankment and the 250mm diameter outlet pipe will be connected to existing Dam A.
- The existing 250mm diameter outlet pipe at the existing Dam D will be extended over the river at an existing crossing.
- An existing moveable diesel pump on the Tradou River will be upgraded to an electrical pump on tracks. It will have an approximate footprint of 16m².

- The downstream diversion will be relocated a few metres upstream and the channels diverting water from the downstream diversion to the dam will be partially relocated outside the expanded dam footprint.
- A sand borrow area of 0.75ha will be located within an area previously used as a sand borrow area.

C. SITE DESCRIPTION AND LOCATION

The site where the authorised listed activities will be undertaken is on Portions 3, 11 and 17 of Farm No. 67 Weltevreden, Barrydale and has the following co-ordinates:

Coordinates:	Latitude (S)	Longitude (E)
Dam C	33° 55' 34.79" South	20° 39' 17.37" East
Pipeline crossing: Start	33° 55' 54.04" South	20° 39' 28.48" East
Middle	33° 54' 54.14" South	20° 39' 29.66" East
End	33° 55' 53.40" South	20° 39' 30.91" East

The SG digit codes are: C073 000 000 000 067 00003
 C073 000 000 000 067 00017
 C073 000 000 000 067 00011

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

The above is hereinafter referred to as "**the site**".

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

PHS Consulting
 c/o Amanda Fritz-Whyte
 PO Box 1752
HERMANUS
 7200

Tel: 028 312 1734
 Email: amanda@phsconsulting.co.za

E. CONDITIONS OF AUTHORISATION

Scope of authorisation

1. The holder is authorised to undertake the listed activities specified in Section B above in accordance with and restricted to Preferred Alternative described in the Basic Assessment Report ("BAR"), received on 27 January 2022 and the additional information received on 10 May 2022 on the site as described in Section C above.
2. The Environmental Authorisation is valid for a period of **five years** from the date of issue within which commencement must occur.

3. The development must be concluded within **ten years** from the date of commencement of the listed activities.
4. 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.
5. Any changes to, or deviations from the scope of the alternative described in section B 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 in order 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.

Written notice to the Competent Authority

6. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of construction activities.
 - 6.1 The notice must make clear reference to the site details and EIA Reference number given above.
 - 6.2 The notice must also include proof of compliance with the following conditions described herein:

Conditions: 7, 8 and 12

Notification and administration of appeal

7. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
 - 7.1 notify all registered Interested and Affected Parties ("I&APs") of –
 - 7.1.1 the outcome of the application;
 - 7.1.2 the reasons for the decision as included in Annexure 3;
 - 7.1.3 the date of the decision; and
 - 7.1.4 the date when the decision was issued.
 - 7.2 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 F below;
 - 7.3 draw the attention of all registered I&APs to the manner in which they may access the decision;
 - 7.4 provide the registered I&APs with:
 - 7.4.1 the name of the holder (entity) of this Environmental Authorisation,
 - 7.4.2 name of the responsible person for this Environmental Authorisation,
 - 7.4.3 postal address of the holder,
 - 7.4.4 telephonic and fax details of the holder,
 - 7.4.5 e-mail address, if any, of the holder,

7.4.6 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 2014 National Appeals Regulations.

8. The listed activities, including site preparation, may not commence within 20 (twenty) 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.

Management of activity

9. The draft Environmental Management Programme ("EMPr") dated May 2022 is hereby approved and must be implemented.
10. The Maintenance Management Plan ("MMP") adopted as part of this Environmental Authorisation must be implemented.
11. The EMPr and MMP must be included in all contract documentation for all phases of implementation.

Monitoring

12. 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 provisions of the EMPr and the conditions contained herein.
13. A copy of the Environmental Authorisation, EMPr, MMP, 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.
14. Access to the site referred to in Section C above 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.

Auditing

15. In terms of Regulation 34 of the NEMA EIA Regulations, 2014, the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation, the EMPr. The Environmental Audit Report must be prepared by an independent person (other than the appointed Environmental Assessment Practitioner and Environmental Control Officer) and must contain all the information required in Appendix 7 of the NEMA EIA Regulations, 2014.

The holder must undertake an environmental audit and submit an Environmental Audit Report to the Competent Authority once a year during the construction phase. The final Environmental Audit Report must be submitted to the Competent Authority within three months after the development is completed.

The holder must, within 7 days of the submission of each of the above-mentioned reports to the Competent Authority, notify all potential and registered I&APs of the submission and make the report available to anyone on request and on a publicly accessible website (if applicable).

Specific Conditions

16. 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 palaeontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artifacts 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.

17. 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.

F. 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 of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.
3. If the holder does not commence with a listed activity within the period referred to in Condition 2, this Environmental Authorisation shall lapse for that activity, 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 in this regard must be made to the Competent Authority prior to the expiry date of the Environmental Authorisation.
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.

G. APPEALS

Appeals must comply with the provisions contained in the National Appeal Regulations 2014 (as amended).

1. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date the notification of the decision was sent to the holder by the Competent Authority –
 - 1.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 1.2. Submit a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
 2. An appellant (if NOT the holder of the decision) must, within 20 (twenty) calendar days from the date the holder of the decision sent notification of the decision to the registered I&APs–
 - 2.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 2.2. Submit a copy of the appeal to the holder of the decision, any registered I&AP, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
 3. The holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&AP and the 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. The appeal and the responding statement must be submitted to the address listed below:

By post: Western Cape Ministry of Local Government, Environmental Affairs and
Development Planning
Private Bag X9186
CAPE TOWN
8000

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, 8001
- Note:** For purposes of electronic database management, you are also requested to submit electronic copies (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Authority 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 Appeal Authority at: Tel. (021) 483 3721, E-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

H. DISCLAIMER

The Western Cape Government, the Local Authority, 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.

Your interest in the future of our environment is appreciated.

Yours faithfully

MR. ZAAHIR TOEFY

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

DATE OF DECISION: 12 MAY 2022

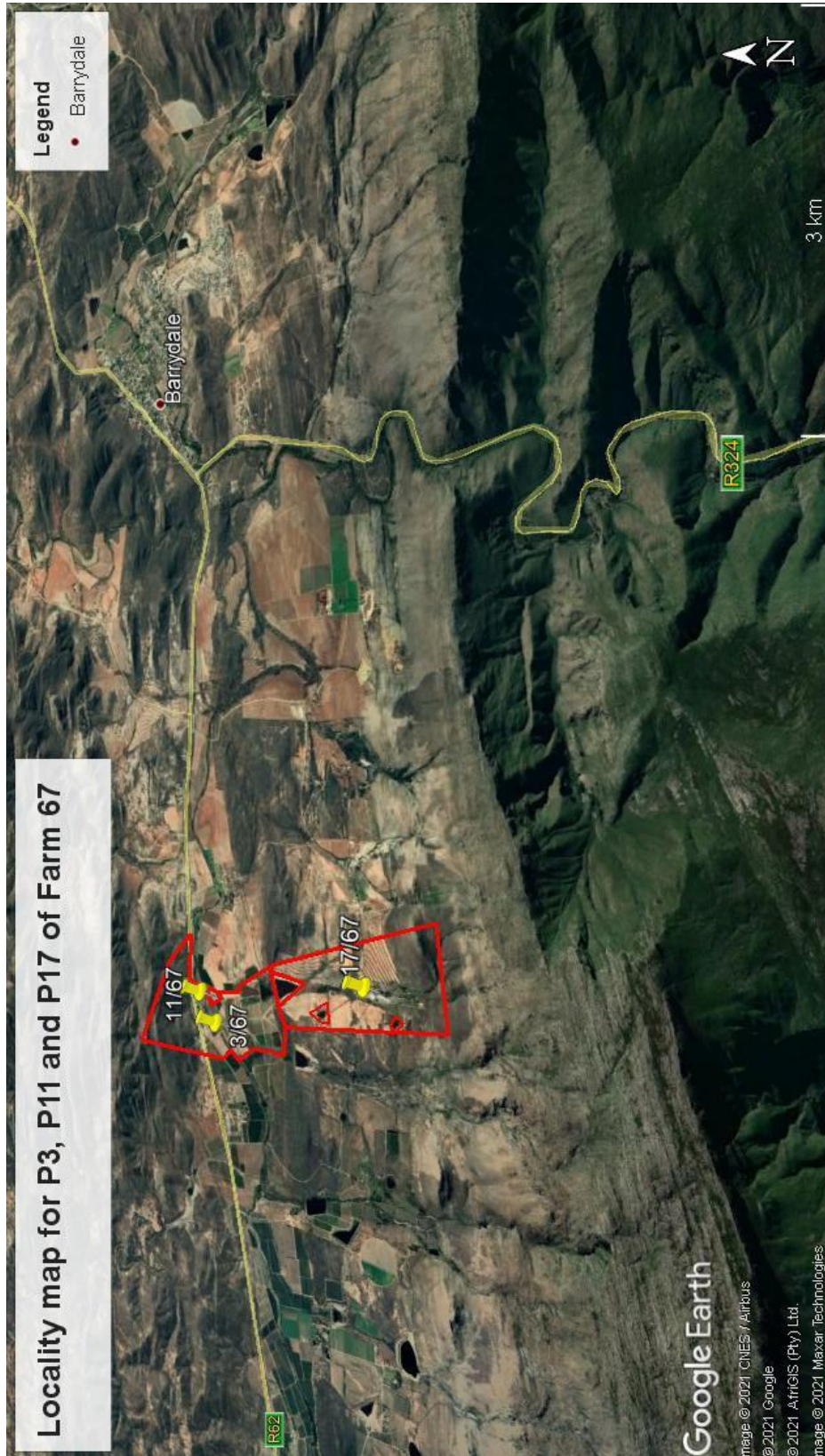
CC: (1) Amanda Fritz-Whyte (PHS Consulting)

(2) Ron Brunings (Swellendam Local Municipality)

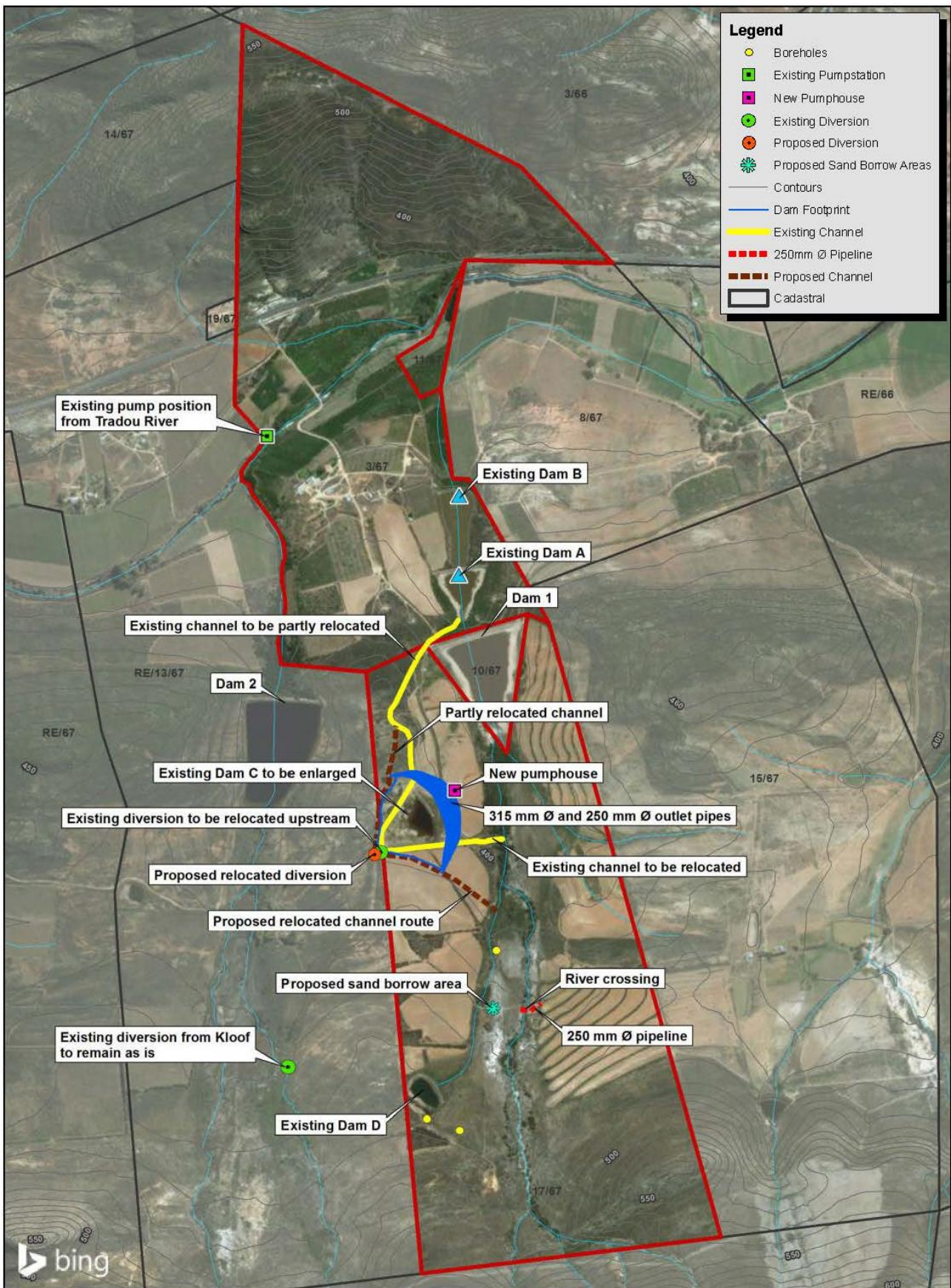
Email: amanda@phsconsulting.co.za

Email: rbrunings@swellenmun.co.za

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: SITE PLAN




 CAPE DRIED FRUIT PACKERS (PTY) LTD	<p>Montdry Dam</p> <p>Proposed Scheme</p>	<p>210 105 0 210 m</p> <p>1:15 000</p> <p>CC173600 - L02</p>
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Figure 1: Yellow line with coordinates indicating new pipeline section over river crossing (total length 72.3m)



ANNEXURE 3: REASONS FOR THE DECISION

In reaching its decision, the Competent Authority considered, inter alia, the following:

- a) The information contained in the Application Form received on 26 October 2021, the EMPr submitted together with the final Basic Assessment Report, received on 27 January 2022 and the additional information received between 4 and 10 May 2022;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation and Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- d) The comments received from I&APs and responses to these, included in the final Basic Assessment Report received on 27 January 2022;
- e) The balancing of negative and positive impacts and proposed mitigation measures.

No site visits were conducted. The Competent Authority had sufficient information before it to make an informed decision without conducting a site visit.

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 that were considered to be the most significant for the decision is set out below.

1. Public Participation

The Public Participation Process ("PPP") included:

- identification of and engagement with I&APs;
- placing notice boards at the site where the listed activities are to be undertaken;
- placing of a newspaper advertisement in the 'Langeberg Bulletin' on 29 July 2021;
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activities are to be undertaken, the municipality and ward councilor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities on 10 November 2021;
- circulating the pre-application draft BAR to I&APs from 29 July 2021 and the in-process draft BAR from 10 November 2021.

The Department is satisfied that the PPP that was followed met the minimum legal requirements and the comments raised and responses thereto were included in the comments and response report. Specific alternatives, management and mitigation measures have been considered in this Environmental Authorisation and EMPr to adequately address the concerns raised.

2. Alternatives

The initial proposal included enlarging Dam C to a gross storage capacity of either 200 000m³ or 240 000m³. Following input from the Freshwater Ecologist, the storage capacity was decreased to incorporate the environmental flow recommendation for the associated watercourse. In addition, the initial 1ha sand borrow area was reduced, the recommended position for the pipeline crossing over the

watercourse was relocated to an existing road crossing and 10m buffer areas were incorporated between the identified aquatic habitats and irrigation areas. The proposed irrigation areas will not require the clearance of indigenous vegetation and does not trigger any listed activities requiring environmental authorisation. These changes to the proposal gave rise to the following preferred alternative:

Preferred Alternative (herewith authorised):

The proposed development entails the following:

- The enlargement of Dam C from 15 900m³ to a gross storage capacity of 190 000m³ with a dam wall height of 13m and a 315mm diameter and a 250mm diameter outlet pipes.
- The 315mm diameter outlet pipe will be connected to a new pumpstation (approximately 120m² in size) at the downstream toe of the raised embankment and the 250mm diameter outlet pipe will be connected to existing Dam A.
- The existing 250mm diameter outlet pipe at the existing Dam D will be extended over the river at an existing crossing.
- An existing moveable diesel pump on the Tradou River will be upgraded to an electrical pump on tracks. It will have an approximate footprint of 16m².
- The downstream diversion will be relocated a few metres upstream and the channels diverting water from the downstream diversion to the dam will be partially relocated outside the expanded dam footprint.
- A sand borrow area of 0.75ha will be located within an area previously used as a sand borrow area.

The preferred alternative applied for also included the expansion of Dam D from 11 400m³ to a gross storage capacity of 33 600m³, with a dam wall height of 6.5m. This component could however not be authorised as part of the preferred alternative. This is based on the fact that the additional water rights required to fill the expanded dam was not supported by the Breede-Gouritz Management Agency ("BGCMA") due to a lack of information. The applicant will therefore re-apply for the expansion of Dam D once all the required information is obtained.

No-go Option

The no-go option was also assessed but is not deemed as the preferred alternative, since the opportunity to store and secure additional irrigation water, limit abstraction during the low flow season and improve the existing farming practices will be lost. There would also be no associated employment opportunities during the construction phase of the development.

3. Impact Assessment and Mitigation measures

3.1 Activity need and desirability

The site is zoned for agricultural activities and the development is therefore in accordance with the existing land use rights and the local Spatial Development Framework that supports socio-economic initiatives in the agricultural sector. The fruit production on the Montdry Farms form part of a chain of economic activities that provide job opportunities and contribute to BBBEE. The proposed development allows water security for irrigation during the summer months and also enables irrigation of previously dry land cultivated areas, which improves the overall economic viability of the farm. It will create job opportunities during the construction phase and provide job security for existing employees. Most of the expansion will be restricted to transformed agricultural land to limit the potential environmental impact.

3.2 Biophysical Impacts

The site is located within the middle reaches of the Tradou River in the Breede River System. The primary aquatic feature associated with the proposed development is an unnamed tributary of the Tradou River (hereinafter referred to as the Montdry Tributary). Some sections of the watercourses are mapped as aquatic Critical Biodiversity Areas, while the remaining sections of the watercourses are mapped as aquatic Ecological Support Areas. The upper slopes of the hillside, above the property, fall within a formally protected area, the Zuurberg Nature Reserve. The section of the Tradou River located within the designated area is deemed to be in a largely modified ecological condition and of high ecological importance and sensitivity, while the Montdry Tributary has been moderately to largely modified and is considered of moderate ecological importance and sensitivity. Based on the findings of the Aquatic Specialist Assessment dated October 2020 and the Addendum to the Specialist Assessment dated January 2021, compiled by BlueScience (Pty) Ltd, the proposed development will have a medium to low risk significance subject to the implementation of the recommended mitigation.

To mitigate the impact significance, the 1ha sand borrow area has been reduced to 0.75 ha. The recommended pipeline crossing position (approximately 140 m downstream from the initially proposed pipeline crossing) was also considered acceptable and will be implemented to further limit potential impacts. In addition, the 10 m buffer areas between the aquatic habitats and proposed irrigation areas, as recommended by the freshwater specialist, will be implemented, where applicable. Furthermore, the enlargement of Dam C has been reduced to a gross storage capacity of 190 000m³ to make provision for the environmental flow recommendation for the associated watercourse. These measures have been included the preferred alternative and the EMPr approved as part of the Environmental Authorisation.

A Water Use Licence Application ("WULA") in terms of the National Water Act, 1998 (Act 38 of 1998) was submitted to the BGCMA, that will further consider the watercourse related impacts. Based on the additional information received between 4 and 10 May 2022, the additional water use rights and associated expansion of Dam D is not recommended for approval by the BGCMA at this time. The expansion of Dam D was therefore not included in the preferred alternative authorised in this Environmental Authorisation.

Furthermore, a MMP has also been compiled to address routine maintenance activities taking place in the affected stretch of the watercourses. The maintenance of the structures authorised in this Environmental Authorisation forms part of this MMP. It must be noted that the accepted maintenance activities only relate to the activities described in the MMP. Should any new activities and associated infrastructure, not included in the MMP, require maintenance and if any of the applicable listed activities are triggered, an Environmental Authorisation must be obtained prior to the undertaking of such activities. It remains the responsibility of the proponent to determine if any other listed activities are triggered and to ensure that the necessary Environmental Authorisation is obtained.

The fact that the MMP is adopted by the Competent Authority does not absolve the applicant from its general "duty of care" set out in Section 28(1) of the NEMA, which states that "Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment." (Note: When interpreting their "duty of care" responsibility, cognisance must be taken of the principles of sustainability contained in Section 2 of NEMA).

The development will result in both negative and positive impacts.

Negative Impacts:

- The development will result in a loss of natural habitat and will have an impact on the watercourse present on the site. These impacts will however be mitigated to an acceptable level with the implementation of the recommended mitigation measures, the preferred alternative and adherence to the EMPr.
- Construction phase impacts associated with the development are likely to be present, including elevated noise, and dust levels. These impacts will be of temporary duration and mitigation measures have been incorporated into the EMPr for implementation during the construction phase.

Positive impacts:

- The development will ensure sufficient storage facilities which will be important to ensure water availability in summer for the irrigation of crops, which will aid in supporting a sustainable and viable farming practice.
- The proposed project will create additional employment opportunities within the rural areas.
- The fruit production will contribute significantly to the Gross Domestic Product within all spheres of the value chain.

4. National Environmental Management Act 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.

5. Conclusion

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 proposed listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

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