



**Western Cape
Government**

Environmental Affairs and
Development Planning

Directorate: Development Management
(Region 1)

REFERENCE: 16/3/3/1/B5/2/1064/18
ENQUIRIES: BERNADETTE OSBORNE
DATE OF ISSUE: 2019-03-27

The Board of Directors
Agterfontein Boerdery (Pty) Ltd
PO Box 77
CERES
6835

Attention: Mr D G Malherbe

Tel: (023) 312 1244
Fax: (023) 616 2675

Dear Sir

APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014: THE ENLARGEMENT OF DRIEFONTEIN DAM ON PORTION 33 OF FARM RIETVALLEY NO. 364, CERES.

1. With reference to the above application, the Department hereby notifies you of its decision to **grant** Environmental Authorisation, attached herewith, together with the reasons for the decision.
2. In terms of Regulation 4 of the EIA Regulations, 2014, 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 Appeal Regulations, 2014, which prescribes the appeal procedure to be followed. This procedure is summarised in the attached Environmental Authorisation.

Yours faithfully

**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

Cc: (1) Inge Erasmus (EnviroAfrica CC)

(2) Hennie Taljaard (Witzenberg Municipality)

(3) Phillippa Huntly (CapeNature)

(4) CorvdW@elsenburg.com (Western Cape Department of Agriculture)

(5) errossouw@bgcma.co.za (Breede-Gouritz Catchment Management Agency)

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REFERENCE: 16/3/3/1/B5/2/1064/18
NEAS REFERENCE: WCP/EIA/0000478/2018
ENQUIRIES: Bernadette Osborne
DATE OF ISSUE: 2019 -03- 27

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 ENLARGEMENT OF DRIEFONTEIN DAM ON PORTION 33 OF FARM RIETVALLEY NO. 364, CERES.

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 (as amended), the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activities specified in section B below with respect to Alternative 1 described in the Basic Assessment Report ("BAR"), dated November 2018.

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

Agterfontein Boerdery (Pty) Ltd
c/o Mr D G Malherbe
P O Box 77
CERES
6835

Tel: (023) 312 1244
Fax: (023) 616 2675

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 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 or more than 10 cubic metres from a watercourse;</p> <p>but excluding where such infilling, depositing, dredging, excavation, removal or moving-</p> <p>(a) Will occur behind a development setback; (b) Is for maintenance purposes undertaken in accordance with a maintenance management plan; (c) Falls within the ambit of activity 21 in this Notice, in which case that activity applies. (d) Occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</p> <p>Where such development is related to the development of a port or harbor, in which case activity 26 in Listing Notice 2 of 2014 applies.</p>	<p>The dam will be expanded within a watercourse.</p>
<p>Listing Notice 1 – Activity Number: 48 The expansion of— (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> <p>where such expansion occurs— (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 a watercourse; —</p> <p>excluding— (aa) the expansion of infrastructure or structures within existing ports or harbours that will not increase the development 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;</p>	<p>The dam will be expanded within a watercourse.</p>

<p>(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;</p> <p>(dd) where such expansion occurs within an urban area; or</p> <p>(ee) where such expansion occurs within existing roads, road reserves or railway lines.</p>	
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The abovementioned list is hereinafter referred to as "**the listed activities**".

The holder is herein authorised to undertake the following:

- The expansion of Driefontein Dam which will be implemented in the following two phases:

Description	Existing	Phase 1 Enlargement	Phase 2 Enlargement
Wall length	300m	390m	431m
Wall height	7.4m	8.95m	9.55m
Net storage capacity	239 000m ³	±321 000m ³	±420 000m ³
Total footprint	10.51ha	14.20ha	16.90ha
Total earthworks		17 800m ³	25 000 m ³

- The existing spillway will be demolished and a new spillway will be constructed. The footprint will remain the same but the height will increase by 2.15m. During phase 1 the spillway height will be increased with 1.55m and a further 0.6m during phase 2.
- The stored water will be used to irrigate 22ha of new orchards that will be established on previously cultivated land.

C. SITE DESCRIPTION AND LOCATION

The listed activities will be undertaken on Portion 33 of the Farm Rietvalley No. 364, Ceres, at the following co-ordinates:

	Latitude (S)	Longitude (E)
Coordinates	33° 21' 10.4" South	19° 24' 14" East

The SG digit code is: C01900000000036400033

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

EnviroAfrica
c/o Inge Erasmus
PO Box 5367
HELDERBERG
7135

Tel: (021) 851 1616

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 the Alternative 1, described in the Basic Assessment Report ("BAR"), dated November 2018 on the site as described in Section C above.
2. The holder must commence with the listed activities on the site within a period of **five years** from the date issue of this Environmental Authorisation.
3. Both phases of the development must be concluded within **fifteen 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 11

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 the applicant notified the registered I&APs of this decision. 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") submitted as part of the application for Environmental Authorisation is hereby approved and must be implemented.
10. The EMPr must be included in all contract documentation for all phases of implementation.

Monitoring

11. 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.
12. A copy of the Environmental Authorisation, EMPr, audit reports and compliance monitoring reports must be kept at the site of the authorised activity, and must be made available to anyone on request, including a publicly accessible website.
13. 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

14. In terms of Regulation 34 of the NEMA EIA Regulations, 2014 (as amended), the holder must conduct environmental audits to determine compliance with the conditions of the

Environmental Authorisation, the EMPr and submit Environmental Audit Reports to the Competent Authority. The Environmental Audit Report must be prepared by an independent person and must contain all the information required in Appendix 7 of the NEMA EIA Regulations, 2014 (as amended).

The holder must undertake an environmental audit quarterly for the duration of the construction phase and submit Environmental Audit Reports to the Competent Authority once every six months during the construction phase. The final Environmental Audit Report must be submitted to the Competent Authority six months after operation commenced.

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

15. 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.

16. 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.
17. The spillway must not be increased higher than the dam wall height to ensure overflow.
18. As Activity 19 of Listing Notice 1 is authorised and future maintenance related work may be required for rehabilitation interventions and maintenance of existing infrastructure within the dam that may also trigger this listed activity, the adoption of a Maintenance Management Plan ("MMP") can apply. Should the Department agree to adopt a MMP, future maintenance work specified within the MMP would not require an Environmental Authorisation prior to the undertaking thereof. Be advised that the MMP relates to the aforementioned listed activity only.

A MMP must therefore be compiled by a suitably qualified and experienced freshwater ecologist or specialist, and submitted to the Department for adoption, prior to implementation of the maintenance schedule. Such a MMP should include specific reference to the maintenance activities that will be carried out in the dam and affected stretches of the watercourses and a detailed methodology, including the following aspects:

- 18.1 A description of the proposed maintenance activities and the relevant triggered listed activities in terms of the NEMA EIA Regulations;
- 18.2 The frequency of maintenance activities to be carried out in the dam, including where maintenance will be required for any structures or infrastructure, e.g. annual clearing of silt or after flood events;
- 18.3 The manner in which maintenance activities will be implemented. i.e. will maintenance activities be done by hand or mechanically. Method statements for each scenario must be included in the MMP;
- 18.4 The access to the site if maintenance is carried out mechanically (i.e. is the existing access to be used, or will new access be created for the maintenance activity, and, if new access is created, will the access be rehabilitated after maintenance activities are completed or will it be permanent);
- 18.5 An appropriately scaled map that highlights the specific area where maintenance will occur, the access routes to be used and where applicable, potential site camp areas; and
- 18.6 An indication of the party(ies) responsible for the maintenance activities.

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 activity.
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 (as amended) 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 (as amended) 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 Jaap de Villiers (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 Jaap.DeVilliers@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 Jaap.DeVilliers@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. ZAHIR TOEFY

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

DATE OF DECISION: 27/03/2019

Cc: (1) Inge Erasmus (EnviroAfrica CC) Fax: (086) 512 0254
(2) Hennie Taljaard (Witzenberg Municipality) Fax: (023) 316 1877
(3) Phillipa Huntly (CapeNature) Fax: (021) 866 1523
(4) CorvdW@elsenburg.com (Western Cape Department of Agriculture)
(5) errossouw@bgcma.co.za (Breede-Gouritz Catchment Management Agency)