



EIA REFERENCE: 16/3/3/1/B5/2/1037/17
NEAS REFERENCE: WCP/EIA/0000312/2017
ENQUIRIES: D'mitri Matthews
DATE OF ISSUE: 2018 -05- 11

The Board of Directors
Rietvallei Irrigation Board
P. O. Box 99
CERES
6835

Attention: Mr W. J. Zulch

Cell: (076) 876 8833
Email: wzulch@lando.co.za

Dear Sir

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014, (AS AMENDED): PROPOSED MAINTENANCE AND CONSTRUCTION OF THE RIETVALLEI SKEMA WEIR ON PORTION 50 OF FARM NO. 383, 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 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

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 2)
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

CC: (1) Ms H. Botha (Pieter Badenhorst Professional Services cc)
(2) Mr J. Barnard (Witzenberg Municipality)
(3) Ms A. Duffel-Canham (CapeNature)
(4) Mr S. Lupa (BGCMA)

Fax: (086) 672 1916
Fax: (086) 523 6339
Fax: (021) 866 1523
Fax: (023) 347 2012



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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 (AS AMENDED): PROPOSED MAINTENANCE AND CONSTRUCTION OF THE RIETVALLEI SKEMA WEIR ON PORTION 50 OF FARM NO. 383, 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 Locality Alternative 1, described in the Basic Assessment Report ("BAR"), dated January 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

Rietvallei Irrigation Board
% Mr. W. J. Zulch
P. O. Box 99
CERES
6835

Cell: (076) 876 8833
Email: wzulch@lando.co.za

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	Activity/Project Description
<p>Government Notice No. 327 of 7 April 2017 – Activity Number: 12 The development of—</p> <p>(i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or</p> <p>(ii) infrastructure or structures with a physical footprint of 100 square metres or more;</p> <p>where such development occurs—</p> <p>(a) within a watercourse;</p> <p>(b) in front of a development setback; or</p> <p>(c) if no development setback exists, within 32 metres of a watercourse, measured</p> <p>(d) from the edge of a watercourse; —</p> <p>excluding—</p> <p>(aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</p> <p>(bb) where such development 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>(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 development occurs within an urban area;</p> <p>(ee) where such development occurs within existing roads, road reserves or railway line reserves; or</p> <p>(ff) the development of temporary infrastructure or structures where such infrastructure or structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared.</p>	<p>The new weir will be located within the Titus River and will exceed the 100m² threshold.</p>
<p>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 of more than 10 cubic metres from a watercourse;</p>	<p>More than 10m³ of material will be moved and deposited within the Titus River as part of the construction of the new weir and the removal of the existing weir. Furthermore, future maintenance within watercourses may require the movement of more than 10m³ of material.</p>

<p>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</p> <p>(a) will occur behind a development setback;</p> <p>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</p> <p>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</p> <p>(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 harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.</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 alternative:

The proposal entails the removal of the existing weir and the construction of a new weir approximately 10m downstream of the existing weir. The new weir will have the following design specifications:

- Maximum weir height of approximately 1,9m.
- Crest length of approximately 43m.
- Crest width of approximately 0,3m.
- Weir footprint of approximately 160m².
- The placement of a 250mm diameter outlet pipeline through the weir.
- The removal of the existing weir.

C. SITE DESCRIPTION AND LOCATION

The listed activities will be undertaken on Portion 50 of Farm No. 383, Ceres, at the following coordinates:

Latitude (S)	Longitude (E)
33° 23' 30.00"	19° 22' 10.00"

The SG digit code is: C01900000000038300050

Refer to Annexure 1: Locality Plan

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Pieter Badenhorst Professional Services cc
 % Ms H. Botha
 P. O. Box 1058

WELLINGTON

7654

Tel.: (021) 873 7228

Fax: (086) 672 1916

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, Locality Alternative 1, described in the BAR dated January 2018 at the site as described in Section C above.
2. The holder must commence with the listed activities on site within a period of **five (5) years** from the date of issue of this Environmental Authorisation.
3. The development must be concluded within **10 years** from the date of commencement of the first listed activity.
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. The notice must:
 - 6.1 make clear reference to the site details and EIA Reference number given above; and
 - 6.2 include proof of compliance with the following conditions described herein:

Conditions: 7, 11 and 17

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 (as amended) detailed in Section G below;
- 7.3 draw the attention of all registered I&APs to the manner in which they may access the decision; and
- 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; and
 - 7.4.6 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 (as amended).
8. The listed activities, including site preparation, must not commence within 20 (twenty) calendar days from the date the applicant notifies 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 i.e. the listed activities, including site preparation, must not commence until the appeal is decided.

Management of activity

9. The draft Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation must be amended and must then be re-submitted to the Competent Authority within **30 days** from the date of issue of this Environmental Authorisation and approved prior to commencement of construction:
 - 9.1 The following section must be amended in the EMPr:
 - 9.1.1 In terms of Section 6.5: Site Clearing
 - 9.1.1.1 This section must be expanded to address the removal of the existing weir and the rehabilitation of the site after removal of the weir and post construction of the new weir.
 - 9.1.2 In terms of Section 8: Maintenance Management Programme ("MMP")
 - 9.1.2.1 The MMP must be expanded in terms of the Department's information document for the development of an MMP, which includes but is not limited to the routine maintenance that will be required to the structure.
 - 9.1.2.2 The frequency of maintenance activities to be carried out.
 - 9.1.2.3 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.
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 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 activities, and must be made available to anyone on request, including on a publicly accessible website.
13. Access to the site referred to in Section C 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 ECO must conduct fortnightly site audits. Bi-monthly ECO Audit Reports must be submitted to the Competent Authority for the construction phase. The final Environmental Audit Report must be submitted to the Competent Authority three months after construction 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

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 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.

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. Construction activities must only be undertaken during low flow periods.

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 the listed activities 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 GN No. 326 of 7 April 2017 or any relevant legislation that may be applicable at the time.

Please note that to ensure the EMPr sufficiently provides for avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity, the Competent Authority may request amendments to the EMPr, as deemed necessary.

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 on which 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 on which 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 Organs 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 Organs 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. HENRI FORTUIN

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 2)

DATE OF DECISION: 11-5-18

CC: (1) Ms H. Botha (Pieter Badenhorst Professional Services cc)
(2) Mr J. Barnard (Witzenberg Municipality)
(3) Ms A. Duffel-Canham (CapeNature)
(4) Mr S. Lupa (BGCMA)

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ANNEXURE 1: LOCALITY MAP



Figure 1: Locality map depicting the location of the new weir.

ANNEXURE 2: REASONS FOR THE DECISION

In reaching its decision, the Competent Authority considered, amongst others, the following:

- a) The information contained in the Application Form dated 2 October 2017, the final BAR dated January 2018 and the EMPr and MMP submitted together with the final BAR;
- 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 NEMA;
- d) The comments received from I&APs and responses to these, included in the BAR dated January 2018; and
- 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 during 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 included:

- identification of and engagement with I&APs;
- the placing of a newspaper advertisement in the 'Witzenberg Herald' on 6 October 2017;
- fixing a notice board at the sites where the listed activities are to be undertaken on 9 October 2017;
- 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 councillor, and the various Organs of State having jurisdiction in respect of any aspect of the listed activities, on 3 October 2018 and 9 October 2017; and
- making the BAR available to I&APs for public review from 9 October 2017.

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

The Competent Authority notes the Environmental Assessment Practitioner's responses to the issues raised during the public participation process, and has included appropriate conditions in this Environmental Authorisation.

2. Alternatives

The proposal entails the removal of the existing weir and the construction of a new weir approximately 10m downstream of the existing weir. The new weir will have the following design specifications:

- Maximum weir height of approximately 1,9m.
- Crest length of approximately 43m.
- Crest width of approximately 0,3m.
- Weir footprint of approximately 160m².
- The placement of a 250mm diameter outlet pipeline through the weir.
- The removal of the existing weir.

Two location alternatives were investigated and are discussed below.

Locality Alternative 1 (Herewith Authorised):

The proposal entails constructing the weir approximately 10m downstream of the existing weir.

This alternative is preferred because the rock 10m downstream of the existing weir is more stable and suitable to construct a weir on, whereas the rock at the existing weir is not suitable for a new structure to be constructed on, which may compromise the integrity and effectiveness of the new structure.

Locality Alternative 2:

The proposal entails decommissioning the existing weir and reconstructing a new weir at the same location.

This alternative is not preferred because the rock at this site is not stable and suitable for a new structure to be constructed on.

"No-Go" Alternative

The "no-go" option was considered and is not preferred, since the existing structure is damaged and requires continuous maintenance and downtime during abstraction times. The option of reconstructing a weir on the same footprint (like for like replacement) is not feasible because the rock at the site is not suitable or stable to allow for a new structure to be constructed on.

3. Impact Assessment and Mitigation measures

3.1 Activity need and desirability

The Rietvlei Irrigation Board has established rights to abstract water from the Titus River for irrigation purposes. The existing weir requires regular maintenance, which incurs regular downtime during maintenance of the weir. As such, a new weir will allow for a more effective abstraction of lawful water for irrigation and will require less maintenance during the operational aspect of the new structure.

3.2 Biodiversity and Biophysical Impacts

The site would have been comprised of North Hex Sandstone Fynbos, an ecosystem not listed as a threatened, however, the site has been disturbed by agricultural development. According to the risk Matrix undertaken as part of the Water Use License Application, the impact of the new structure is calculated as being low. Only existing lawful water allocations will be abstracted at this point and all other water will continue downstream. Through the implementation of the EMPr (to be amended as per Condition 9), Conditions 17 and 18, the impacts on the watercourse will be mitigated.

The development will result in both negative and positive impacts.

Negative Impacts:

- There will be a loss in the in-stream habitat due to the permanent structure within the watercourse.

Positive impacts:

- A more efficient water abstraction system will be implemented, which will eliminate downtime needed for maintenance of the existing weir.
- Less maintenance of the structure is anticipated because the new structure will be placed in a more suitable and stable location, compared to the existing structure.

4. National Environmental Management Act Principles

The NEMA 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 NEMA and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

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