



REFERENCE: 16/3/3/2/F2/4/2009/18

ENQUIRIES: Natasha Bieding

DATE OF ISSUE:

2018 -12- 14

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 CONSTRUCTION OF A DAM AND ASSOCIATED INFRASTRUCTURE FOR THE ESTABLISHING OF CITRUS ORCHARDS ON PORTIONS 8 AND 28 OF THE FARM THEERIVER NO. 505, CLANWILLIAM

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 Alternative 1, described in the EIA Report, dated 22 August 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

Silwerspruit Citrus (Pty) Ltd
c/o J J van der Merwe
P O Box 268
CITRUSDAL
7340

Tel.: (022) 921 3953

Email: hardie@noordhoekp.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
Government Notice No. R. 983 of 4 December 2014 (as amended) – Activity Number: 13 Activity Description: <i>"The development of facilities or infrastructure for the off-stream storage of water, including dams and reservoirs, with a combined capacity of 50 000 cubic metres or more, unless such storage falls within the ambit of activity 16 in Listing Notice 2 of 2014"</i> .	The dam will have a maximum storage capacity of 500 000m ³ .
Government Notice No. R. 984 of 4 December 2014 (as amended) - Activity Number: 16 Activity Description: <i>"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"</i> .	The new dam will have a maximum storage capacity of 500 000m ³ and a maximum wall height of 11.5m.

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 construction of a dam of the following dimensions:

Maximum wall height – approximately 11.5m
 Crest length - approximately 1170m
 Crest width - approximately 4m
 Storage capacity - approximately 500 000m³
 Inundation/Flooded area - approximately 9.7 ha
 Total footprint - approximately 3.8ha

The Silwerspruit Dam will be filled with 50% of the scheduled water under the Citrusdal Water Use and Allocation.

Approximately 15ha of citrus orchards will be removed for the construction of the dam. The loss of orchards will be made up for by planting of new orchards in areas that were previously utilised for the cultivation of crops used as livestock feed.

C. SITE DESCRIPTION AND LOCATION

The listed activities will be undertaken on Portion 8 & 28 of the Farm Theerivier No. 505, Clanwilliam which are situated 26 km southeast of Citrusdal and are accessed by the road extending between the R365 and R393 Regional roads.

The SG digit codes are:

Portion 8 of the Farm Theerivier No. 505: C02000000000050500008
 Portion 28 of Farm the farm Theerivier 505: C02000000000050500028

The co-ordinates for the site are:

32° 49' 33.4" South

19° 4' 34.6" East

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

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Environmental Assessment Practitioner:

Pieter Badenhorst Professional Services CC
c/o Helene Botha and Pieter Badenhorst
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 Alternative 1, described in the EIA Report dated 22 August 2018 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 and within the said period, commencement must occur.
3. The development must be concluded within **five 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. A written notice of seven days 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, must 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 or 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"), 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, 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 activities, and must be made available to anyone on request.
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. The holder must submit an Environmental Audit Report ("audit report") to the competent authority within six months after commencement of construction activities; one audit report (1) once a year thereafter during the construction phase; and another audit report, one (1) year after the completion of the construction phase of the development.
 - 14.1 The audit report must indicate the date(s) on which construction was completed, compliance with the conditions of this Environmental Authorisation and recommendations for improved environmental management.
 - 14.2 Records of the audit must be maintained for safekeeping and must be made available to the competent authority upon request.
 - 14.3 The competent authority may require remedial action, should the audit report reflect that rehabilitation is inadequate.
 - 14.4 If the audit report is not submitted, the competent authority may give 30 days' written notice and may have such an audit undertaken at the expense of the applicant and may authorise any person to take such measures necessary for this purpose.
 - 14.5 The audit report must be prepared by an independent qualified person.

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 replanting of orchards must as far as it is possible be kept away from biophysically sensitive areas including flood plain(s), Critical Biodiversity Area(s) and Ecological Support Area(s).
18. The following recommendations adapted from the Final EIA Report dated 22 August 2018 compiled by Helene Botha and Pieter Badenhorst of Pieter Badenhorst Professional Services must be implemented:
 - 18.1. Measures must be implemented to reduce water use, such as the use of tension meters to help prevent over-irrigation of the soils.
 - 18.2. No sewerage facility may be erected within a radius of 100m from a water source.
19. The following recommendations adapted as detailed in the correspondence from CapeNature dated 17 July 2018 must be implemented:
 - 19.1. The planting of orchards on the east side of the property must be limited and be located as far away as possible from the Mountain Catchment Area and associated Ecological Support Area.

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 1, 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.
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 9as 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. R.982 of 4 December 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 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



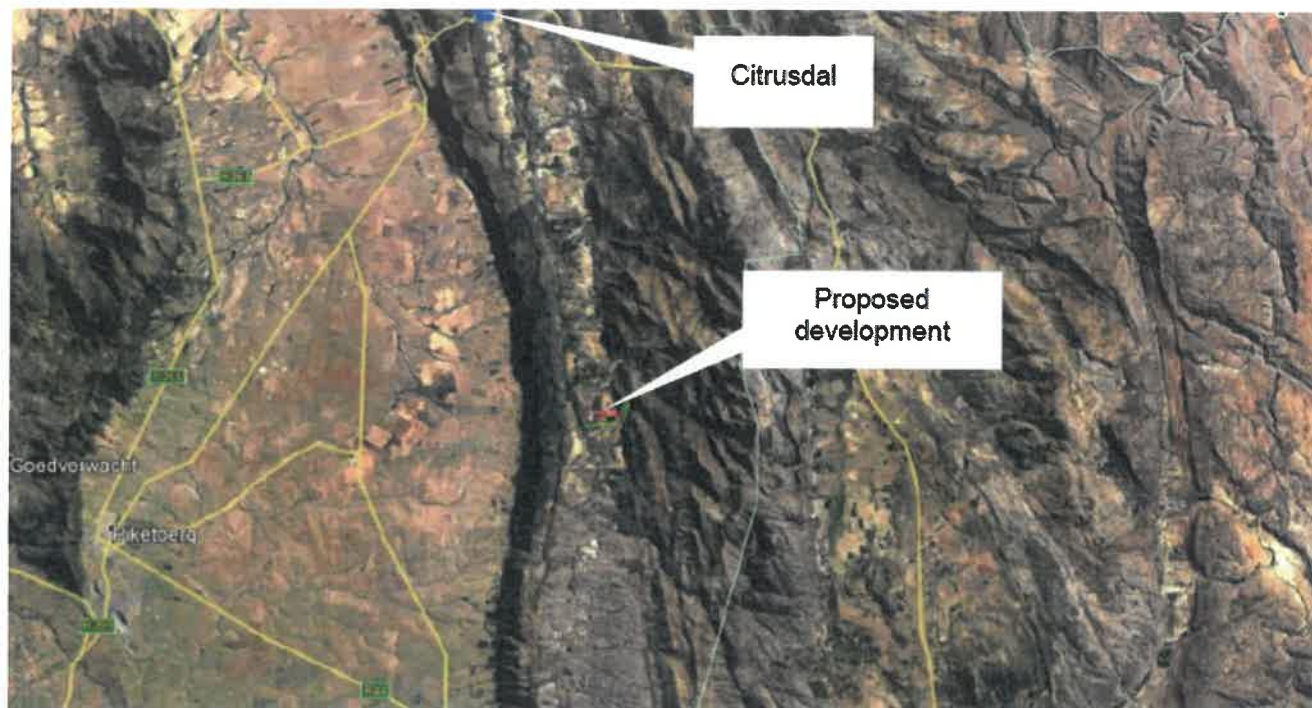
MR ZAHIR TOEFY
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

DATE OF DECISION: 14/12/2018

Copied to: (1) H Botha (Pieter Badenhorst Professional Services cc)
(2) A J Booysen/ A Neethling (Cederberg Municipality)

Fax: (086) 672 1916
Fax: (027) 482 1369 / 086 234 7397

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: REASONS FOR THE DECISION

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

- a) The information contained in the Application Form dated 6 February 2018, the Scoping Report received by this Department on 26 March 2018, the EMPr submitted together with the EIA Report on 28 August 2018, and the additional information received by the Competent Authority on 23 October 2018, 8 November 2018, 5 December 2018 and 12 December 2018;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation, Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the NEMA; and
- d) The comments received from I&APs and responses to these, included in the EIA Report dated 22 August 2018.

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 included:

- identification of and engagement with I&APs;
- fixing a notice board at the site where the listed activities are to be undertaken on 25 June 2018;
- 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;
- the placing of a newspaper advertisement in the 'Ons Kontrei' on 2 February 2018; and
- making the Scoping Report and EIA Report available to I&APs for public review and comment.

This Department is satisfied that the Public Participation Process that was followed met the minimum legal requirements. All the comments and responses made were included in the reports.

2. Alternatives

Alternative 1 (Preferred and herewith authorised)

This alternative entails the construction of a dam comprising of the following dimensions:

Maximum wall height – approximately 11.5m

Crest length - approximately 1170m

Crest width - approximately 4m

Storage capacity - approximately 500 000m³

Inundation/Flooded area - approximately 9.7 ha

Total footprint - approximately 3.8ha

This is the preferred alternative based on the following reasons:

- From a design perspective, design measures were taken into consideration by siting the proposed cultivation as much as possible where disturbance has already taken place.
- The proposed new dam will ensure effective utilisation of scheduled as water would be abstracted during the surplus winter season and stored for irrigation during the drier summer months.
- The design of the dam is a result of the farm being relatively small which limited the land/space available for a dam.

- Although the dam has a large footprint, less excavation will be required in terms of the depth requirements of the dam as well as the depth of the cut-off trench.
- A lower wall height in terms of the preferred alternative will require less earthmoving and result in a more efficient storage ratio.
- This dam will be located close to existing infrastructure, which reduces the need for additional infrastructure.
- The area of disturbance/construction will as far as possible remain within sections of the site used for cultivation as opposed to areas of natural vegetation.

Alternative 2 (Rejected alternative)

This alternative entails the construction of a dam comprising of the following dimensions:

Maximum wall height – approximately 13.5m
 Crest length - approximately 950m
 Crest width - approximately 4m
 Storage capacity - approximately 500 000m³
 Inundation/Flooded area - approximately 5.8 ha
 Total development footprint - approximately 4.1ha

This alternative is rejected based on the following reason:

- This alternative will lead to higher construction costs due to the additional and significant amount of earthworks required.

"No-Go" Alternative

The "no-go" alternative entails maintaining the "status quo", i.e. not constructing the dam for the irrigation of citrus orchards.

This alternative is rejected based on the following reasons:

- The current agricultural activities on the property and existing Lawful Water Rights will not be utilised to full potential.
- Additional water storage capacity in order to abstract water (for irrigation during summer months) in terms of the Existing Lawful Water Use ("ELU") will not be possible.

3. Impact Assessment and Mitigation measures

3.1 Activity need and desirability

The proposed dam is required to have storage capacity available and abstract water in terms of the ELU. This water storage capacity will make it possible to irrigate approximately 15ha of citrus orchards, which is currently not possible due to the unavailability of a source for water storage.

3.2 Regional/ planning context

The site is zoned Agriculture and the proposed development is permitted in terms of the property's existing land use rights. The forward planning vision for the wider region is generally in support of agriculture as a primary landuse. As such, the proposed development is therefore also consistent with this forward planning context.

3.3 Biophysical Impacts

The proposed dam site is situated on an Alluvium formation of the Tertiary System, surrounded by quartzitic sandstone and shale formations of the Table Mountain Series, part of the larger Cape System. Material of an alluvial nature (with a river stone and -gravel matrix underlain by layers varying from clay to shale to sandstone) is considered suitable for a dam structure. Dams have also been constructed on similar geological conditions within the wider area.

A portion of the proposed dam site is classified as an Ecological Support Area. However, the site is to a large extent disturbed due to agricultural activities, including grazing and cultivation.

Approximately 15 ha of additional orchards will be established by replanting the orchards that will be removed for the construction of the dam. The orchards will be replanted in the sections

of the site that was previously utilised for the cultivation of crops for livestock feed. As such, since most of the proposed development, *i.e.* dam and orchards will take place in the disturbed sections of the site, any negative impact on vegetation are expected to be low.

No Freshwater features are present except the Olifants River which is situated approximately 140m West of the site. Water that will be taken to fill the new dam is water already allocated to the property in terms of existing Lawful Water Rights. The winter allocation means that water will be abstracted in winter when surplus flow in the Olifantsriver is available. This will have a positive impact on the Olifantsriver, as less water will be taken during the low flow dry summer months. More water will therefore be available in summer to sustain certain aquatic ecosystem functions of the river.

3.4 Visual / sense of place

During construction period there will be building activities which may result in visual impacts. This will however be short-term and be adequately managed by means of the provisions of the EMPr.

Since the proposed development mainly comprises of the construction of a dam and cultivation of orchards, visual impacts will be low. The dam and cultivation of orchards will not be out of character of the immediate surrounds, which also comprise of agricultural areas.

3.5 Heritage

It is unlikely that any archaeologically significant material exists on the site, as the site is transformed. Heritage Western Cape confirmed in the correspondence dated 12 March 2018 that the proposed development will not impact on heritage resources.

3.6 Socio-economic

The proposed development is likely to provide job security of permanent opportunities for local workers as sufficient water will be stored to irrigate and sustain the cultivation activities on the site.

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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