



REFERENCE NUMBER: 14/2/1/2/B1/14/0010/16

ENQUIRIES: Shafeeq Mallick

BY REGISTERED MAIL

The Owner
PO Box 400
ROBERTSON
6705

Tel: (082) 964 4761

Email: marc@sunnytoga.co.za

Attention: Mr Marc Doms

Dear Sir

APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): UNLAWFUL CONSTRUCTION OF A 160mm WATER PIPELINE WITHIN 32m OF A WATERCOURSE ON PTN 14 OF FARM KLAAS VOOGDE RIVIER, FARM NO. 40 (BERG-EN-DAL), ROBERTSON

With reference to your application dated 23 May 2018 in terms of section 24G of the NEMA for the consequences of unlawful commencement of listed activities identified in terms of the NEMA, find below the decision in respect of your application.

ENVIRONMENTAL AUTHORISATION

A. DECISION

By virtue of the powers conferred by section 24G of the NEMA and the *Environmental Impact Assessment Regulations, 2014* ("EIA Regulations, 2014") (as amended), the competent authority herewith **grants environmental authorisation** to the applicant to continue with the listed activities specified in Section C below in accordance with in the Environmental Impact Report ("EIR") dated 14 December 2016.

The granting of this Environmental Authorisation is for the continuation, conducting or undertaking of the listed activities as described in Section C below and is subject to compliance with the conditions set out in Section G. This Environmental Authorisation shall only take effect from the date on which it has been issued.

The Environmental Authorisation does not exempt the holder thereof from compliance with any other applicable legislation.

B. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

Saratoga Berries (Pty) Ltd.

c/o Mr Marc Doms

P.O. Box 400

ROBERTSON

6705

Cell: (082) 964 4761

Email: marc@sunnytoga.co.za

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

C. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
<p>Government Notice No. R. 983 of 4 December 2014</p> <p>Activity Number: 12</p> <p>Activity Description: <i>The development of -(xii) infrastructure or structures with a physical footprint of 100 square metres or more;</i></p> <p><i>where such development occurs-</i></p> <p><i>(a) within a watercourse;</i></p>	<p>In July 2013 the applicant Mr. Marc Doms of Saratoga Farm purchased the farm Klaas Voogde Rivier. A 30% share in water use rights to the existing dam (portion 14 of farm 40) was also purchased.</p> <p>An existing 110mm pipeline from the dam was offered to Mr. Doms, however this volume would not meet his future water requirement needs. A servitude was then</p>

*(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;"*

purchased for a 160mm pipeline leading from the dam in close proximity to the existing pipeline.

A 160mm PVC pipeline of approximately 1.6km in length was subsequently illegally constructed in November 2013, within 32 meters from the Doring River.

This pipeline crossed the river in two places, where it was suspended on wooden supports anchored by concrete foundations.

During an unexpected flooding event due to heavy rainfall in January 2014, the Doring River flooded its banks and the 160mm pipeline was severely damaged.

This flood also modified the river channel by establishing an altered river course, along the alignment of the unauthorised pipeline and eroded the bank into the first row of an adjacent vineyard. There was no damage to the pipeline between the dam and where it meets the river (the northern section).

Reshaping and rehabilitation of the river banks with indigenous vegetation will be implemented. During the flooding event parts of the pipeline were broken and some segments remain within the watercourse and/or are entangled within the riverine vegetation. These damaged pipes are still currently within the watercourse and will be removed and disposed of at the nearest licenced landfill site.

<p>Government Notice No. 983 of 4 December 2014 -</p> <p>Activity Number: 19</p> <p>Activity Description: <i>"The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from-</i></p> <p><i>(i) a watercourse;..."</i></p>	<p>The illegally constructed pipeline occurred adjacent to the watercourse. Watercourse includes the river and its beds and banks. More than 5 cubic meters of soil was moved for the installation of the pipeline.</p> <p>During the flooding event parts of the pipeline were broken and some segments remain within the watercourse and/or are entangled within the riverine vegetation. These damaged pipes are still currently within the watercourse and will be removed and disposed of at the nearest licenced landfill site.</p>
<p>Government Notice No. 985 of 4 December 2014 -</p> <p>Activity Number: 14</p> <p>Activity Description: <i>"The development of -(xii) infrastructure or structures with a physical footprint of 10 square metres or more;</i></p> <p><i>where such development occurs-</i></p> <p><i>(a) within a watercourse;</i></p> <p><i>(f) In Western Cape:</i></p> <p><i>i. Outside urban areas, in: (ff) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;..."</i></p>	<p>The previous pipeline that was installed had a portion along the river, which amounted to more than 10 square meters of coverage.</p> <p>During the flooding event parts of the pipeline were broken and some segments remain within the watercourse and/or are entangled within the riverine vegetation. These damaged pipes are still currently within the watercourse and will be removed and disposed of at the nearest licenced landfill site.</p>

The abovementioned list is hereinafter referred to as "the listed activities".

D. PROPERTY DESCRIPTION AND LOCATION

The listed activities commenced on portion 14 of Klaas Voogde Rivier, Farm no. 40, (BERG-EN-DAL), Robertson.

The SG digit code is: C06500000000004000014

The co-ordinates for the activity are:

Point	Latitude (S)	Longitude (E)
1	33° 46' 41.88" South	19° 59' 41.54" East

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

Herein-after referred to as "the site".

E. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER ("EAP")

Guillaume Nel Environmental Consultants (GNEC)

c/o Mr Guillaume Nel

P.O. Box 2632

PAARL

7620

Tel: (021) 870 1874

Fax: (021) 870 1873

Email: ruben@gnec.co.za

F. DETAILS OF THE ACTIVITY/IES UNDERTAKEN

The construction of a 160mm water pipeline within 32m of a watercourse on Ptn 14 of Farm Klaas Voogde Rivier, Farm No. 40, Robertson.

The applicant, Mr. Marc Doms of Saratoga Farm, purchased the farm Klaas Voogde Rivier in July 2013. A 30% share in water use rights to the existing dam on portion 14 of

farm 40 was also purchased. An existing 110 mm pipeline from the dam was offered to the applicant, however this volume would not meet his future water requirement needs. A servitude was then purchased for a 160mm pipeline leading from the dam in close proximity to the existing 110mm PVC pipeline.

A 160mm PVC pipeline of approximately 1.6km in length was subsequently illegally constructed in November 2013, within 32meters of the Doring River. This pipeline crossed the river in two places where it was suspended on wooden supports anchored by concrete foundations.

During an unexpected flooding event due to heavy rainfall in January 2014, the Doring River flooded its banks and the 160mm pipeline was severely damaged. This flood also modified the river channel by establishing an altered river course along the alignment of the unauthorised pipeline and eroded the bank into the first row of an adjacent vineyard. There was no damage to the pipeline between the dam and where it meets the river (the northern section).

During the flooding event, parts of the pipeline were broken and some segments remain within the watercourse and/or are entangled within the riverine vegetation. These damaged pipes sections that are within the watercourse will be removed and disposed of at the nearest licenced landfill site. Reshaping and rehabilitation of the river banks with indigenous vegetation will be implemented.

G. CONDITIONS OF AUTHORISATION

The following are conditions of authorisation that are set and must be implemented for this Environmental Authorisation.

PART I

Scope of authorisation

1. The holder is authorised to continue with commencement of the listed activity/ies in accordance with Section C above for the removal of the sections of pipeline within the watercourse and undertake rehabilitation as specified in the EIR dated 14 December 2016 on the site as described in Section D above.

2. The Environmental Authorisation is valid for a period of **five years** from the date of the decision.
3. The rehabilitation measures must be concluded within **three years** from the date of continuation 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 F 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.

PART II

Written notice to the competent authority

6. Seven (7) calendar days' notice, in writing, must be given to the competent authority before continuation of commencement of activities.

6.1 The notice must make clear reference to the site details and 24G Reference number given above.

6.2 The notice must also include proof of compliance with the following conditions:
Condition 7 and 12

PART III

Notification and administration of an 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 I 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; and
- 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 *National Appeal Regulations, 2014*.

8. The listed activities, including site preparation, may not commence within 34 (thirty-four) 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.

PART IV

Management of the activity/development

9. The draft Environmental Management Programme ("EMPr") dated 11 November 2016 compiled by Guillaume Nel Environmental Consultants submitted as part of the application is hereby approved and must be implemented.

10. The River Maintenance Management Plan ("RMMP") dated 11 November 2016 compiled by Guillaume Nel Environmental Consultants submitted as part of the application is hereby approved and must be implemented.

11. The EMPr and RMMP must be included in all contract documentation for all phases of implementation.

PART V

Monitoring

12. The holder must appoint a suitably experienced Environmental Control Officer ("ECO"), before continuation of commencement of activities to ensure compliance with the EMPr, the RMMP and the conditions contained herein.
13. A copy of the Environmental Authorisation, EMPr, RMMP and audit reports and/or compliance monitoring reports must be kept at the premises of the holder of this authorisation and must be made available to anyone on request.
14. Access to the site referred to in Section D 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.

PART VI

Auditing

15. In terms of regulation 34 of the *EIA Regulations, 2014* 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 and upon receiving such request in writing from the competent authority. The Audit Report must be prepared by an independent person and must consider all the information required in Appendix 7 of the *EIA Regulations, 2014*.

PART VII

Activity/ Development Specific Conditions

16. Erosion control along the river bed must be carried out in accordance with the RMMP and the EMPr.
17. Erosion control along the river must be undertaken with the supervision of the ECO and must be carried out in such a manner so as to ensure minimal damage to the neighbouring farm (portion 14 of farm no. 40).

18. The above conditions nos. 16 and 17 must commence within **two months** of the issuing of this authorisation.
19. ECO reports regarding progress of the rehabilitation of the river must be submitted to the competent authority. The frequency of submission of the progress reports must be determined by the appointed ECO and submitted until such time that the ECO, together with the Department has determined that the river bank has been reasonably stabilized.
20. Indigenous vegetation must be used in stabilizing the river channel. No alien vegetation plant species must be introduced to the river system.
21. All alien vegetation within the maintenance footprint must be removed as part of the rehabilitation process. The removal of the alien vegetation must be under the supervision of the appointed ECO.

H. 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 or term of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.
3. If the holder does not continue, conduct or undertake listed activities within the period referred to in Condition 2 of Section G, this Environmental Authorisation shall lapse for that activity or activities, 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 must be made on condition that the environmental authorisation is valid on the date of receipt of such amendment application.

Note that:

(1) In terms of regulation 28(1A) of the *EIA Regulations, 2014* the competent authority shall not accept or process an application for amendment of an environmental authorisation if such environmental authorisation is not valid on the day of receipt of such amendment application, but may consider an application for environmental authorisation for the same development.

(2) In terms of regulation 28(1B) of the *EIA Regulations, 2014* an environmental authorisation which is the subject of an amendment application remains valid pending the finalisation of the amendment application.

(3) It is an offence in terms of section 49A(1)(a) of the NEMA for a person to commence with a listed activity if the competent authority has not granted an environmental authorisation for the undertaking of the activity.

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.

I. APPEALS

Appeals must comply with the provisions contained in the *National Appeal Regulations, 2014*.

1. An appellant (if the holder) must –

- 1.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator and a copy of the appeal to any

registered I&APs, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder was notified by the competent authority of this decision.

2. An appellant (if NOT the holder) must –

2.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator, and a copy of the appeal to the holder, any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder notified the registered I&APs of this decision.

3. The holder (if not the appellant), the decision-maker, I&APs and 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. This appeal and responding statement must be submitted to the address listed below:

By post: Attention: Jaap de Villiers
Western Cape Ministry of Local Government, Environmental Affairs &
Development Planning
Private Bag X9186, Cape Town, 8000; or

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, 8000; or

By e-mail: Jaap.DeVilliers@westerncape.gov.za

Note: You are also requested to submit an electronic copy (Microsoft Word format) of the appeal and any supporting documents to the Appeal Administrator 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 the office of the appeal authority/ at: Tel. (021) 483 3721, E-mail Jaap.DeVilliers@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

J. CONSEQUENCES OF NON-COMPLIANCE WITH CONDITIONS

Non-compliance with a condition or term of this Environmental Authorisation or EMPr may result in suspension or withdrawal of this Environmental Authorisation and may render the holder liable for criminal prosecution.

K. DISCLAIMER

The Western Cape Government, the Municipality, 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.

Yours faithfully



ADV. CHARMAINE MARÉ

DIRECTOR: ENVIRONMENTAL GOVERNANCE

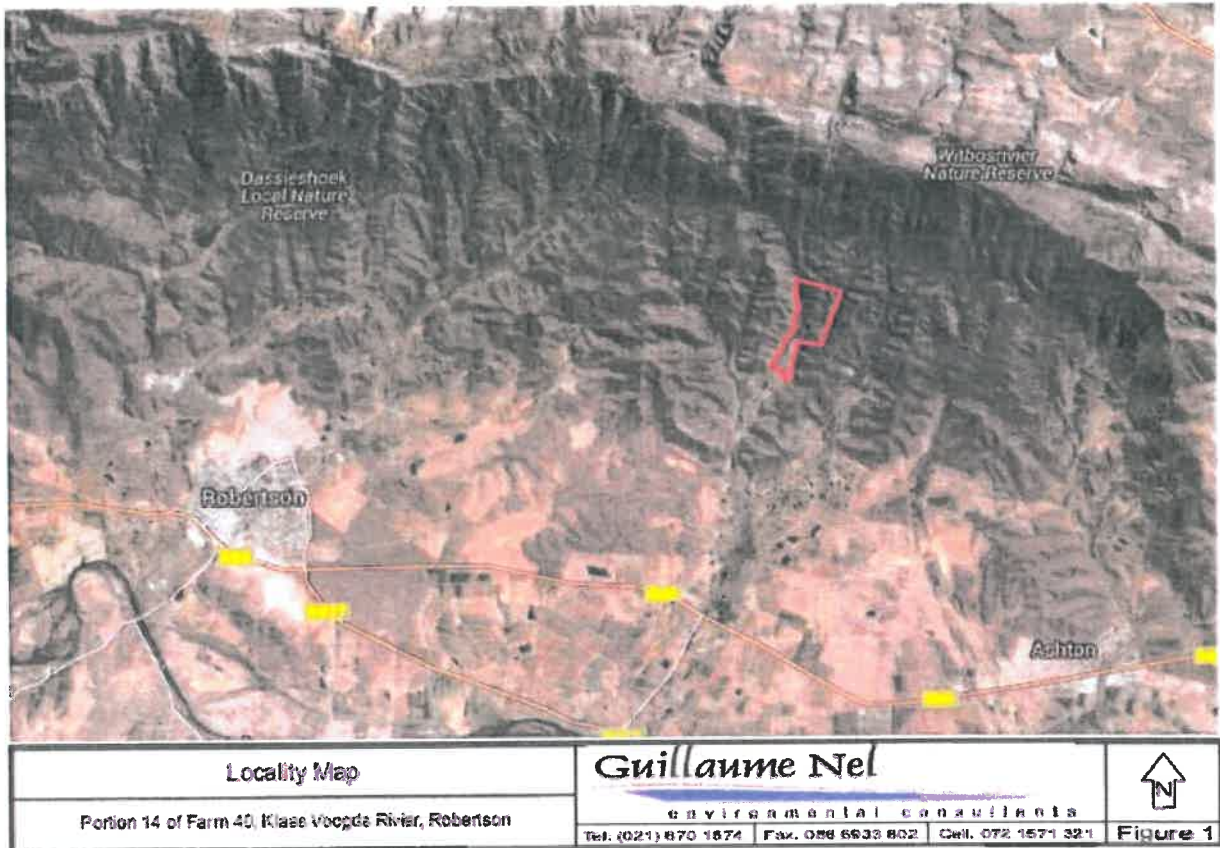
DATE OF DECISION: 24 August 2018

CC: (1) Guillaume Nel (EAP)

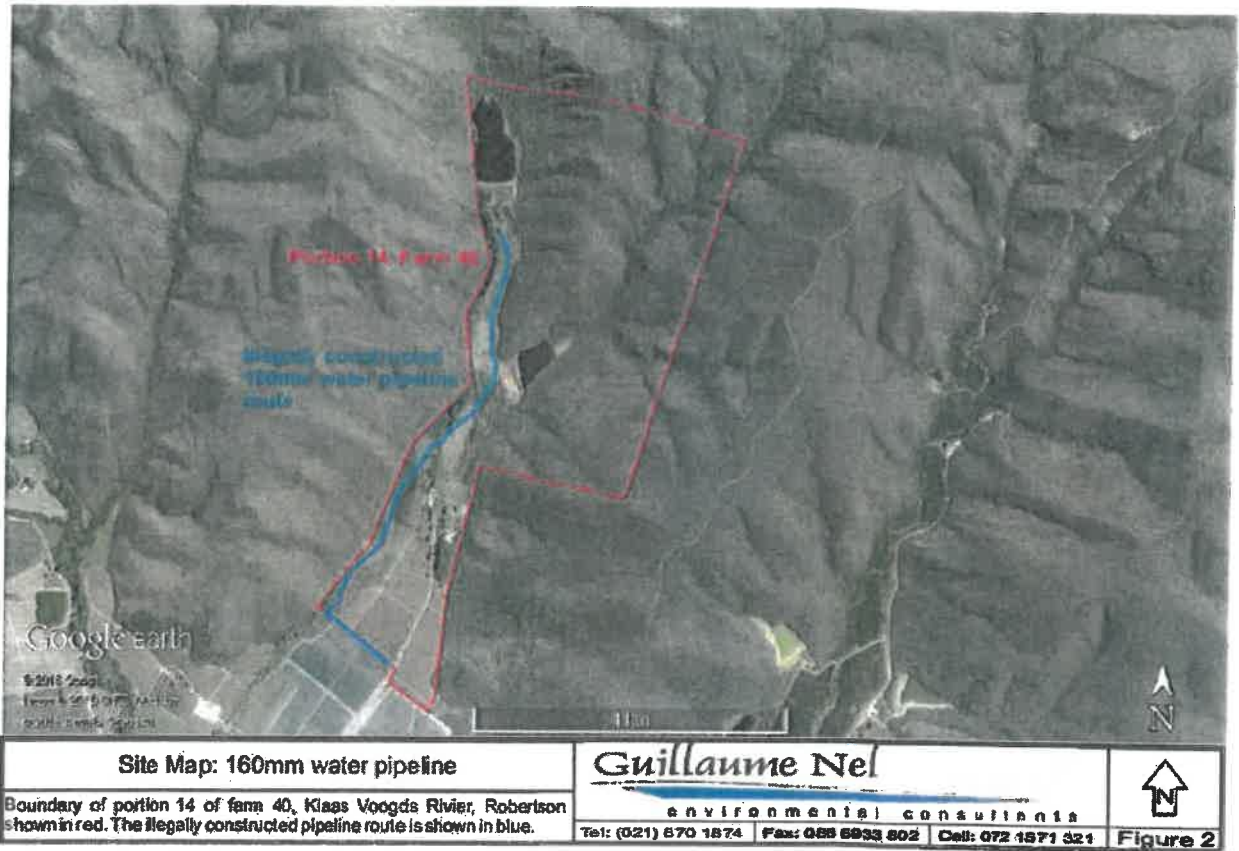
Fax: (021) 870 1873

Email: jk@gnec.co.za

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: SITE PLAN



FOR OFFICIAL USE ONLY:

S24G REFERENCE:

14/2/1/2/B1/14/0010/16

ANNEXURE 3: REASONS FOR THE DECISION

This Environmental Authorisation is in respect of the consequences of commencement of the afore-mentioned illegal activities. An Environmental Assessment Practitioner ("EAP") was appointed to submit a section 24G Environmental Impact Assessment ("EIA") to the Department to obtain this Environmental Authorisation. The EIA was considered adequate for informed decision-making. In addition, the holder paid an administrative fine of R35 000 (Thirty-five thousand Rand) to meet the requirements of section 24G of the *National Environmental Management Act, 1998* ("NEMA").

In reaching its decision, the competent authority, *inter alia*, considered the following:

- a) The information contained in the application form dated 23 May 2015 and received by the competent authority on 8 June 2016, the Environmental Impact Assessment Report (EIR) dated 14 December 2016 and the Environmental Management Programme (EMPr) and River Maintenance Management Plan (RMMP) submitted together with the Environmental Impact Assessment Report (EIR).
- b) Relevant information contained in the Departmental information base, including, the Guidelines on Public Participation and Alternatives.
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the NEMA.
- d) The comments received from Interested and Affected Parties ("I&APs") and the responses provided thereto.
- e) The sense of balance of the negative and positive impacts and proposed mitigation measures.
- f) The site visit conducted on 11 May 2017 attended by officials of this Department.
- g) The appeal decision on the 24G administrative fine dated 20 February 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 which, according to the competent authority, were the most significant reasons for the decision is set out below.

1. Public Participation Process

In terms of section 24G(1)(vii)(dd) of the NEMA, "...a description of the public participation process followed during the course of compiling the report, including all comments received from interested and affected parties and an indication of how the issues raised have been addressed ...", is required.

The public participation process conducted by the EAP comprised of the following:

- identification of and engagement with I&APs.
- fixing a notice board at the site where the listed activities unlawfully commenced.
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activities were 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 **Breederivier Gazette** on 12 July 2016.

Consultation with organs of state in terms of section 24O of the NEMA

The following organs of state provided comment on the application:

- o CapeNature
- o Breede Gouritz Catchment Management Area (BGCMA)
- o Department of Agriculture

The BGCMA assessed the relevant information and both the new proposed pipeline, the rehabilitation and the repair to the Doring Rivier has been considered. The BGCMA supports both the new proposed route alternative for the new pipeline as well as the RMMP outcomes and mitigation measures in the application. Additionally, the BGCMA advised that all relevant sections and regulations of the *National Water Act, 1998 (Act 36 of 1998)* regarding water use must be adhered to. No pollution of surface water or ground water resources must occur. The owner is required to adopt and implement a water demand management plan to conserve water and sufficient budget must be made available annually to actively implement the RMMP.

CN noted that a pipeline was constructed without environmental authorisation, contributing significantly to the increasing flood damage to the river. Although flow has improved, the river banks and riparian areas still require urgent stabilisation and rehabilitation. CN supports the mitigation measures as laid out in the RMMP. It is

essential that in addition to the measures in the RMMP, the design and method for bank stabilisation be determined and approved as part of the section 24G process. The success of the stabilisation and rehabilitation measures must be monitored annually and after large storm events for at least three years subsequent to completion, by a qualified riparian rehabilitation specialist. The EAP indicated that the design and method of the bank stabilisation have been included in the 2nd Draft RMMP. CN had no objection to the proposed preferred route for the new pipeline. CN agreed with the findings of the botanical specialist. Although the site has been mapped as Breede Shale Renosterveld, which is a Vulnerable but rapidly declining and poorly protected vegetation type, the findings of the botanical specialist indicate that the vegetation on the site was likely more typical of sandstone fynbos, akin to South Langeberg Sandstone Fynbos which is a Least Threatened and well protected vegetation type. CN agreed that this vegetation loss is considered to be of low significance but advised that plans of future orchards need to take into consideration vegetation type, ecological connectivity and upland/lowland gradients.

DOA indicated that the applicant must ensure protection of cultivated land against further erosion. DOA additionally stressed the importance of regulating the utilization and protection of vleis, marshes, water sponges and water courses. The flow pattern of the run-off water should also be regulated.

A neighbouring I&AP, Pat Busch Mountain Reserve ("PBMR"), is a registered Nature Reserve with an eco-tourism hospitality business, which was established 1989. The Saratoga pipeline was installed across the nature reserve and Doring River which originates in the catchment area high in the mountains of the reserve. PBMR questioned the design of the crossings, highlighting the poorly engineered layout, as the pipeline was strapped to two tar poles and was suspended a short distance across the river. It was highlighted that due to this layout, the pipeline, during the flooding event, exacerbated the effects of erosion along the banks of the river. PBMR indicated that, despite the positive socio-economic impacts the new Saratoga pipeline may have, the environmental damage caused by the illegal installation of the previous Saratoga pipeline has had serious negative economic and environmental impacts for the PBMR and Blue Sky Trust, which is holding the reserve in trust for future generations.

The EAP responded by stating that, through the S24G process, the applicant will rehabilitate the river as prescribed in the RMMP and Freshwater Impact Assessment. The affected section of the river (identified in the Freshwater Impact Assessment) will be rehabilitated, and erosion protection measures will be implemented. The river will also be rehabilitated and managed according to the RMMP.

2. Alternatives

2.1 Location

The preferred alternative indicated a new PVC pipeline route (± 0.9 km in length) which has been proposed to replace the damaged pipeline and to supply water to the agricultural fields (see map in Addendum B). These newly proposed pipeline routes will attach to the existing 160 mm pipeline well above where the flood damage to the pipeline occurred (more than 32 m from the river), proposed to be connected approximately 200m from the dam. Both the preferred and alternative pipeline routes will follow the same route and be placed underneath a planted pasture field towards the farm homestead. The preferred replacement route will continue through the farm homestead underneath a gravel/dirt road towards the connecting point on Saratoga farm. The alternative replacement route will bypass around the homestead, adjacent to indigenous vegetation and a vineyard. The alternative route will merely bypass the homestead and then again join onto the same dirt/gravel road as the preferred route where both routes will run towards the connecting point on Saratoga underneath the gravel/dirt road. Both these potential replacement routes will have minimal environmental, geographical and/or no impacts on any heritage resources of the farm, however it is foreseen that the preferred route will have less environmental impacts. Both these routes will not be visually impairing as the pipeline will be placed underground. Both these proposed replacement pipeline routes are expected not to trigger any NEMA EIA Regulation, 2014 activities as they will be an estimated 900m long and will be placed more than 32m from a watercourse. No rivers or wetlands were identified along these newly proposed routes.

A small portion (± 50 m) of the proposed preferred and alternative replacement pipeline route is mapped as the Breede Alluvium Renosterveld threatened ecosystem. However, the botanical assessment also indicated this vegetation type no longer occurs here due to the current presence of a planted pasture field and a farm homestead. Reshaping, rehabilitation with appropriate indigenous

vegetation and the installation of erosion protection structures on the river banks are also recommended once environmental authorization has been granted. No rivers or wetlands were identified along these newly proposed routes.

2.2 The option of not implementing or continuing with the activity ("No-Go" Alternative)

It is the opinion of the EAP that the refusal to replace the pipeline with a suitable alternative route is not the desired outcome, as the pipeline will ultimately provide water to agricultural land that will in turn create job opportunities. Both these potential replacement routes will have minimal environmental, geographical and/or no impacts on any heritage resources of the farm, however it is foreseen that the preferred route will have less environmental impacts. Both these routes will not be visually impairing as the pipeline will be placed underground.

3. **Environmental Impact Assessment (EIA) and Mitigation Measures**

In reaching its decision, the competent authority, considered the following in respect of the EIA and mitigation measures:

3.1. Activity Need and Desirability

Saratoga farm is a fully functioning farm specialising in growing blueberries and provides employment for 40 permanent and 200 seasonal staff, all of which are previously disadvantaged individuals. This pipeline will allow Mr. Doms to further expand on the agricultural activities on his farm, potentially leading to additional job creation and financial injection in the local community. A replacement pipeline route is therefore required to provide water to these agricultural fields, which will have a positive socio-economic impact and not result in further negative impacts on the physical environment

3.2. Waste Impact

A non-significant amount of waste would have been produced during the construction of the 160mm pipeline. During an unexpected flooding event in January 2014 the Doring River flooded its banks and the newly constructed 160mm pipeline was severely damaged. Parts of the pipeline were broken and some segments remain within the watercourse and/or are entangled within the riverine vegetation. These damaged pipes currently within the watercourse will be removed and disposed of at the nearest licenced landfill site once

authorisation is received, as per the requirements of the EMPr and RMMP. The construction of a replacement 160mm pipeline will also not produce a significant amount of waste. No noise and odour impacts occurred during the construction of the water pipeline as these activities were only temporary in nature. There will also not be any noise impacts during the operational phase as the pipeline will be gravity fed and therefore not require the use of a pump. The construction of a replacement pipeline will also not result in significant noise or odour impacts as these impacts will only be temporary in nature. The site is predominantly surrounded by agricultural land use.

3.3. Biodiversity Impacts

The construction activities could have impacted upon indigenous Breede Shale Renosterveld and an Ecological Support Area, although previous land use already transformed the property through agricultural practices. A botanical assessment, performed by Dr Dave McDonald, confirmed that no true Breede Shale Renosterveld vegetation is present on site. No threatened plant species or species of conservation concern were found on the site. The riparian vegetation has been significantly altered due to the presence of alien vegetation species such as *Populus canescens* (invasive cat. 2), *Salix babylonica* (Weeping willow), *Acacia saligna* (Port Jackson Willow), *Senna didymobotrya* (Peanut butter cassia), *Solanum sisymbriifolium* (Sticky nightshade), *Arundo donax* (Spanish reed) *Cirsium vulgare* (Spear thistle) and Kikuyu grass (*Pennisetum clandestinum*) (cat. 1b). Where not invaded by alien vegetation species, *Acacia* thicket (*Vachellia karoo*) typical of riparian thicket (azonal vegetation), is present in the river valley on the south of the Langeberg. This vegetation is however not threatened. A small portion ($\pm 50\text{m}$) of the proposed preferred and alternative replacement pipeline route impacts upon Breede Alluvium Renosterveld ecosystem, which is listed as a threatened ecosystem. However, the botanical assessment also indicated this vegetation type no longer occurs here due to the current presence of a planted pasture field and a farm homestead. No rivers or wetlands were identified along these newly proposed routes.

The present ecological state (assessed by Freshwater Consulting Group ("FCG") on 12 May 2016, 2 years after the pipeline construction) of the Doring River was rated to be marginally better than the pre-impact state in terms of the instream component of the river (Present Ecological State ("PES") Class C/D –

"moderately to largely modified"), although marginally worse in terms of the riparian component (PES Class D – "largely modified"). This improvement in the state of the instream component of the river after the flood is because the river established a new flow-path, along the line where the unauthorised water pipeline had been placed from where it crossed the river. This new river course bypassed the section of the river channel that was clearly an original diversion due to agricultural activities in the valley according to the FCG. This new river course and river bed currently has a more natural substrate of cobbles compared to the narrow densely vegetated old bypass route (which adjoined the Doring River at nearly a 90-degree angle), further improving the new river course's instream component.

The botanical assessment also noted that the vegetation on the banks of the Doring River around the site has been strongly influenced by invasive species and this is a contributing factor to the instability of the soils and played a role in the erosion damage as a result.

3.4. Visual / Sense of Place

The illegal pipeline was constructed underground and placed parallel to an existing 110mm pipeline. The subsequent construction of a replacement pipeline will also occur underground and be located underneath a planted pasture field and an existing dirt/gravel road. The visual character of the site was only minimally altered because the pipeline was installed underneath the ground. The construction of the water pipeline is not expected to alter the sense of place and character of the site, as it fits into the current land use being utilized for agriculture. The visual impact is thus considered to be not significant. The visual aspect of the site was however altered as a result of a flooding event in January 2014 that caused erosion of the river banks.

3.5. Socio-economic Impacts

The construction of an illegal pipeline occurred on an agricultural field and did not have any dust or noise impacts on any communities. The construction of a replacement pipeline will enable water to be provided to an increased area of agricultural field, resulting in a positive impact on the local community as there will be an increase in job opportunities. No noise and odour impacts occurred

during the construction of the water pipeline as these activities were only temporary in nature.

However, the flooding and subsequent damage to the pipeline has resulted in erosion along the river bank, affecting a neighbouring farm. The segments of pipeline within the watercourse are to be removed in accordance with the requirements of the EMPr and RMMP as has been made conditional of this environmental authorisation.

4. NEMA 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.

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 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.

END

