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REGISTERED MAIL

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City of Cape Town
Infrastructure and Project Implementation (Bulk Water)
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Dear Mr Rhode

APPEAL LODGED IN TERMS OF SECTION 43 OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 AGAINST THE ENVIRONMENTAL AUTHORISATION GRANTED FOR THE CITY OF CAPE TOWN'S PROPOSED BULK WATER AUGMENTATION SCHEME: MULDERSVLEI COMPONENT

The appeal lodged against the Environmental Authorisation ("EA") granted by the Department of Environmental Affairs and Development Planning ("Department") for the above proposed development refers.

After careful consideration of the appeal, as well as supporting documentation received, I have decided to dismiss your appeal and confirm the above-mentioned decision of the Department.

The abovementioned EA granted on 30 January 2013 and the conditions under which the authorisation was granted are still valid and must be complied with. However, Conditions E2 and E3 and section F are excluded from this authorisation and the following conditions are substituted and must be complied with:

Condition E1:

"This environmental authorisation is valid for a period of **ten years** from the date of this appeal decision. The holder must commence with all the listed activities within the said period or this environmental authorisation lapses and a new application for environmental authorisation must be submitted to the competent authority, unless the holder has lodged a valid application for the amendment of the validity period of this environmental authorisation (i.e. the amendment application must be submitted to the Ministry responsible for environmental affairs in the Western Cape Province), before the expiry of this environmental authorisation. In such instances, the validity period will be automatically

extended ("the period of administrative extension") from the day before this environmental authorisation would otherwise have lapsed, until the amendment application for the extension of the validity period is decided. The listed activities, including site preparation, may not commence during the period of administrative extension."

Condition E12

The applicant 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. Save that such application for amendment shall not be necessary in instances where the personal details of the applicant are amended. *(Where any of the applicant's contact details change, including the name of the responsible person, the physical or postal address and/ or telephonic details, the applicant must notify the Ministry in writing as soon as the new details become known to the applicant).*

Further, the rights granted by this environmental authorisation are personal rights (i.e. not attached to a property, but granted to a natural or juristic person). As such, only the holder may undertake the activity authorised by the Minister. Permission to transfer the rights and obligations contained herein must be applied for in the following manner:

10.1 The applicant must submit an originally signed and dated application for amendment of the environmental authorisation stating that he/she wishes the rights and obligations contained herein to be transferred, and including (a) confirmation that the environmental authorisation is still in force (i.e. that the validity period has not yet expired or the activity was lawfully commenced with); (b) the contact details of the person who will be the new holder; (c) the reasons for the transfer; (d) an originally signed letter from the proposed new holder acknowledging the rights and obligations contained in the environmental authorisation and indicating that he/she has the ability to implement the mitigation and management measures and to comply with the stipulated conditions.

10.2 The competent authority will issue an amendment to the new holder either by way of a new environmental authorisation or an addendum to the existing environmental authorisation if the transfer is found to be appropriate."

The reasons for confirming the afore-mentioned decision of the Department are contained in the above-mentioned EA granted on 30 January 2013 and below find further reasons for dismissing the appeal and confirming the decision of the Department:

1. The appeal issues were adequately addressed during the Environmental Impact Assessment ("EIA") process as they were previously raised during the EIA's public participation process ("PPP"). The environmental assessment practitioner ("EAP") stated that the preferred pipeline routes have been determined in consultation with landowners whose properties would be crossed by the pipeline. For the purpose of investigating the potential impacts of the pipeline, a 60m wide pipeline corridor was determined. The pipeline, which would require a 15m wide servitude, would require a 27m wide construction footprint within the 60m wide planning corridor. The 15m servitude will not limit agricultural activities, as these activities can continue once construction is completed;
2. The final EIA report states that agricultural activities such as ploughing will be allowed in the permanent servitude when the infrastructure is operational;
3. The pipeline routes were clearly presented in detail on 1:10 000 maps in the final EIA report. The scale used to map the pipeline routes is appropriate for the level of assessment possible at this stage of the project;
4. In terms of the EIA process, alternatives have to be presented and considered, it would be prohibitively expensive, and result in unnecessary and wasteful expenditure of public funding, to conduct detailed design on all alternatives before EA is granted. Alternatives may also change as a result of the EIA process itself. It will also be a challenge to gain access to private property to conduct work required during detailed design such as topographical and geotechnical surveys, before obtaining an EA;

5. The EIA has comprehensively evaluated the impacts of the construction and operational phases of the development. The conclusions of the final EIA report culminated from comprehensive studies and specialist assessments, which were initiated in January 2006 and finalised in 2011. These studies were based on issues identified in the scoping and EIA phases, by the public, government, environmental consultants and the specialists. The PPP was extensive and every effort has been made to include representatives of all stakeholders in the study area. The input from the public engagement has also influenced the conclusions reached in this report;
6. All feasible pipeline routes (taking cost and technical considerations into account) within the corridor to and from the Muldersvlei/Klapmuts area (Dasbos Pump Station to Spes Bona Reservoir) have been assessed and evaluated for environmental impact and sustainability as part of the EIA process;
7. The construction phase environmental management programme ("EMP") incorporates the mitigation measures from the specialist studies in order to avoid environmentally significant areas, rehabilitate damaged areas and offset any unavoidable loss;
8. Almost all landowners outside of the Muldersvlei area have already agreed to pipeline routings across their farms/properties based on extensive discussions with the applicant. An assessment of the impacts associated with the preferred pipeline routes has shown that all identified impacts can be mitigated to an acceptable level. These routes are thus considered sustainable from a biophysical and socio-economic perspective so long as the proposed mitigation measures are implemented;
9. The preferred pipeline routes are the most direct routes and are considered to have an acceptable level of impact on the affected landowners;
10. All the concerns raised by I&APs were responded to and adequately addressed during the PPP hence no further commenting opportunity may be provided during the detailed design phase of the development. Specific management and mitigation measures (appropriate conditions) have been included in the EA and in the EMP to adequately address the concerns raised;
11. Conditions G6, G8, G10 and G12 have been specifically included in the EA to ensure that if amendments to the EA are required, an application for the amendment of the EA is submitted. In addition, where the amendments required are of a substantive nature, a public participation process may be required; and
12. In terms of condition G9, the holder of the authorisation must also appoint a suitably experienced Environment Control Officer ("ECO"), or site agent where appropriate, for all phases of implementation before commencement of any land clearing or construction activities to ensure compliance with the CEMP and OEMP and the conditions contained herein.

Your interest in the future of our environment is greatly appreciated.

Yours faithfully

ANTON BREDELL
WESTERN CAPE MINISTER OF LOCAL GOVERNMENT,
ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE: 16/9/2013

Copied to: (1) Ms Sadia Chand (Chand Environmental Consultants)
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