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Dear Ms Armstrong,

**Rainbow Farms (Pty) Ltd: Eskom Proposed Isundu 765/400 KV Sub-Station and Turn-in Transmission Lines – Various Correspondence and Objections**

ACER has received the following correspondence from you:

1. A letter on 22 June 2015, which was responded to on 29 June 2015.
2. An email on 29 June 2015 and a letter on 13 July 2015, which were responded to on 4 July 2015 and 21 July 2015, respectively.
3. Two emails with information requests on 27 July 2015.

4. Also, ACER was copied on your objection to the Final Scoping Report dated 3 August 2015.
5. Similarly, ACER was copied on your Application of Condonation to Appeal the VSHA authorization dated 17 August 2015.

In addition, there has been correspondence and discussion between you, Rainbow Farms and Urban-Econ, who are undertaking the Tourism and Economic Development specialist study, on the following dates:

1. 18, 25, 26 and 29 June 2015.
2. 7, 8, 9 and 22 July 2015.
3. A conference call on 23 July 2015.

In this context, the impression created by Eversheds in both the objection to the Final Scoping Report and the Application for Condonation to Appeal that ACER has not been forthcoming with information is false.

Arising from your correspondence, we believe the following are relevant issues (we do not intend responding in this letter to every assertion, many of which are false as borne out by examples cited in this letter; rather to focus on relevant issues immediately at hand and to deal with the balance within the EIA reporting).

**1. Private and confidential**

ACER is unsure why all the recent letters are marked “Private and Confidential”. An Environmental Impact Assessment (EIA) process is by its nature an open and public process and, therefore, your correspondence, along with that of all other Interested & Affected Parties (I&APs) will form part of the EIA record and included as appendices to the Draft and Final Environmental Impact Assessment Reports (EIAR).

**2. Participation and approach**

It is unfortunate that Rainbow’s choice of participating in this assessment has, from the outset, been to appoint third parties (environmental consultants and lawyers) to immediately object with detailed submissions, sometimes duplicated, rather than dealing directly with the Environmental Assessment Practitioner (EAP) to highlight key areas of concern that need to be considered. This has made dealing with Rainbow themselves and finding the actual facts via this third party arrangement difficult. This is especially the case as there appear to be various discrepancies in Rainbow’s claims.

For the EIA, ACER has appointed a range of specialists who are currently investigating in detail Rainbow’s claims and concerns. As previously communicated to you, ACER and Eskom will arrange a meeting with Rainbow, prior to the release of the draft Environmental Impact Assessment Report (EIAR) to discuss the findings of the specialist studies. At this stage, a meeting will not be of benefit as Rainbow has raised a range of issues, many of which are still under specialist investigation. We remain committed to and welcoming of a meeting between Rainbow, Eskom and ourselves when the investigations have been completed.

**3. Participation during the VSHA**

The EIAs for the proposed Venus-Sigma-Hector-(Ariadne) (VSHA) transmission lines and the proposed Sigma Sub-station took place between 2009 and 2012. For these EIAs, there were four 2 km wide transmission line corridors, with various shorter linking corridors, and three sub-station site alternatives investigated.

These EIAs were undertaken under the 2006 Regulations where it is pertinent to note that Section 16(3) states that 16(1) does not apply for linear projects provided notice has been given to the landowner as soon as the proposed route or alternative routes have been identified. Although technically, no transmission line routes have yet been determined (rather, there is only an authorized corridor mostly 2 km wide along its length), ACER did identify Rainbow as a potentially affected landowner and added Rainbow Farms as a stakeholder to the project database. Thereafter, Rainbow Farms were posted all project correspondence to the same Hammersdale address that has now been registered for the proposed Isundu Sub-station EIA, as well as a Westville head-office address. While ACER sent correspondence to Rainbow, we have no means of enforcing Rainbow’s participation (albeit we do have an email record which shows that Rainbow responded to one of the letters sent).

According to our review, there is no requirement in the 2006 Regulations that project notification letters for linear projects needed to be sent by registered mail. Therefore, we cannot prove that Rainbow received the letters as they never responded (apart from the one email). Importantly, however, the address ACER had is correct and Rainbow was sent letters from the outset of the project. Indeed, despite Rainbow never requesting to be registered as an I&AP, ACER retained Rainbow Farms on the database and sent them all project correspondence for the duration of the EIAs. Apart from correspondence sent to Rainbow, the EIAs were extensively advertised in the media (project announcement, availability of the Draft Scoping Report for public review, availability of the Draft EIAR for public review, and the Environmental Authorisations with the right of appeal). Furthermore, the transmission line EIA elicited much media attention with a number of articles published and an airing on the television show 50:50. Added to this, ACER did not merely send out letters; on the contrary, there were numerous opportunities to participate in meetings, of which I&APs were notified well in advance.

ACER also finds it difficult to understand how Rainbow's neighbouring landowners were well aware of the project, participated throughout the process and also held meetings to discuss specific concerns and route alignments in this section of the corridor, whilst Rainbow Farms claims they were completely unaware of the project, implying that no letters, articles, media advertisements etc. were ever seen.

#### **4. Contents of the Condonation to Appeal**

Your Application for Condonation to Appeal includes numerous inaccuracies, repeating information previously responded to and shows a misunderstanding of the project. Some of these are provided below:

- ❑ You are stating your intention to appeal the Environmental Authorisation for EIA 12/12/20/1393/3, which is for 2 x 400 kV transmission lines and the installation of 3 x 400 kV feeder bays at the Hector Sub-station (it does not authorize a 765 kV transmission line as you assert). The reason you provide is one of serious prejudice that Rainbow Farms will suffer. The corridor is 2 km wide and Rainbow's farms in this section do not extend across the entire corridor. Also, no transmission line route has yet been determined; therefore, depending on landowner negotiations and technical constraints, Rainbow's properties may not even be crossed by the transmission lines (i.e. your assertion of an imposition of transmission lines is false).
- ❑ The range of reasons you provide for possible negative impacts include lighting around the sub-station. The proposed sub-station is the subject of the current Application for Environmental Authorisation, the EIA for which is underway and for which there is no Environmental Authorisation. In terms of the appeal, the transmission lines do not have security lighting.
- ❑ Further, a number of your allegations are generally repeats of your previous submissions, the claims of which are so broad that they are difficult to link to the risks of the current proposal. For example, the claim concerning electrical emissions ignores the fact that the layer farms in question have operated alongside the existing transmission line, some within 25 m of it, since the 1970s, without any apparent negative impacts. Similarly, it is difficult to understand how the construction of a transmission line may be a significant risk to Rainbow's water supply.
- ❑ Your misunderstanding of planning and development processes is also illustrated by your use of mitigations, in this case, individual landowner negotiations (which you say Rainbow was denied) when, in fact, route determination within an authorized corridor and landowner negotiations occur post the EIA, sometime into the future (and have yet to occur for the transmission lines in question and, therefore, classification as a fatal flaw is incorrect).
- ❑ You assert that you did not receive notice of the environmental authorization despite two letters being posted to Rainbow and two rounds of media advertising (one each for the sub-station and transmission lines environmental authorizations).

- Your paragraph “This is a simple case of the public participation process not being carried out properly. The EAP has since admittedly stated in a letter dated 21 July 2015 that no notices were sent out because the EA contained ‘serious’ errors and still needed to be amended. Upon receipt of the EA and the amended EA on 6 July 2015, it is clear that the amendments were not material and certainly not reason for non-compliance with the Regulations” is dismissed. This is because, for example, to consider the authorization of an incomplete corridor or authorizing marine telecommunications instead of activities within 32 m of a watercourse as required for the transmission line and as applied for, as immaterial illustrates complete ignorance of the projects at hand.
- Claiming that Eskom will suffer no prejudice because construction not yet commenced also shows a lack of understanding of how difficult, expensive and time-consuming it is to plan, license and undertake strategic national infrastructure projects of this nature.

Added to this, for you to argue that the Natal Witness and Sunday Tribune are not circulated in Camperdown or Westville is disingenuous.

Nevertheless, ACER, along with the appointed specialists, is investigating these issues but many of them appear to be related to the proposed sub-station and not the transmission lines against which you are directing your appeal.

#### **5. Comments on the Final Scoping Report**

Similarly, your comments on the Final Scoping Report are repeats of the above or similar information and it is difficult to link them to the risks of the current proposal. For example, the claim that Rainbow would ideally not place its farm within 10 km of any vector source, and is now placed at risk by the proposed sub-station is difficult to contextualize given that the farms in question have been operating for decades within 2-3 km of National Route 3 (which carries traffic, including heavy vehicles, 24 hours per day, seven days per week).

We will obtain input from an avian veterinarian. Also, for your information, since the finalisation of the Scoping Report a specialist has been commissioned to provide blast and vibration input.

#### **6. Concluding remarks**

As requested, ACER has prepared a CD of the VSHA project documentation, which will be couriered to your office. In addition, herewith please find the Amendment Application as requested and also the responses received from DEA.

In closing, it is necessary to note that ACER’s primary role as EAP is to identify, investigate and determine the significance of potential impacts as identified by the proponent, EAP, specialists and I&APs. In this regard, Rainbow’s concerns have been captured and are now in the process of being investigated and assessed. Until this is complete, we are not in a position to provide feedback or discuss the issues with you. In order that this can be achieved timeously, we are unable to continue to spent significant amounts of time responding to the same issues repeatedly raised by you. The process needs to run its course to enable productive engagement with Rainbow.

Yours sincerely,



**ACER (Africa) Environmental Consultants**  
Paul Scherzer  
Environmental Assessment Practitioner