

Mareike Straeuli

From: Keagan Kruger <keagan.kruger@acerafrica.co.za>
Sent: 31 August 2017 10:42 AM
To: 'Milicent Solomons'
Cc: 'Jay-Jay Mpelane'; 'Phaphama Mduywa'; 'Anela Sotashe'; 'Sabelo Malaza'; 'Wayne Hector'; 'Lerato Mokoena'; 'Earl Daniels'; 'Giles Churchill' (giles.churchill@acerafrica.co.za)
Subject: RE: 14/12/16/3/3/1/797 - Meeting Minutes 30.08.2017
Attachments: Eskom Ficksburg - DEA Meeting Attendance (30.08.17).pdf

Hi all,

Thank you for taking the time to meet with us yesterday. My apologies for the quality of the minute taking below, but this should sum up what was said during the meeting.

MEETING AT ENVIRONMENT HOUSE (PRETORIA) – 30 August 2017

The decisions on each of the amendments were discussed as follows:

1. Amendment 1 (Refused) - The inclusion of activities 11 and 18 of Listing Notice 1

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| Discussion | <p>Wayne Hector and Milicent Solomons clearly outlined that listed activities which were not applied for, or authorised in the initial process, cannot be authorised in an amendment process.</p> <p>Milicent Solomons and Wayne Hector explained that DEA takes offence at the inference that DEA had insisted these activities be removed from the application.</p> <p>Keagan Kruger explained that new information from a wetland delineation done during the EA amendment process around the proposed Marallaneng Substation revealed that there are wetlands that cannot be spanned by the previously authorised infrastructure, as well as the proposed loop in and loop out infrastructure associated with the Substation.</p> <p>The reason, or logic behind attempting to include these listed activities in the EA Amendment process, was that they were originally part of the original Basic Assessment process for the power line, and would therefore have been taken into consideration in terms of impacts and mitigations.</p> <p>Subsequent communications with DEA in which explanations on the listed activities applied for were requested, resulted in these activities being formally withdrawn from the application in a letter from Mr Percy Langa (22 January 2014), after it was deemed that all wetlands/watercourses could be spanned by the proposed infrastructure.</p> |
| Solution | <p>These activities will need to be applied for and authorised in a new EA process, which will be undertaken for the Marallaneng Substation.</p> |

2. Amendment 2 (Refused) - Change of conditions 24 and 25 of the existing EA

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| Discussion | <p>The amendment of these conditions was tied to the proposed inclusion of the listed activities in amendment 1.</p> |
| Solution | <p>These conditions will need to be amended through a Part 1 amendment, once the infrastructure which will impact on wetlands/watercourses has been authorised under the new EA process for the Marallaneng Substation.</p> |

3. Amendment 3 (Approved) - Realignment of the Authorised 88 kV Power Line

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| Discussion | <p>The original EA process resulted in the authorisation of an alignment. The EA Amendment process resulted in the authorisation of the amended route alignment.</p> <p>Milicent Solomons explained that the construction of any part of the authorised 88 kV power line cannot commence unless Eskom can ensure that the design will not trigger a new listed activity or be in contravention of the conditions of the original EA.</p> |
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| | The project would be placed on the compliance watch list to ensure this does not happen. |
| Solution | <p>Eskom will either need to configure a design, along the authorised route, using infrastructure as per the scope of the original application and as authorised in the original EA, which will not require infrastructure to be placed within a wetland/watercourse.</p> <p>Or</p> <p>Authorise the listed activities which are now triggered for infrastructure which fall within wetlands/watercourses and then amend the conditions of the existing EA which prohibits the placing of infrastructure within wetlands/watercourses.</p> |
| 4. Amendment 4 (Refused) - Removal and Relocation of the Existing 88 kV Power Line | |
| Discussion | <p>This activity was refused as it was deemed to constitute listed activity 31 of GNR 983</p> <p>Keagan explained that Eskom was given an explanatory document by DEA, which contradicts this, and clearly uses activity 11 of GNR 983 as an example of an activity that would not trigger the decommissioning activity as it does not have a related operational component.</p> <p>Milicent explained that this is not her interpretation of the Regulations, and that clarity would need to be sought from DEA's IQ section. However, the law (the Regulations) would trump any guideline/explanatory documents.</p> <p>Earl Daniels said he would email the IQ section for further clarity.</p> |
| Solution | <p>Get clarity from DEA IQ section on the information presented to Eskom in the explanatory document.</p> <p>If required, Eskom will need to include activity 31 of GNR 983 in the EA process to be undertaken for the Marallaneng Substation.</p> |
| 5. Amendment 5 (Refused) - Construction of the new Marallaneng Substation | |
| Discussion | <p>Milicent and Wayne explained that an activity that would trigger a listed activity in terms of the EIA Regulations, and which includes infrastructure that was not presented in the scope of the original application for authorisation, cannot be authorised under a Part 2 Amendment.</p> <p>Earl Daniels argued that the listed activity that the substation triggered (Activity 11 of GNR 983), was not a new listed activity, and this very listed activity has been authorised under the existing EA.</p> <p>Earl Daniels explained that Eskom had engaged DEA prior to commencing with the part 2 amendment application, and that the intention to include the substation formed part of these discussions, and they had still been guided into the amendment process.</p> <p>Milicent Solomons requested the email correspondence which shows that Eskom was guided into this process.</p> <p>Keagan Kruger explained that as these engagements between Eskom and DEA had taken place before the appointment of the EAP, and DEA had confirmed that based on the information it had received a part 2 amendment was to be followed.</p> <p>Keagan Kruger explained that Eskom had made every attempt, by reducing the footprint size and strategically placing the substation, to not trigger any new listed activities.</p> <p>Keagan Kruger acknowledged that this was in fact a misinterpretation of the Regulations and the fact that the listed activity was not new and had already been authorised was irrelevant.</p> |
| Solution | The authorisation of the Marallaneng Substation will need to follow a separate EA process, for the authorisation of the listed activity that is triggered. |
| 6. New Basic Assessment Process for Marallaneng Substation | |
| | Keagan Kruger asked if there were any provisions available that could help shorten the BA process, due to the urgency and public unrest due to service delivery which is currently occurring. |

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| | <p>Keagan Kruger asked if the existing specialist reports which were drafted for the original BAR and EA Amendment process could be used for the ne BAR.</p> <p>Milicent Solomons said this would be accepted, as long as the studies were not older than 5 years, and the specialists could provide a verification letter stating that the findings and recommendations were still relevant.</p> |
| | <p>Keagan Kruger and Earl Daniels enquired if there were any provisions available for the exemption from all of the public participation requirements.</p> <p>Milicent Solomons explained that Eskom would need to apply for an exemption as per the exemption regulations, which could be a lengthy process, and therefore advised that the full PPP requirements be implemented to avoid the risk of any appeals or objections.</p> |

Thanks again for meeting with us, please let me know if there are any obvious omissions or errors in the account above.

Kind regards,
Keagan Kruger
 Environmental Consultant
 ACER (Africa) Environmental Consultants

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 Fax: +27 35 340 2232
 E-mail: keagan.kruger@acerafrica.co.za



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From: Milicent Solomons [mailto:MSolomons@environment.gov.za]
Sent: Tuesday, August 29, 2017 1:30 PM
To: Keagan Kruger
Cc: Jay-Jay Mpelane; Phaphama Mduywa; Anela Sotashe; Sabelo Malaza; Wayne Hector; Lerato Mokoena; 'Earl Daniels'
Subject: RE: 14/12/16/3/3/1/797

Noted. Thank you

Please send a draft agenda to the team to ensure informed discussions.

Regards

Milicent Solomons
Director - Strategic Infrastructure Developments
 Department of Environmental Affairs
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 Pretoria
 0001
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MSolomons@environment.gov.za

From: Keagan Kruger [<mailto:keagan.kruger@acerafrica.co.za>]
Sent: Monday, August 28, 2017 1:56 PM
To: Millicent Solomons
Cc: Jay-Jay Mpelane; Phaphama Mduywa; Anela Sotashe; Sabelo Malaza; Wayne Hector; Lerato Mokoena; 'Earl Daniels'
Subject: RE: 14/12/16/3/3/1/797

Hi Millicent

Thank you for confirming this.

So far it will just be myself from ACER, as the appointed Environmental Assessment Practitioner (EAP) for this project. I am hoping Earl Daniels, the responsible Environmental Manager from Eskom will be able to attend too, however I cannot confirm this at this stage on his behalf.

Kind regards,
Keagan Kruger
Environmental Consultant
ACER (Africa) Environmental Consultants

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From: Millicent Solomons [<mailto:MSolomons@environment.gov.za>]
Sent: Monday, August 28, 2017 11:53 AM
To: Keagan Kruger
Cc: Jay-Jay Mpelane; Phaphama Mduywa; Anela Sotashe; Sabelo Malaza; Wayne Hector; Lerato Mokoena; 'Earl Daniels'
Subject: RE: 14/12/16/3/3/1/797

Hi Keagan

As discussed last week, Wayne and the team will meet you Wednesday at 11h00 in our offices.

Please indicate the number of attendees from your side.

Regards

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From: Keagan Kruger [<mailto:keagan.kruger@acerafrica.co.za>]
Sent: Friday, August 25, 2017 9:59 AM
To: Millicent Solomons
Cc: Jay-Jay Mpelane; Phaphama Mdunywa; Anela Sotashe; Sabelo Malaza; Wayne Hector; Lerato Mokoena; 'Earl Daniels'
Subject: RE: 14/12/16/3/3/1/797

Hi Millicent

Thanks for your response.

I agree, a meeting will be necessary to get clarity on these and other queries we have on the requirements of the new application for environmental authorisation.

Considering the urgency of the matter, with the public unrest due to the delayed service delivery, could we try set a date for the next week?

Say Wednesday/Thursday @ 11:00 am?

Kind regards,
Keagan Kruger
Environmental Consultant
ACER (Africa) Environmental Consultants

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From: Millicent Solomons [<mailto:MSolomons@environment.gov.za>]
Sent: Wednesday, August 23, 2017 9:40 AM
To: Keagan Kruger
Cc: Jay-Jay Mpelane; Phaphama Mdunywa; Anela Sotashe; Sabelo Malaza; Wayne Hector; Lerato Mokoena
Subject: RE: 14/12/16/3/3/1/797

Dear Keagan

Your email below refers, may I suggest that you engage the team and set up a meeting to discuss this. You can contact Wayne Hector (copied on this email).

Regards

Millicent Solomons
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From: Keagan Kruger [<mailto:keagan.kruger@acerafrica.co.za>]
Sent: Tuesday, August 22, 2017 3:52 PM
To: Phaphama Mdunywa; Anela Sotashe; Sabelo Malaza
Cc: Jay-Jay Mpelane; Milicent Solomons
Subject: RE: 14/12/16/3/3/1/797
Importance: High

Hi Anela & Sabelo

In response to the Amended Environmental Authorisation as issued above, I have the following urgent queries regarding the way forward, and the separate Basic Assessment process that will now be undertaken to authorise the refused amendments.

Amendment 1 (Refused) - The inclusion of listed activities 11 and 18 (now 12 and 19) of Listing Notice 1, as was applied for in the original application for authorisation and BAR.

These listed activities were removed from the original Basic Assessment Report at a later stage as DEA insisted that poles can be spanned up to 250 m apart and all wetlands/watercourses could therefore be 'jumped'.

However new information from a wetland delineation done during the EA amendment process around the proposed Marallaneng Substation has revealed that there are wetlands that cannot be spanned by the previously authorised infrastructure.

As per the decision in the amended EA, it is our intention to authorise the infrastructure, which now cannot avoid wetlands, under a new Basic Assessment process for the authorisation of the Marallaneng Substation which was rejected under the EA amendment process.

Amendment 2 (Refused) - Change of conditions 24 and 25 of the existing EA

The conditions currently read:

24. The holder of the EA must ensure that a 32 metre buffer zone is implemented around the wetlands and riparian areas.
25. No power line mono pole structures and other related infrastructure are to be placed in or within 32 m of any water course.

As with Amendment 1 above; new information from the EA Amendment process mean that previously authorised infrastructure cannot span the wetlands, meaning a number of poles now fall within 32 m of wetlands.

Should the basic assessment for the Marallaneng Substation and the 88 kV power line infrastructure which is now within wetlands be approved, would these conditions in the existing 88 kV power line EA need to be removed? Or would this new EA be need to be read in conjunction with the existing and amended EA's for the proposed 88 kV power line?

Amendment 3 (Approved) - Realignment of the Authorised 88 kV Power Line Route

Approved.

Although the power line and the realignment have been approved, the inability to span wetlands identified in the wetland delineation from the Amendment process prevents from being able to construct the poles which are now located in wetlands near the substation site.

This infrastructure will be authorised as part of the new Basic Assessment required for the authorisation of the Marallaneng Substation.

Amendment 4 (Refused) - Removal and Relocation of the Existing 88 kV Power Line

This activity was refused as it was deemed to constitute listed activity 31 of Listing Notice 1 of 2014. However, Eskom has received an explanatory document (see attached) directly from DEA, which contradicts this. The existing 88 kV power line does not have a related operational component in terms any of the current listing notices, and is not one of the listed activities listed in this explanatory document that would trigger the decommissioning activity.

We are therefore of the opinion that the removal of, and relocation (decommissioning) of the existing 88 kV power line does not constitute a listed activity and will not be assessing or applying for this in the new Basic Assessment process.

Amendment 5 (Refused) - Construction of the new Marallaneng Substation

Our logic and motivation for the inclusion of the substation in the EA amendment process was that based on the strategic size and location of the substation, it would not trigger any new listed activities. However it seems that the word 'new' is irrelevant, and that if the change would trigger a listed activity on its own then it cannot be applied for in a Part 2 amendment.

The authorisation of the Marralaneng Substation will therefore be applied for follow a separate Basic Assessment process, for the authorisation of the listed activity that is triggered.

Your feedback on the above will be much appreciated.

In addition, our client has suggested that Regulation 41(5) may apply, considering the PPP that has been undertaken during the original Basic Assessment, and the part 2 EA amendment process. Please confirm if this may be the case.

We are under serious pressure to accelerate the authorisation process as the delays have prevented Eskom and the Setsotho Local Municipality from implementing basic services, resulting in public unrest and uprising of the receiving communities in the Ficksburg region.

Kind regards,

Keagan Kruger

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From: Phaphama Mdunywa [<mailto:PMdunywa@environment.gov.za>]

Sent: Thursday, May 25, 2017 9:32 AM

To: danielec@eskom.co.za; keagan.kruger@acerafrica.co.za

Cc: EIAAdmin; Lydia Kutu

Subject: 14/12/16/3/3/1/797

Dear Sir/ Madam,

Please find herein the attached signed letter for the above mentioned.

I hope you find all in order.

Best regards,
Phaphama Mdunywa
Intern
IEA: Coordination, Strategic Planning and Support
Department of Environmental Affairs
Tel: 012 399 8913
Email: PMdunywa@environment.gov.za



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