

For the attention of

Archibold Mogtokonyane
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Date: 17 October 2016

Your ref: EIA14/12/16/3/3/2/745

Our ref: A Armstrong/sp/MAT3639

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By Post

Dear Sirs,

RCL FOODS CONSUMER (PTY) LTD

EIA NO: 14/12/16/3/3/2/745

Your letter of 12 September 2016 has reference. Kindly find our response thereto.

1. **AD Paragraphs entitled THE APPEAL AND PROPOSED SOLUTION TO ISSUES RAISED IN APPEAL**

It is noted that the EIA for the sub-station is still under way. However it was confirmed by all parties at the meeting held on the 13 July 2016, namely Eskom representatives, RCL representatives and members of the Appeal's Directorate of the Ministry of Environmental Affairs, that the appeal against the transmission lines and the sub-station are integrally related. The original EIA's for the substation and the powerlines were run in parallel. The issues in the appeal by necessity pertain to both the sub-station and the transmission line and for a resolution to be found both components of the Eskom infrastructure need to be addressed. This was the purpose of the continued engagement between Eskom and RCL as proposed by the Appeals directorate. The intention was to request and provide further information to endeavour to resolve the issues pertaining to the integrated infrastructure of the transmission lines and the substation.

It was also noted that even if the transmission power line will be rerouted so that it does not travers the RCL property, the power line will still result in impacts affecting the RCL facilities. This was made categorically clear by Mr Hassam.

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Consultants: Aldine Armstrong, David Asherson, Angela Clark, Richard Pemberton

2. **RESPONSE TO THE LETTER DATED 22 JULY 2016**

2.1. **AD PARAGRAPH 1**

RCL has endeavoured to assist Eskom by identifying alternate sub-station sites. Paragraph 1 of Eskom's response simply dismisses all of the suggested sites. As the purpose of an EIA is to investigate the feasibility of a proposal and to be open to other solutions that arise during the investigation, alternate sites need to be investigated. It is noted that Eskom applied for an exemption from considering alternate sites. This was without notice to interested and effected parties, which is contrary to the Promotion of Just Administrative Action Act (PAJA) and the provisions in NEMA relating to the requirement of public participation for any application. That exemption was to exclude investigating sites that had been investigated prior to this second sub-station EIA being undertaken. It did not take into account other sites that warranted investigation not considered including the sites that have been proposed by RCL. It goes against the rule of law and the spirit and intent of the EIA regulations to simply dismiss any alternate suggestions made by severely affected parties. If there are circumstances that exist such as those pertaining to RCL facilities, that need to be addressed through the consideration of alternate sites, limiting the EIA to a single site poses a significant flaw to the EIA that renders the EIA application severely susceptible to its failing due to the fact that no alternative sites had been investigated.

2.2. **AD PARAGRAPH 2**

It is disputed that a reconsideration of the Venus Sigma Hector Ariadne (VSHA) transmission power-line do not link together. The original EA was issued based on the fact that the VSHA sub-station was linked to the alternative transmission lines considered. RCL suggested a reconsideration of the Central or Western corridor in consultation with RCL (as consultation in this regard had not previously taken place, and hence the merits and demerits were not properly considered). Those routes represent the possibility of creating less impact on RCL's farms with or without minor variations.

2.3. **AD PARAGRAPH 3**

Whilst it is agreed that blasting relates to the sub-station application it is futile to confirm a transmission line without the identification of the sub-station. And if blasting is to take place at the sub-station RCL has made it clear that the impacts of that blasting will be fatal to the animals at the facility and to the poultry industry as a whole. It is futile again for Eskom

to simply state that blasting reports will be made available during the draft EIA phase for the current sub-station application. The purpose of the appeal's meeting was in order to identify these issues beforehand so that the two applications can be interrelated. RCL may be constrained to interdict the Minister from coming to a decision on the transmission power-lines prior to the finalisation of the sub-station issues. This will only serve to delay Eskom's attempts to provide the necessary infrastructure. This delay can be averted by constructive engagement on alternatives, which Eskom is obstinately refusing to co-operate on, instead of recourse to the courts. Eskom should be welcoming the opportunity to investigate alternate sub-station sites at this stage during the EIA so that this process can move forward.

2.4. **AD PARAGRAPH 4**

The two double circuit 400kV transmission power-lines were going to cross RCL properties. Eskom is requested to provide the alignments referred to.

2.5. **AD PARAGRAPH 5**

RCL requested the construction program for the proposed transmission line and the sub-station in order for it to make any further decisions relating to the substation.

2.6. **AD PARAGRAPH 7**

Eskom again refuses to provide the details requested by RCL in relation to the sub-station. It was commonly agreed by all parties that the two applications cannot be separated. The appeal's directorate and RCL were of the view that RCL would be requesting information from Eskom that would relate to the viability of the sub-station going ahead and alternate sites to be considered or alternate means of effecting the construction of the sub-station without blasting. By Eskom simply refusing to provide this information is a show of extreme bad faith and obstructionist behaviour.

2.7. **AD PARAGRAPH 8**

See the response to ad paragraph 7 above.

2.8. **AD PARAGRAPH 9**

RCL has requested a copy of the detailed Geotechnical report. It has not been provided.

2.9. **AD PARAGRAPH 10**

RCL has had sight of the EIR that was compiled for the VHSA and the information therein is so limited that it does not provide RCL with any information as to whether the sub-station at Isundu could be supported or not. It is unlikely that the draft EIR for the current proposed substation will provide anything further. Accordingly RCL has requested the information necessary for it to determine the magnitude of the impacts on its facility.

2.10. **AD PARAGRAPH 11**

Eskom refuses to address the issues that concern RCL. It can be noted that dust that will be generated by the transmission lines and more especially by the construction of the sub-station will be far in excess of historical levels of dust typically found in laying houses which are specifically designed and located to reduce the presence of dust and exposure to dust sources.

2.11. **AD PARAGRAPH 12**

Eskom refuses to co-operate in considering the impacts relating to lighting arising from the substation.

2.12. **AD PARAGRAPH 13**

RCL recorded its concerns relating to noise in respect of the transmission power-lines as well as to the sub-station. Eskom has simply ignored the effects of noise that will result from the construction and operation of the sub-station.

2.13. **AD PARAGRAPH 14**

Please see ad paragraph 13 above.

2.14. **AD PARAGRAPH 15**

Eskom's response does not address the extensive issues of bio-security that concern RCL as a result of proposed construction of the sub-station. Eskom's response is uninformed and dismissive in this regard.

2.15. **AD PARAGRAPH 16**

Eskom continues to obdurately avoid the substation issue. Please see comments relating to this above.

2.16. **AD PARAGRAPH 17**

An indication from Eskom is required as to whether it will be at all capable of mitigating RCL's losses at the level that it requires, as detailed in its correspondence. The telephonic conversations that took place initially indicated a severe lack of understanding on the part of the EIA specialist on the operations and economics of RCL. On numerous occasions RCL has requested **constructive** engagement with a specialist economist in this regard from the outset of the EIA for the substation. The response from Eskom has been that RCL must wait for the results of the EIA. Even since the meeting of the 13 July 2015 Eskom has been provided with over 2 months for this engagement to take place. This has not occurred.

3. AD THE CONCLUSION

RCL requested, clearly and precisely, further information and reports in its letter dated 22 July 2016 in line with what was discussed in the appeal directorate meeting held on 13 July 2016. Eskom has refused to provide same.

Eskom's continuous simple reiteration that the transmission lines may not traverse RCL's property falls far short of being a justifiable and sustainable solution to the power-lines and to the sub-station that the lines will inevitably link into. The statement that "*this is appropriate in the circumstance as RCL will no longer be impacted by the proposed transmission line*" is naïve and irrational.

As RCL has had sight of the original EIA reports for the Venus substation and the powerline corridors, albeit only since the inception of the current EIA process, RCL can anticipate the nature of the reports that will be in the Isundu EIR. It is on this basis that RCL have impressed upon Eskom, at this early stage, to reconsider its site selection in the interests of moving Eskom's attempt to deliver electricity to this part of the country forward. By Eskom failing to do so shows that Eskom have

adopted an obstructionist approach hoping for an administrative decision on a minor component of the entire infrastructure - that being the limited section of power-line that is likely to affect RCL.

RCL are endeavouring to assist Eskom in a manner and with suggestions that may be able to move Eskom forward. Not co-operating with RCL is not going to achieve this.

Yours faithfully,



Aldine Armstrong

Eversheds