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Dear Mr Malaza,

REJECTION OF THE FINAL ENVIRONMENTAL IMPACT ASSESSMENT REPORT (EIAR) FOR THE PROPOSED CONSTRUCTION OF THE ISUNDU 765/400 KV SUB-STATION AND TURN-IN TRANSMISSION LINES WITHIN THE MZUNDUZI AND MKHAMBATHINI LOCAL MUNICIPALITIES IN THE UMGUNGUNDHLOVU DISTRICT MUNICIPALITY, KWAZULU-NATAL PROVINCE

Your letter dated 12 December 2017, received 4 January 2018, has reference. Please note the responses provided by the Environmental Assessment Practitioner (EAP) and Applicant detailed in this submission.

- 1 Site alternatives are not feasible and reasonable.
 - a) The Department of Environmental Affairs (DEA) granted exemption for site alternatives for the sub-station (Letter from Mr S Malaza, signed by Ms O Letlalo, dated 15 September 2015 (Acceptance of the Scoping Report and Plan of Study for the EIA)).
 - b) Sub-station site alternatives that were investigated were included in the Draft and Final Scoping Reports, and the Draft and Final EIARs as an appendix to the Application. This information was also summarised in the Draft and Final EIARs in the main body text.
 - c) The Draft and Final EIARs also included additional alternatives identified and suggested by RCL Foods (RCL).
 - d) Therefore, DEA is incorrect that no information was provided on alternatives and is incorrect that there was no compliance with Regulation 31(2)(g).

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- e) Two layout alternatives were considered. RCL's suggestion in 2015 to change the orientation of the 400 kV yard would not have addressed their main concerns in any material manner. In addition, it would not have met Eskom's technical criteria and, as stated on Page 29 of the Final EIAR, would have increased the transmission line impacts upon other land-users. Thus, DEA is incorrect in its statement that the EAP's response did not consider the concerns of I&APs and other land users or land uses. DEA has also ignored that, at times, RCL stated they wished for no developments within 10 km of any of their farms (which is practically impossible in this part of KwaZulu-Natal), whilst later RCL suggested alternatives be considered on other farms surrounding them. Two of these RCL's proposed alternatives were partially on RCL farms (because RCL Foods is also selling these) and within 2 km of the layer farm adjacent to the sub-station site. Also, it should be noted that RCL appealed the concurrent Wild Aloe Estate application, on the neighbouring farm to the west of them, but was happy to suggest Eskom use this farm as an alternative sub-station site rather than the proposed option. The Wild Aloe Estate is a planned tourism development, and is practically as close to RCL Foods' layer farms as the proposed sub-station. These inconsistencies have not been noted by DEA in their decision-making to reject the Final EIAR.
 - f) Many discussions and interactions were held with RCL. RCL was well aware of the future potential transmission lines planned, the DC transmission line being only one of the possible lines. That RCL did not respond specifically on a possible future DC transmission line is a matter for RCL to address, not the EAP and/or Applicant. In any event, this is longer-term Eskom planning for which little concrete information exists, other than that these DC transmission lines would need to enter the sub-station. This matter was discussed during a Key Stakeholder Workshop (KSW) with RCL where RCL had the opportunity to raise matters.
 - g) The KSW (amongst others) clearly shows that the Applicant and EAP did consider concerns of I&APs and other land users; illustrating another incorrect assumption and/or conclusion by DEA.
- 2 The site is not compatible with the surrounding land uses.
- a) The Applicant and EAP know this and it has been spelled out clearly in the Scoping (Draft and Final) and EIAR (Draft and Final) Reports.
 - b) The incompatible land-use mentioned on Page 23 refers to land-uses which are incompatible with sub-station or electrical infrastructure, i.e. where dense housing exists, large forestry areas with tall trees, national roads or airports, etc. This is not a reference to the current land-use zoning of an area.
 - c) Transmission lines will enter and exit the Isundu Sub-station. The pace at which they are built will depend on economic growth and electricity growth centres. The only two planned transmission lines at present are the Venus-Sigma-Hector-Ariadne (serving central and southern KwaZulu-Natal, and the Eastern Cape) and the Mbewu (serving the greater Richards Bay/Empangeni) transmission lines.
 - d) Mkhambathini Local Municipality.
 - i. It is acknowledged that the proposed sub-station site is incompatible with the municipal SDF and Rural Planning Policy. However, it is the only suitable site in the area that can meet Eskom's transmission line and sub-station site criteria. It is a Strategic Infrastructure Project of national importance. In this regard, all the Applicant and EAP are arguing is that national imperatives must surely outweigh local planning criteria.
 - ii. The EIAR acknowledges eco-tourism in the area which is interspersed by light industry, agriculture, mining, a national road (the major route linking the economic hub of Gauteng with the Port of Durban), settlement encroachment and the like. The growth and development trajectories are not fixed and can take any number of forms. These are clearly evident from what has occurred in a regional context (Camperdown, Cato Ridge and surrounds). The EAP honestly discusses and analyses these potential development trajectories and states that 'although the sub-station will not necessarily put an end to all the tourism activities or potential of the area, it will be an additional factor that could have a negative influence and possibly even tip the balance towards non-conservation land-uses'. Thus, DEA's assertion that the EAP is biased is false and shows little appreciation for the detailed specialist work and analysis which has gone into investigating and attempting to predict potential impacts on future developments.

- iii. The arguments concerning Mayibuye are simply to illustrate that the planning criteria of the Mkhambathini Local Municipality are not fixed.
- e) Natal Zoological Gardens (Pty) Ltd and Natal Lion Park.
- i. The Natal Zoological Gardens and Natal Lion Park are the furthest from the sub-station site (just over 1 km northeast of the sub-station site) and, as stated in the EIAR (Draft and Final), are the least affected of the surrounding landowners.
 - ii. Possible impacts would be visual relating to visitors seeing the sub-station on their travels to the Gardens and Park. It is proposed that this be mitigated using a barrier of trees to screen the sub-station from the road to the Gardens and Park.
 - iii. Importantly, DEA appears to have based their comments on statements in the last letter from the Natal Zoological Gardens and Natal Lion Park's attorney, who does not have a full understanding of the project, rather than the detailed specialist and EIAR sections dealing with potential impacts upon this stakeholder.
- f) Eversheds KZN (Rainbow Chicken).
- i. As stated in the Final EIAR, RCL Foods (Rainbow Chickens) is relocating its operations and the farms in question have been put on the market for sale.
 - ii. Notwithstanding the above, the Applicant and EAP have gone to great length to address the concerns of RCL. The science is complex and there are no definitive answers to all potential impacts arising. This is acknowledged in the EIAR (Draft and Final).
 - iii. The uncertainty concerning the effects of blasting on laying chickens is precisely why the EAP has recommended a test blast, and to feed the results into the design of all blasts on site.
 - iv. The Final EIAR is clear that there would be full compensation to RCL for any losses incurred by RCL due to blasting.
 - v. In its request for clarity regarding noise due to blasting and vibration, DEA seems to fail to understand that some of the best noise, blasting and vibration experts have predicted the levels as far as is currently possible. Only a test blast and seeing how a batch of poultry reacts will provide any further clarity; hence the reason for the detailed mitigation strategy for RCL, should they still be operating on the property.
 - vi. DEA is also advised, for consistency in decision-making, to review the recent appeal decision of the KZN MEC of EDTEA which upheld Wild Aloe Estate's appeal. In this appeal decision, the MEC concluded that EDTEA's initial decision regarding RCL was inappropriate as it did not take into account the current status of their operations (Annexure A).
- g) Lower Mpushini Valley Conservancy.
- i. The costs of blasting vs. the cost of earthworks at Sigma Sub-station are not comparable; earthworks are orders of magnitude more expensive than blasting.
 - ii. The EAP fails to see any conclusion or motivation in these comments from DEA and does not understand why this is provided as a reason to reject the EIAR.
- h) African Bird of Prey Sanctuary (ABOPS) and Raptor Rescue.
- i. Transmission lines are not part of the current application for the Isundu Sub-station. These are the subject of the VSHA Amendment Application and any future applications for future transmission lines. The relocation of ABOPS is recommended due to the adoption of the precautionary principle for anticipated developments.

ii. ABOPS Agreement and Feasibility of Relocation. The Applicant is currently working on a Memorandum of Understanding with ABOPS, which will take into account various aspects raised by ABOPS during engagement between ABOPS and the Applicant. The feasibility of the proposed relocation requires an in-depth investigation. Due to current constraints (which are widely known in the public domain), the Applicant has not yet been in a position to commission the feasibility study, but remains committed to doing so. The Applicant is equally committed to not undertake anything on the site should the proposed relocation prove not to be feasible or prior to the successful relocation of ABOPS.

i) Aloe Wildlife Estate.

i. DEA's comment is unclear; there will be impacts on a numbering of surrounding landowners, which have been addressed in the Final EIAR via proposed mitigation measures.

j) Mayibuye Game Estate.

i. The impacts on Mayibuye are well documented in all reports. They relate mainly to the entrance gate and associated facilities.

ii. The main estate is largely unaffected as it is in the valley and not in eye sight of the Isundu Sub-station.

iii. Mayibuye stakeholders were contacted on numerous occasions for their comments and inputs. These requests mostly went unanswered.

3. Visual impact.

a) The statement that there will be transmission lines as a result of the sub-station which will affect the entire gazetted Stewardship program known as the Mpushini Protected Environment Landowners Association (MPELA) is incorrect. Whilst the planned transmission lines will cross parts of the MPELA (as do other existing transmission lines), the entire stewardship programme will not be affected.

b) While the routing of the VSHA transmission line is known within the authorised corridor (where Eskom has concluded landowner servitude agreements), the Mbewu alignments are unknown (except that they will head in a direction away from MPELA).

c) The routing of any future transmission lines is completely unknown and any statement on effects on MPELA are pure conjecture/speculation.

d) DEA's comment that the MPELA 'relies heavily on its natural resource environment for tourism and agricultural income' shows a bias towards copying I&AP comments verbatim without requesting any justification from IA&Ps or reviewing the assessment. Furthermore, it is incomprehensible how DEA's statement about visual impacts of future transmission lines can be used to reject a sub-station Final EIAR. Surely, such issues and information are considered in reaching a decision about an application, not in deciding if the EIAR meets the regulatory criteria.

4. Public Participation Process (PPP).

a) Geotechnical Report for Sigma. This was not provided by the Applicant as it is an in-house report. However, the Applicant is comfortable to share this report with whoever so desires to scrutinise it.

b) There is nothing in the Regulations that stipulates a 5 km buffer. The EAP initially used the Ashburton Library but during the course of the EIA it apparently underwent renovations (and telephones were never answered).

c) The three libraries that were used were: Cato Ridge (Local Municipality), Camperdown (Local Municipality) and Msunduzi (District Municipality).

d) All project documentation, including all reports, were posted on the EAP's web site, and I&APs were notified of this in each correspondence (where relevant). Further, the EAP always offered to provide hard or electronic copies of the reports to any I&APs who requested them.

- e) The statement “Therefore, this resulted in the affected community not been (sic) aware of the proposed development and also not been (sic) given an opportunity to comment on the proposed development” is an illogical conclusion to draw from the where reports were placed in the public domain for public review (with respect, the difference between 5 km and 12 km is 7 km; hardly an onerous distance for I&APs who travel regularly to one or more of these destinations). This also applies to DEA’s assertion “that the PPP was not adequately conducted as there was no compliance with the requirements of the Regulation 54(7)(b) of the EIA Regulations, 2010”.
 - f) DEA needs to evaluate the entire PPP to determine compliance or not with Regulation 54(7)(b).
5. Amended EIAR.
- a) Alternatives have already been provided in the Scoping (Draft and Final) and EIAR (Draft and Final) Reports.
 - b) Proof of notifications and I&AP submissions have already been provided (the full suite is provided in the Final EIAR).
 - c) The exact comments of I&APs are provided (the full suite is provided in the Final EIAR). Comments from public meetings and Key Stakeholder Workshops are provided in the Comments and Response Reports (which also include exact comments of I&APs).
 - d) The responses of the EAP are provided in the Comments and Response Report, and individual letters and emails. Where letters provided were too long, e.g. 18 pages, these were referred to in the Comments and Response Report with the full letter and response provided separately.

In the light of the responses provided by the EAP and Applicant, where the information requested by DEA has been provided in the Final EIAR, and which substantially meets the requirements of Regulation 31(2), the Department is respectfully requested to reconsider the contents of their letter dated 12 December 2017, to withdraw the said letter and to continue evaluating the Final EIAR with the purpose of issuing an Environmental Authorisation, whether positive or negative, conditional or unconditional.

We await your favourable response to this submission.

Yours sincerely,



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Dr R-D Heinsohn
Managing Director/Environmental Assessment Practitioner

ANNEXURE A

KZN DEDTEA MEC'S Appeal Decision on the Proposed Wild Aloe Estate