

**THE PROPOSED EXPANSION OF AN INSTREAM DAM ON THE REMAINDER OF
FARM ZWARTFONTEIN NO. 792 AND PORTION 8 OF THE FARM
ZWARTFONTEIN NO. 792, ZWARTFONTEIN, MALMESBURY, WESTERN CAPE
APPLICANT: Black Orchid Farming Pty (Ltd)**

COMMENT AND RESPONSE REPORT



No.	Comment Date, Comment Format, Organisation/I&AP	Comment	Response from EAP/Applicant/Specialist/Project Manager
Comment on NOI			
1	<p>Format: Email Letter I&AP: HWC (Ms Waseefa Dhansay) Date: 25th November 2019</p>	<p>Dear Ms Waseefa</p> <p>I please require your assistance. HWC provided comment on a NID submitted to your Department, please refer to HWC comments attached stating that no further studies are required.</p> <p>However, there has been a change of scope and it is proposed that the dam footprint be further enlarged. Please refer to the Screener and NID submitted to HWC.</p> <p>The info submitted to the Department was as follows:</p> <p>Zwartfontein dam wall to be increased by 2,3m, total dam wall height will be 14. Total footprint will increase from 4.2ha to 5.8ha (1.6 ha increase).</p> <p>However the following is now proposed. Zwartfontein dam will to be increased to a total height of 22.4m Total footprint to 14ha (which 3,8ha is existing/ transformed). A new disturbance footprint of approximately 10,2 ha (102 0000m²) is expected.</p> <p>Will a new NID have to be submitted to your Department for comment or will the impacts remain the same?</p> <p>Kind regards Inge</p>	<p>Respondent: HWC</p> <p>Dear Inge</p> <p>The enlargement of the dam will not impact on heritage resources and the comment dated 30 April 2019 still stands.</p> <p>No need for an additional NID to be submitted.</p> <p>Please note the following: HWC 2019/2020 Festive Season Operation Schedule https://www.hwc.org.za/node/1913</p> <p>Kind regards, Waseefa Dhansay</p>
2	<p>Format: Email Letter I&AP: DEA&DP: Region 1 Date: 06th December 2019</p>	<p>The 'Notice of Intent' and the correspondence dated 04 April 2019 from Inge Erasmus of EnviroAfrica as received by this Department on the same date, the correspondence from this Department dated 15 April 2019 acknowledging receipt and providing comments on the 'Notice of Intent', the electronic correspondence from Inge Erasmus from EnviroAfrica, as received by this Department on 14 November 2019 and 27 November 2019, refers.</p> <p>2. Your attention is drawn to the listed activities in terms of the National Environmental Management Act, 1998 (Act 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014 as defined in</p>	<p>Dear Natasha,</p> <p>I hereby acknowledge receipt of the Department's correspondence dated 06 December 2019.</p> <p>The Department's correspondence dated 06 December 2019 is duly noted.</p> <p>Please see the responses to the Department's correspondence dated 06 December 2019 below:</p>

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		<p>Government Notice ("GN") No. R. 983, R. 984 and R. 985 of 4 December 2014. These regulations came into effect on 8 December 2014. All activities identified as listed activities in the EIA Regulations of 2014 (as amended) that had not been commenced with on 8 December 2014, must not be undertaken without an Environmental Authorisation from the Competent Authority.</p>	<p>1. Noted.</p> <p>2. Noted. No activities will commence without an Environmental Authorisation from the Department.</p>
		<p>3. This Department has reviewed the abovementioned correspondence and noted that an existing outlet pipeline needs to be replaced and an existing pumphouse will be relocated. These proposed works seems to trigger the following listed activities in terms of the EIA Regulations of 2014 (as amended):</p> <p>* Item 12 of Listing Notice 1 of GN No. R. 983 of 2014 (as amended) " The development of - (i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or (ii) infrastructure or structures with a physical footprint of 100 square metres or more; where such development occurs— (a) within a watercourse; (b) in front of a development setback; or (c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; — excluding— (aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour; (bb) where such development activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies; (cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies; (dd) where such development occurs within an urban area;</p>	<p>3. Noted. Activities 12, 19 and 48 of Listing Notice 1 (as amended) will be assessed in the NEMA EIA process.</p>
		<p>* Item 48 of Listing Notice 1 of GN No. R. 983 of 2014 (as amended) " The expansion of - (i) infrastructure or structures where the physical footprint is expanded by 100 square metres or more; or (ii) dams or weirs, where the dam or weir, including infrastructure and water surface area, is expanded by 100 square metres or more;</p>	

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		<p>where such expansion occurs-</p> <p>(a) within a watercourse;</p> <p>(b) in front of a development setback; or</p> <p>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse;</p> <p>excluding-</p> <p>(aa) the expansion of infrastructure or structures within existing ports or harbours that will not exceed the development footprint of the port or harbour;</p> <p>(bb) where such expansion activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;</p> <p>(cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies;</p> <p>(dd) where such expansion occurs within an urban area; or</p> <p>(ee) where such expansion occurs within existing roads, road reserves or railway line reserves".</p>	
		<p>Item 48 of Listing Notice 1 seems to be triggered, as the proposed expansion works with a physical footprint exceeding 100 square metres will take place within 32 metres of a watercourse.</p> <p>4. Written authorisation is therefore required from the competent authority prior to the undertaking of the abovementioned listed activities.</p> <p>5. An application for Environmental Authorisation must therefore be lodged for the aforesaid listed activities and the Environmental Authorisation granted by the competent authority before the development proposal can commence with. The relevant application form is available on this Department's website: www.westerncape.gov.za. Failure to include any applicable listed activities may invalidate the application.</p> <p>6. Please note that it is prohibited in terms of Section 24F of the NEMA for a person to commence with a listed activity unless the competent authority granted an environmental authorisation for the undertaking of the listed activity. Failure to comply in terms of this prohibition will result in the matter being referred to the Environmental Law Enforcement Directorate of this Department for possible prosecution. A person convicted of an offence in terms of the above is liable to a fine not exceeding R5 million or to</p>	<p>4. Noted. No activities will commence without an Environmental Authorisation ("EA") from the Department.</p> <p>5. Noted. An application for Environmental Authorisation will be submitted for the aforementioned listed activities.</p> <p>6. Noted. No activities will commence without an Environmental Authorisation from the Department.</p>

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		<p>imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.</p> <p>7. This Department reserves the right to revise or withdraw comments or request further information or request further information from you based on any information received.</p> <p>Yours faithfully, Head of Department</p>	<p>7. Noted.</p> <p>I would like to thank you for providing comment on the aforementioned proposal.</p> <p>Kind regards,</p>
Comment on Pre-Application BAR			
3.	<p>Format: Email Letter I&AP: DEA&DP: Region 1 Date: 30th December 2019</p>	<p>Dear Madam</p> <p>1. The pre-application Basic Assessment Report ("BAR") dated 28 November 2019 and the correspondence dated 2 December 2019 from Inge Erasmus of EnviroAfrica as received by this Department on the same day, refer.</p> <p>2. This letter serves as an acknowledgement of receipt of the pre-application BAR by this Department.</p> <p>3. This Department will consider the information in accordance with the prescribed timeframes and advise you accordingly.</p> <p>4. Kindly quote the abovementioned reference number in any future correspondence in respect of the application.</p> <p>5. Please note that the activity may not commence prior to an environmental authorisation being granted by this Department. It is prohibited in terms of the National Environmental Management Act, 1998 (Act 107 of 1998) for a person to commence with a listed activity unless the competent authority has granted an environmental authorisation for the undertaking of the activity. Failure to comply in terms of this prohibition will result in the matter being referred to the Environmental Law Enforcement Directorate of this Department for possible prosecution. A person convicted of an offence in terms of the above is liable to a fine not exceeding R5 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.</p>	<p>Dear Natasha Bieding,</p> <p>I hereby acknowledge receipt of the Department's correspondence dated 30 December 2019.</p> <p>Please note that the contents of the aforementioned correspondence dated 30 December 2019, is duly noted.</p> <p>Also note that this NEMA Application has been assigned to me since Inge Erasmus who used to work on the Pre-App BAR is no longer employed with EnviroAfrica.</p> <p>Please sent all future correspondences to me as this NEMA Application is now assigned to me.</p> <p>Kind regards,</p>

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		<p>6. This Department reserves the right to revise or withdraw any comments or request further information from you based on any information received.</p> <p>Yours faithfully Head of Department</p>	
4.	<p>Format: Email Letter I&AP: DWS Date: 15th January 2020</p>	<p>Dear Madam,</p> <p>Reference is made to the above-mentioned document dated November 2019 with DEA&DP Reference No: 16/3/3/6/7/1/F5/16/2037/19.</p> <p>This Department has perused the above mentioned document and has the following comments:</p> <p>1. According to the report the proposed development entails the enlargement of the existing Zwartfontein dam. The capacity of the dam will increase from 150 000m³ to 915 000m³. Please note that any development within the 1:100 year floodline or within 500m from any boundary of a wetland or water resource triggers a water use activities and must be authorised and registered in terms of Section 21 (c) "impeding or diverting the flow of water in a watercourse" and (i) "altering the bed, banks, course or characteristics of a watercourse" of the National Water Act, 1998 (Act No. 36 of 1998).</p> <p>2. Risk Assessment Matrix must be submitted as part of the Water Use Authorisation Application.</p> <p>3. Please be advised that no pollution or surface water or groundwater resources may occur due to any activity on the property as such, adequate control measures should be implemented to prevent pollution.</p> <p>4. Please note that no abstraction of surface or groundwater may take place or storage of water be created without prior authorisation from this Department, unless it is a Schedule 1 of Existing Lawful Use as described in Section 32 of the National Water Act, 1998 (Act No. 36 of 1998).</p> <p>5. The Applicant, is hereby advised to apply for a Water Use Authorisation as prescribed in Section 21 (b), (c) and (i) of the National Water Act, 1998 (Act No. 36 of 1998), the application should be submitted online via the Departmental Electronic Water Use License Application and Authorisation</p>	<p>Thank you for providing comments on the Pre-Application BAR.</p> <p>1. Noted. The proposed expansion will increase the storage capacity to 915 000m³.</p> <p>2. Noted.</p> <p>3. Noted, should the proposed development be authorised, conditions as per the specialist reports, EMPr, and EA must be complied with.</p> <p>4. The applicant has a Water Use Right (please refer to Appendix E3.1)</p> <p>5. Noted. The applicant applied for A Water Use Authorisation via the online e-WULAAS on 13 December 2019. The applicant applied for the following water use activities: Section 21(b), 21(c) and 21(i). Please find attached proof of e-WULAAS application dated 13 December 2019.</p>

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		<p>System (e-WULAAS) by the following link: http://164.151.129.107/ewulaas/.</p> <p>6. The comments issued shall not be construed as exempting the developer from compliance with the provisions of any other applicable Act, Ordinance, Regulation or By-law.</p> <p>7. The person who owns, controls, occupies or uses the land in question is responsible for taking measures to prevent any occurrence of pollution to water resources.</p> <p>8. Please note that all requirements as stipulated in the National Water Act, 1998 (Act No. 36 of 1998) must be adhered to.</p> <p>9. Please note that this Department reserves the right to amend and/or add to the comments made above in the light of subsequent information received.</p> <p>Please do not hesitate to contact the above officer should there be any queries.</p> <p>Yours Sincerely, Regional Head: Western Cape</p>	<p>6. Noted.</p> <p>7. Noted.</p> <p>8. Noted.</p> <p>9. Noted.</p> <p>I would like to thank you for providing comment on the aforementioned Pre-Application BAR for the Zwartfontein Dam.</p> <p>Kind regards,</p>
5.	<p>Format: Email Letter I&AP: DEA&DP: Region 1 Date: 31st January 2020</p>	<p>Dear Madam,</p> <p>1. The pre-application Basic Assessment Report ("BAR") dated 28 November 2019 and the correspondence dated 2 December 2019 from Inge Erasmus of EnviroAfrica as received by this Department on the same date, the correspondence from this Department dated 30 December 2019 acknowledging receipt of the pre-application BAR and the site inspection which took place on 15 January 2020, refer.</p> <p>2. Having considered the information contained in the aforementioned report, this Department in accordance with Regulation 7 (5) of the Environmental Impact Assessment ("EIA") Regulations, as defined in Government Notice ("GN") No. R. 982 of 2014 (as amended), hereby provides the following comments with respect to the development proposal.</p>	<p>Dear Natasha,</p> <p>I hereby acknowledge receipt of the Department's comment dated 31 January 2020.</p> <p>The Department's correspondence dated 31 January 2020 is duly noted.</p> <p>Please see the responses to the Department's correspondence dated 31 January 2020 below:</p> <p>1. Noted.</p> <p>2. Noted. No other expansion of existing agricultural activities form part of the current development proposal.</p>

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		<p>2.1. It is stated in the pre-application BAR that the expansion of the dam is required in order to ensure adequate water supply to irrigate existing orchards. As such, it is this Department's understanding that no expansion of existing agricultural activities forms part of the current development proposal. However, please be informed that should any expansion of existing agricultural activities be proposed, you will be required to assess the impacts thereof, including the measures to avoid and if not possible mitigate such impacts. Furthermore, the assessment will have to inter alia the suitability of the soil, depending on the type of cultivation/ agricultural activities being proposed.</p>	<p>2.1. Noted. A dam certificate for the existing dam was issued by the Department of Water Affairs on 03 February 1995. The dam certificate will be attached to the draft BAR as an appendix. Berg River Irrigation Board issued water use rights to the landowner on 06 June 2019. The water use rights document will be attached to the draft BAR as an Appendix.</p>
		<p>2.2. It is mentioned throughout the pre-application BAR that existing water use rights are in place from the Berg River Irrigation Board. You are hereby reminded to provide and include the said licenses in all future reports that will be circulated from comment.</p> <p>2.3. Please ensure that the Construction Phase Environmental Management Programme ("EMPr") is revised in order to include safety aspects for when the dam expansion works will be commenced with. This must include safety aspects for downstream users as well as on-site staff and/or contractors who will be employed to manage/oversee the dam expansion works.</p> <p>2.4. It is indicated throughout the pre-application BAR that electrical infrastructure from Eskom will need to be relocated as a result of the proposed dam expansion. As such, it is hereby requested that Eskom be included as part of the list of stakeholders who will be consulted during any follow-up Public Participation Process.</p> <p>2.5. It is noted that no technology alternatives are proposed. As such, it is hereby recommended that the feasibility of technology alternatives be investigated and in particular, water saving technology/solutions.</p> <p>2.6. It is indicated in page 64 of the pre-application BAR that information regarding social and economic aspects be included "in the next BAR". You are hereby reminded to include all outstanding information in all future reports that will be circulated for comment.</p>	<p>2.2. Noted. Berg River Irrigation Board issued water use rights to the landowner on 06 June 2019. The water use rights document will be attached to the draft BAR as an Appendix.</p> <p>2.3. Noted. Safety aspects for the proposed expansion works will be incorporated into the Environmental Management Programme ("EMPr").</p> <p>2.4. Noted. Eskom will be included in the list stakeholders / I&APs</p> <p>2.5. Technology alternatives will be investigated in the draft BAR.</p> <p>2.6. Noted. The information regarding the social and economic aspects of the proposal will be included in the draft BAR.</p>
		<p>2.7. It is mentioned on page 77 of the pre-application BAR that graves and the modern kraal will be suitably buffered to avoid impacting on these resources. It is however unclear as to where these resources are located</p>	<p>2.7. Noted. However, please be advised that the previous Environmental Assessment Practitioner (EAP) made a typographical error on page 77 of the pre-application BAR. There</p>

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		<p>on the site. As such, you are hereby requested to provide more detailed information on the location of these resources on the site as well as provide a map which spatially illustrates how these resources will be buffered from the proposed development.</p> <p>2.8. It is mentioned in the pre-application BAR that rehabilitation as well as maintenance works forms part of the overall development project. As such, you are hereby requested to provide more detail on what the rehabilitation and maintenance works will entail. Furthermore, you must specify the stages at which the actions/activities relating to the rehabilitation and maintenance works will take place, respectively. Please note that aspects of rehabilitation and maintenance works can also be addressed as part of two separate plans appended to the BAR. You therefore have the option of including the proposed rehabilitation and maintenance works into two plans.</p> <p>2.9. This Department requires proof of the submittal of the application to the National Department of Water and Sanitation for a Water Use License and the proof must be appended to the Final BAR.</p> <p>2.10. You are reminded that only those activities applied for will be considered for authorisation. The onus is on the applicant to ensure that all the applicable listed activities are assessed as part of the EIA process.</p>	<p>are no graves or modern krale on site. The Heritage Screener which was attached as Appendix G3 of the pre-application BAR did not identify any graves or krale on site.</p> <p>2.8. Noted. More detail with regards to the rehabilitation and maintenance works will be included in the draft BAR.</p> <p>2.9. Noted. The Water Use License Application was registered on the e-WULAAS on 29 October 2019, and proof of the e-WULAAS will be attached as an appendix to the draft BAR.</p> <p>2.10. Noted.</p>
		<p>2.11. In terms of Section 2(h)(iii) of Appendix 2 of GN No. 982 of 4 December 2014 (as amended), please be reminded to include all comments received from Interested and Affected Parties (which includes the commenting authorities and private individuals/organisations) during the Public Participation Process, as well as the responses to those comments in the future reports which will be submitted to this Department. In this regard, it is important to obtain comments/input from the Department of Water and Sanitation and the Western Cape Department of Agriculture.</p> <p>2.12. Please be reminded to include all proof of the Public Participation Process which was conducted in terms of Regulation 41 of GN No. R. 982 of 4 December 2014 (as amended). This must include, inter alia, proof of fixing a notice board at the site where the activity will take place, giving written notice to Interested and Affected Parties and placing an advertisement in the local newspaper.</p>	<p>2.11. Noted. Department of Water and Sanitation as well as the Western Cape Department of Agriculture provided comment on the pre-application BAR, and will be included into the comments and responses report.</p> <p>2.12. Noted.</p>

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		<p>2.13. Please be reminded to include the original signed declaration forms in the final report.</p> <p>2.14. Please be reminded to include a spatial development plan of the overall development. The plan should include all of the associated environmental constraints, such as the sensitive areas that will be avoided, e.g. buffer area.</p> <p>2.15. Your attention is drawn to Appendix 4 of GN No. R. 982 of 2014 (as amended), for the requirements with respect to the 'Content of Environmental Management Programme'. Please ensure that you fulfil these requirements.</p>	<p>2.13. Noted. Originally signed declaration forms will be submitted with the final report.</p> <p>2.14. Noted. A spatial development plan will be included in the draft BAR.</p> <p>2.15. Noted.</p>
		<p>2.16. Your attention is drawn to Appendix 4 of GN No. R 982 of 4 December 2014 (as amended), for the requirements with respect to the 'Content of basic assessment reports'. Please ensure that you fulfil these requirements.</p> <p>2.17. Your attention is drawn to Appendix 6 of GN No. R. 982 of 4 December 2014 (as amended), for the requirements with respect to the 'Content of specialist reports'. Please ensure that you fulfil these requirements.</p> <p>3. Please note that the activity must not commence with prior to an environmental authorisation being granted by this Department. It is prohibited in terms of the National Environmental Management Act, 1998 (act No. 107 of 1998) for a person to commence with a listed activity unless the competent authority has granted an environmental authorisation for the undertaking of the listed activity. Failure to comply in terms of this prohibition will result in the matter being referred to the Environmental Law Enforcement Directorate of this Department for possible prosecution. A person convicted of an offence in terms of the above is liable to a fine not exceeding R5 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.</p> <p>4. Kindly quote the abovementioned reference number in any future correspondence in respect of this pre-application case.</p>	<p>2.16. Noted.</p> <p>2.17. Noted.</p> <p>3. Noted. No activities will commence without an Environmental Authorisation from the Department.</p> <p>4. Noted.</p> <p>5. Noted.</p> <p>I would like to thank you for providing comment on the aforementioned proposal.</p> <p>Kind regards,</p>

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		<p>5. This Department reserves the right to revise its initial comments and request further information from you based on any new or revised information received.</p> <p>Yours faithfully, Head of Department</p>	
6.	<p>Format: Email Letter I&AP: DoA Date: 21st February 2020</p>	<p>Your application of 02 December 2019 has reference.</p> <p>The Western Cape Department of Agriculture: Land Use Management has no comment.</p> <p>Please note: * Kindly quote the above-mentioned reference number in any future correspondence in respect of the application. * The Department reserves the right to revise initial comments and request further information from you based on the information received.</p> <p>Yours sincerely Mr. CJ van der Walt</p>	<p>Dear Mr CJ van der Walt,</p> <p>I hereby acknowledge receipt of your Department's comment dated 21 February 2020.</p> <p>In the aforementioned comment dated 21 February 2020 your Department indicated that it has no comment.</p> <p>I would like to thank you for providing comment on the aforementioned proposal.</p> <p>Kind regards,</p>
7.	<p>Format: Email Letter I&AP: DEA&DP: Region 1 Date: 6th March 2020</p>	<p>Dear Madam,</p> <p>1. The 'Notice of Intent' and the correspondence dated 4 April 2019 from Inge Erasmus of EnviroAfrica as received on the same date, the correspondence from this Department dated 15 April 2019 acknowledging receipt and providing comments on the 'Notice of Intent', the electronic correspondence from Inge Erasmus from EnviroAfrica, as received by this Department on 14 November 2019, 19 November 2019, 25 November 2019 and 29 November 2019, the electronic correspondence from Emile Esquire of EnviroAfrica as received by this Department on 28 January 2020 and 19 February 2020, the correspondence issued by this Department on</p>	<p>Dear Natasha,</p> <p>I hereby acknowledge receipt of the Department's correspondence dated 06 March 2020.</p> <p>The Department's correspondence 06 March 2020 is duly noted.</p> <p>Please see the responses to the Department's correspondence 06 March 2020 below:</p> <p>1. Noted.</p>

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		<p>28 January 2020 and 19 February 2020, the correspondence issued by this Department on 31 January 2020 providing comments on the Drfat Basic Assessment Report, the electronic correspondence from this Department dated 5 February 2020 and the telephonic conversation on 3 March 2020 between Maboe Ntheja of this Department and Emile Esquire of EnviroAfrica, refer.</p> <p>2. Your attention is drwan to the listed activities in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014 as defined in Government Notice ("GN") No. R. 983, R. 984 and R. 985 of 4 December 2014. These Regulations came into effect on 8 December 2014. All activities identified as listed activities in the EIA Regulations of 2014 (as amended) that had not lawfully been commenced with on 8 December 2014, must not be undertaken without an Environmental Authorisation from the competent authority.</p>	<p>2. Noted. No development will take place unless the Department has issued a decision regarding the proposed development.</p>
		<p>3. This Department has reviewed the abovementioned electronic correspondence from Emile Esquire of EnviroAfrica as received by this Department on 28 January 2020 and 19 February 2020 and noted that an existing outlet pipeline will be replaced with a pipeline of greater throughput capacity. The said expansion seems to trigger the following listed activity in terms of the EIA Regulations of 2014 (as amended):</p> <p>* Item 45 of Listing Notice 1 of GN No. R. 983 of 2014 (as amended): "The expansion of infrastructure for the bulk transportation of water or storm water where the existing infrastructure - (i) has an internal diameter of 0,36 metres or more; or (ii) has a peak throughput of 120 litres per second or more; and (a) where the facility or infrastructure is expanded by more than 1000 metres in length; or (b) where the throughput capacity of the facility or infrastructure will be increased by 10% or more;</p> <p>excluding where such expansion - (aa) relates to transportation of water or storm water within a road reserve or railway line reserve; or (bb) will occur within an urban area".</p>	

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		<p>Item 45 of Listing Notice 1 seems to trigger, as the existing infrastructure has a peak throughput capacity of more than 120 litres per second and the proposed expansion will result in an increase of the throughput capacity of more than 10%.</p>	
		<p>4. Furthermore, please be advised that the following activity in terms of the EIA Regulations of 2014 (as amended) will also triggered, should the pipeline route result in a new footprint of 100m² or more between the existing dam wall and pumphouse.</p> <p>* Item 48 of Listing Notice 1 of GN No. R. 983 of 2014 (as amended): "The expansion of - (i) infrastructure or structures where the physical footprint is expanded by 100 square metres or more; or (ii) dams or weirs, where the dam or weir, including infrastrcuture and water surface area, is expanded by 100 square metres or more;</p> <p>where such expansion occurs - (a) within a watercourse; (b) in front of a development setback; or (c) if no development setback exist, within 32m of a watercourse, measured from the edge of a watercourse;</p> <p>excluding - (aa) the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour; (bb) where such expansion activities are related to the development of a port or harbour, in which case activity 26 of Listing Notice Notice 2 of 2014 applies; (cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies; (dd) where such expansion occurs within an urban area; or (ee) where such expansion occurs within existing roads, road reserves or railway line reserves.</p>	<p>4. Noted. Item 48 of Listing Notice 1 of GN No. R. 983 of 2014 (as amended) will be inserted into the NEMA Application Form.</p>
		<p>5. Written authorisation is therefore required from the competent authority prior to the undertaking of the abovementioned listed activities for the</p>	<p>5. Noted. An application for Environmental Authorisation will be lodged in due course.</p>

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		<p>expansion of the on-site water transportation infrastructure on the Remainder of the Farm No. 792, Zwartfontein, Malmesbury.</p> <p>6. An application for Environmental Authorisation must therefore be lodged for the aforesaid listed activities and the Environmental Authorisation granted by the competent authority before the development proposal can be commenced with. The relevant application form is available from our website: www.westerncape.gov.za. Failure to include any applicable listed activity may invalidate the application.</p> <p>7. Please note that it is prohibited in terms of Section 24F of the NEMA for a person to commence with a listed activity unless the competent authority has granted an environmental authorisation for the undertaking of the activity. Failure to comply in terms of this prohibition will result in the matter being referred to the Environmental Law Enforcement Directorate for possible prosecution. A person convicted of an offence in terms of the above is liable to a fine not exceeding R5 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.</p> <p>8. This Department reserves the right to revise or withdraw comments or request further information from you based on any information received.</p> <p>Yours faithfully Head of Department</p>	<p>6. Noted. An application for Environmental Authorisation will be lodged in due course.</p> <p>7. Noted.</p> <p>8. Noted.</p> <p>Thank you for providing comment on the aforementioned proposal.</p> <p>Kind regards, Dear Sir/ Madam,</p>
8.	<p>Format: Email Letter I&AP: DWS Date: 29th March 2020</p>	<p>Your Reference Number: 3238366</p> <p>We Acknowledge receipt of your letter dated 2019-03-29 regarding BLACK ORCHARD (PTY) LTD: PROPOSED INCREASE OF THE EXISTING ZWARTFONTEIN DAM WALL, RE ZWARTFONTEIN FARM NO. 792, MALMESBURY and confirm that the correspondence is being referred to the relevant Department for attention. Reference Number: 3238366</p>	<p>I hereby acknowledge receipt of your email correspondence dated 29 March 2019.</p> <p>Please find your email correspondence dated 29 March 2019 attached to this email.</p> <p>The contents of your email correspondence dated 29 March 2019 is duly noted.</p>

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			<p>Thank you for providing comment on the aforementioned proposal.</p> <p>Kind regards,</p> <p>Dear Natasha,</p>
9.	<p>Format: Email Letter I&AP: DEA&DP Date: 6th July 2020</p>	<p>1. The 'Notice of Intent' and the correspondence from Ms. Inge Erasmus of EnviroAfrica dated and received by this Department on 04 April 2019, this Department's correspondence dated 15 April 2019 acknowledging receipt and commenting on the 'Notice of Intent', the pre-application Basic Assessment Report ("BAR") dated 28 November 2019 and the correspondence from Ms. Inge Erasmus of EnviroAfrica dated and received by this Department on 2 December 2019, this Department's correspondence dated 30 December 2019 acknowledging receipt of the pre-application BAR, the site inspection conducted by officials of this Department on 15 January 2020, this Department's correspondence dated 31 January 2020 providing comments on the pre-application BAR and the additional information provided by Mr. Emile Esquire of EnviroAfrica via email on 14 May 2020, 18 May 2020, 26 May 2020, 1 June 2020 and 30 June 2020, refers.</p> <p>2. It is requested that the latest email received on 30 June 2020 that the pre-application file regarding the development proposal be closed, as an application will be submitted to this Department. As such, the Department has closed the case file for all administrative purposes with effect from the dated of issue of this letter.</p> <p>3. This Department awaits your application for environmental authorisation for the listed activities that your proposed development triggers in terms of the Environmental Impact Assessment Regulations, 2014 (as amended).</p>	<p>The attached correspondence from the Department dated 06 July 2020, refers.</p> <p>Please see responses to your points raised below:</p> <p>1. Noted.</p> <p>2. Noted. The NEMA Application will be submitted in due course.</p> <p>3. Noted. The NEMA Application will be submitted in due course.</p>
		<p>4. Please note that it is prohibited in terms of Section 24F of the National Environmental Management Act, 1998 (Act 107 of 1998) for a person to commence with a listed activity unless the competent authority has granted</p>	<p>4. Noted.</p>

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		<p>an environmental authorisation for the undertaking of the listed activity. Failure to comply in terms of this prohibition will result in the matter being referred to the Environmental Governance Directorate of this Department for possible prosecution. A person convicted of an offence in terms of the above is liable for a fine not exceeding R5 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.</p> <p>5. This Department reserves the right to revise its initial comments and request further information from you based on any new or revised information received.</p> <p>Yours faithfully Head of Department</p>	<p>5. Noted.</p> <p>Kind regards,</p>
Acknowledgement of Receipt of Application Form and Draft BAR			
10.	<p>Format: Email Letter I&AP: DEA&DP Date: 20th January 2021 (received formal letter)</p>	<p>ACKNOWLEDGEMENT OF RECEIPT OF THE APPLICATION FORM FOR BASIC ASSESSMENT IN TERMS OF THE ENVIRONMENTAL IMPACT ASSESSMENT (“EIA”) REGULATIONS, 2014 (AS AMENDED) FOR THE PROPOSED EXPANSION OF AN INSTREAM DAM ON THE REMAINDER OF FARM ZWARTFONTEIN NO. 792 AND PORTION 8 OF THE FARM ZWARTFONTEIN NO. 792, ZWARTFONTEIN, MALMESBURY.</p> <p>1. The application form, as received by this Department <i>via</i> electronic mail correspondence on 11 January 2021 and the additional information (which included the Application Public Participation Plan and Project Plan) received from Mr Anthony Mader of EnviroAfrica cc, as received by this Department <i>via</i> electronic mail correspondence on 15 January 2021, refer.</p> <p>2. This letter serves as an acknowledgement of receipt of the aforementioned document and additional information by this Department.</p> <p>3. Following a review of the information submitted to this Department, the following is noted: 3.1 The proposed development entails the expansion of the existing dam and associated infrastructure as follows:</p>	<p>Thank you for your letter acknowledging receipt of the application form, it has been kindly noted.</p> <p>1. Noted with thanks.</p> <p>2. Noted with thanks.</p>

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		<ul style="list-style-type: none"> • increasing the existing storage capacity of 150 000m³ to a total storage capacity of 915 000m³; • raising the dam wall height of 11.7m to the height of 22.5m; • increasing the existing dam footprint of 36 000m² to a total of approximately 109 000 m²; • construction of a new access road around the new dam footprint; • relocation of pumphouse; • replacement and extension of the existing outlet pipeline; • relocation of existing Eskom Infrastructure; and • relocation of irrigation pipelines. <p>3.2 The expansion works will amount to approximately of 145 000m². 3.3 The site is zoned Agriculture.</p> <p>4. Applicable Listed Activities: 4.1 After considering the information provided in the application form, the Department concurs that the proposed development constitutes the following listed activities defined in terms of the EIA Regulations, 2014, (as amended), namely: 4.1.1 Activities 12, 19, 27, 31, 45, 48, 50 and 66 of Listing Notice 1 of the EIA Regulations, 2014 (as amended). 4.1.2 Activities 4 and 12 of Listing Notice 3 of the EIA Regulations, 2014 (as amended). 4.2 A Basic Assessment process must be followed in order to apply for Environmental Authorisation. Only those activities applied for shall be considered for authorisation. The onus is on the applicant to ensure that all the applicable listed activities are applied for and assessed as part of the Basic Assessment process.</p> <p>5. Screening Tool: 5.1 This Directorate notes that a Screening Report dated 24 November 2020 and confirmation of the relevant specialist studies required were provided. 5.1.1 The following specialist studies were identified in the abovementioned Screening Report- 5.1.1.1 Agricultural Impact Assessment; 5.1.1.2 Landscape/Visual Impact Assessment; 5.1.1.3 Archaeological and Cultural Heritage Impact Assessment; 5.1.1.4 Palaeontology Impact Assessment;</p>	<p>3. Noted.</p> <p>3.2. Noted and confirmed. 3.3. Noted and confirmed.</p> <p>4.1. Noted.</p> <p>4.1.1. Noted and confirmed. 4.1.2. Noted and confirmed.</p> <p>4.2. Noted.</p> <p>5.1. Noted.</p>

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		<p>5.1.1.5 Terrestrial Biodiversity Impact Assessment; 5.1.1.6 Aquatic Biodiversity Impact Assessment; 5.1.1.7 Hydrology Assessment; 5.1.1.8 Socio-Economic Assessment; 5.1.1.9 Plant Species Assessment; and 5.1.1.10 Animal Species Assessment.</p> <p>5.2 It is indicated in the abovementioned application form that the following specialist studies will not form part of the basic assessment process, given the reasons provided: 5.2.1 Landscape/Visual Impact Assessment; 5.2.2 Agricultural Impact Assessment; 5.2.3 Archaeological and Cultural Heritage Impact Assessment; 5.2.4 Palaeontological Impact Assessment; 5.2.5 Terrestrial Biodiversity Impact Assessment; 5.2.6 Aquatic Biodiversity Impact Assessment; 5.2.7 Hydrology Assessment; 5.2.8 Socio-Economic Assessment; 5.2.9 Plant Species Assessment; and 5.2.10 Animal Species Assessment.</p> <p>5.3 Instead, it is indicated that a Botanical Assessment and a Freshwater Assessment were already undertaken. Please note that should relevant commenting authorities require any additional specialist assessments, the relevant specialist assessment will need to be undertaken.</p> <p>6. Protocols: 6.1 Since specialist studies, <i>i.e.</i> the Botanical Assessment and Freshwater Assessment were undertaken (as mentioned in paragraph 5.3) and the screening tool has identified a number of assessments to be undertaken, your attention is drawn to the following: 6.1.1 The “Procedures for the Assessment and Minimum Criteria for Reporting on identified Environmental Themes in terms of Sections 24(5)(a) and (h) and 44 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) (“NEMA”), when applying for Environmental Authorisation” (“the Protocols”) (Government Notice (“GN”) No. 320 as published in Government Gazette No. 43110 on 20 March 2020) came into effect on 9 May 2020. 6.1.2 Be advised that the Protocols must be complied with for every new application that is submitted after 9 May 2020. 6.1.3 According to the Protocols, before commencing with a specialist assessment, the current use of the land and environmental sensitivity of</p>	<p>5.1.1.1 – 5.1.1.10. Please note that as per page 7 of 18 of the DEA Screening Tool, an Agricultural Impact Assessment was not identified as a required assessment. 5.1.1.2 – 5.1.1.10 are noted and confirmed.</p> <p>5.2.1 – 5.2.10. Please note that a Plant Species Assessment (Botanical Assessment) and Freshwater Assessment were undertaken.</p> <p>6.1.1 – 6.1.2. Noted, thank you for the information.</p>

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		<p>the site under consideration identified by the screening tool must be confirmed by undertaking a site sensitivity verification which must be recorded in the form of a Site Sensitivity Verification Report (“SSV”) Report. As such, please submit the SSV Report to the Department as soon as possible, in order for the Department to confirm whether any of the other applicable Protocols need to be complied with.</p> <p>6.1.4 Where assessment protocols are prescribed for the identified environmental themes included in the Protocols (for example Aquatic Biodiversity and Terrestrial Biodiversity Theme), the specialist studies must therefore comply with these Protocols.</p> <p>6.1.5 Where a specialist assessment is required, but no specific environmental theme protocol has been prescribed, the level of assessment must be based on the findings of the site verification and must comply with Appendix 6 of the EIA Regulations, 2014 (as amended).</p> <p>7. Exemptions: The Department notes that you do not intend to apply for exemption from any of the requirements of the Public Participation Process as stipulated by Regulation 41, from any other provisions contained in the EIA Regulations, 2014 (as amended) or the NEMA. Please note that should you fail to meet a requirement of the NEMA EIA Regulations, 2014 (as amended) or the NEMA and if no exemption from that provision was applied for, your application for environmental authorisation may be refused.</p> <p>8. Alternatives: 8.1 Be advised that in terms of the EIA Regulations, 2014 (as amended) and the NEMA the investigation of alternatives is mandatory. All alternatives identified must therefore be investigated to determine if they are feasible and reasonable. In this regard it must be noted that the Department may grant authorisation for an alternative as if it has been applied for or may grant authorisation in respect of all or part of the activity applied for as specified in Regulation 20 of the EIA Regulations, 2014 (as amended). Alternatives are not limited to activity alternatives, but include layout alternatives, design, activity, operational and technology alternatives. 8.2 You are hereby reminded that it is mandatory to investigate and assess the option of not proceeding with the proposed activity (<i>i.e.</i>, the “no-go” option) in addition to other alternatives identified. Every basic assessment process must therefore identify and investigate alternatives, with feasible and reasonable alternatives to be comparatively assessed. If, however,</p>	<p>6.1.3. Noted. A Site Sensitivity Verification (SSV) Report was submitted to the DEA&DP on the 23rd January 2021.</p> <p>6.1.4 – 6.1.5. Noted.</p> <p>7. Noted and confirmed. No exemptions from any requirements of the Public Participation Process have been applied for.</p> <p>8. Noted. Please note that Alternatives were investigated.</p>

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		<p>after having identified and investigated alternatives, no feasible and reasonable alternatives were found, no comparative assessment of alternatives, beyond the comparative assessment of the preferred alternative and the option of not proceeding, is required during the assessment. What would, however, be required in this instance is proof that the investigation was undertaken and motivation indicating that no reasonable or feasible alternatives other than the preferred option and the 'no-go' option exist.</p> <p>9. Public Participation: 9.1 According to the information contained in the above-mentioned application form, the following processes as part of pre-application Public Participation Process (ref. 16/3/3/6/7/1/F5/16/2037/19) were already undertaken: 9.1.1 Identification of Interested and Affected Parties ("I&APs"). 9.1.2 Landowners adjacent to the proposed site, relevant organs of state, organisations, ward councillors and the Local and District Municipality were added to this database. 9.1.3 Posters were displayed on the site entrance as well as the Du Vlei farmstall on R46, Die Rooi Spens, Hermon; Agrimark Wellington and Midway Superette, Wellington. 9.1.4 Notification letters were sent to the municipal ward councilor at the Swartland Local Municipality, Swartland Local Municipality, West Coast District Municipality, 9.1.5 Notification letters were sent to the Department of Environmental Affairs and Development Planning, Department of Water Affairs and Sanitation, Cape Nature, Heritage Western Cape, Western Cape Department of Agriculture and Land Use Management. 9.1.6 Notification letters were sent to neighbours. 9.1.7 An advert was placed in the Swartland Gazette on 26 March 2019. 9.1.8 A register of I&APs was opened and maintained. 9.1.9 A pre-Application BAR was circulated for comment to all identified I&APs. 9.2 The abovementioned Public Participation Plan outlined the following process which was already commenced with: 9.2.1 All registered I&APs have been given the opportunity to provide comment on the Draft BAR for the period of 11 January 2021 to 12 February 2021.</p>	<p>8.2. Noted, the no-go option has been investigated.</p> <p>9.1 – 9.2. Noted and confirmed.</p>

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		<p>9.3 This Directorate agrees to the abovementioned Public Participation Plan, provided that electronic copies of the Draft BAR be distributed as well as alternative access to copies of the Draft BAR be made available to I&APs who may indicate that they cannot access electronic copies.</p> <p>9.4 In accordance with Regulation 40(3), a copy of the Draft BAR must be made available to the Department, for commenting. Please note the BAR must be submitted via email to the case officer, with attached pdf versions of the report or, if too large to attach to an e-mail, to be made available via an electronic link provided in the email that is accessible by the Directorate. The Directorate may require that a hard copy of the BAR also be submitted to the Department by a certain date but will advise you accordingly.</p> <p>9.5 In terms of good environmental practice, you are encouraged to engage with State Departments and other Organs of State early in the application process to solicit their inputs on any of their requirements to be addressed in the process. Please note that this does not replace the requirement of making the BAR available to State Departments as stipulated above.</p> <p>10. In accordance with Section 24N of NEMA and Regulation 19 the Department hereby requires the submission of an Environmental Management Programme ("EMPr"). The contents of such an EMPr must meet the requirements outlined in Section 24N of the NEMA (as amended) and Regulation 19 of the EIA Regulations, 2014 (as amended). The EMPr must address the potential environmental impacts of the activity throughout the project life cycle including an assessment of the effectiveness of monitoring and management arrangements after implementation (auditing). The EMPr must be submitted together with the BAR. The Department would like to advise that in compiling the EMPr the Department's Guideline for Environmental Management Plans (June 2005), available on the Department's website must be taken into account.</p> <p>11. You are referred to Appendix 1 of the NEMA EIA Regulations, 2014 (as amended) for the requirements with respect to the 'Content of basic assessment reports'. You are advised that when undertaking the application process, you must take into account the Department's Circular EADP 0028/2014 on the "One Environmental Management System" and the EIA Regulations, 2014 (as amended) as well as any other guidance provided by the Department.</p> <p>12. In terms of the NEMA EIA Regulations, 2014 (as amended), when considering an application, the Department must take into account a number of specific considerations including <i>inter alia</i>, the need for and desirability of any proposed development. As such, the need for and</p>	<p>9.3. It has been noted that the DEA&DP agree with the implemented Public Participation Plan.</p> <p>9.4. Noted, a copy of DBAR and Appendices was submitted to the Department (on the 11th January 2021) for commenting.</p> <p>9.5. Noted.</p> <p>10. Noted. The Draft EMPr was submitted (as an Appendix of the Draft BAR) to the Department and Registered I&APs for commenting on the 11th January 2021.</p>

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		<p>desirability of the proposed activity must be considered and reported on in the BAR. The BAR must reflect how the strategic context of the site in relation to the broader surrounding area, has been considered in addressing need and desirability.</p> <p>13. In addition to the above, you must clearly show how the proposed development complies with the principles contained in Section 2 of the NEMA and must also show how the proposed development meets the requirements of sustainable development.</p> <p>14. Project Plan Your Project Plan submitted on 15 January 2021 is acknowledged and hereby confirmed to be in order with respect to the allocated timeframes regarding your basic assessment application.</p> <p>15. In accordance with Regulation 19(1) of the EIA Regulations, 2014 (as amended), the Final BAR must be submitted within 90 days of receipt of the application by the Department, calculated from 11 January 2021. If, however, significant changes have been made or significant new information has been added to the BAR, the applicant/EAP must notify the Department that an additional 50 days (i.e. 140 days from receipt of the application) would be required for the submission of the BAR. The additional 50 days must include a minimum 30-day commenting period to allow registered I&APs to comment on the revised report/additional information.</p> <p>Further note, in terms of Regulation 45 of the EIA Regulations, 2014 (as amended), an application in terms of the EIA Regulations, 2014 (as amended) lapses and the competent authority will deem the application as having lapsed, if the applicant fails to meet any of the timeframes prescribed in terms of these Regulations, unless extension has been granted in terms of Regulation 3(7).</p> <p>16. Please note the BAR must be submitted <i>via</i> email to the case officer, with attached pdf versions of the report or, if too large to attach to an e-mail, to be made available via an electronic link provided in the email that is accessible by the Directorate. The Directorate may require that a hard copy of the BAR also be submitted to the Department by a certain date but will advise you accordingly.</p> <p>17. Kindly quote the abovementioned reference number in any future correspondence in respect of the application.</p> <p>18. It is prohibited in terms of Section 24F of the NEMA for a person to commence with a listed activity unless the competent authority has granted</p>	<p>11. Noted.</p> <p>12. Noted. The Needs and Desirability has been appended to the Revised DBAR.</p> <p>13. Noted.</p> <p>14. It is noted that the Department confirmed that the previously submitted Project Plan is in order.</p> <p>15. Noted.</p>

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		<p>an environmental authorisation for the undertaking of the activity. A person convicted of an offence in terms of the above is liable for a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.</p> <p>This Department reserves the right to revise initial comments and request further information based on any new or revised information received.</p>	<p>16. Noted. An electronic link of the Draft BAR was submitted to the case officer on the 11th January 2021. The Draft BAR was also uploaded on our website for comment.</p> <p>17. Noted.</p> <p>18. Noted.</p> <p>Noted.</p> <p>Thank you for acknowledgment of receipt of the Application form and comments provided.</p>
11.	<p>Format: Email Letter I&AP: DEA&DP Date: 20 January 2021</p>	<p>ACKNOWLEDGEMENT OF RECEIPT OF THE DRAFT BASIC ASSESSMENT REPORT FOR THE PROPOSED EXPANSION OF AN INSTREAM DAM ON THE REMAINDER OF FARM ZWARTFONTEIN NO. 792 AND PORTION 8 OF THE FARM ZWARTFONTEIN NO. 792, ZWARTFONTEIN, MALMESBURY.</p> <p>1. The Draft Basic Assessment Report dated January 2021, as received by this Department <i>via</i> electronic mail correspondence on 11 January 2021, refers.</p> <p>2. This letter serves as an acknowledgement of receipt of the aforementioned document by this Department.</p> <p>3. This Department will provide comments on the Draft Basic Assessment Report within the prescribed time period and advise you accordingly.</p>	<p>Thank you for your response on the Draft BAR.</p> <p>2. Noted with thanks.</p>

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		<p>4. Please note that the activity must not be commenced with prior to an environmental authorisation being granted by the Department. It is prohibited in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) for a person to commence with a listed activity unless the competent authority has granted an environmental authorisation for the undertaking of the activity. Failure to comply in terms of this prohibition will result in the matter being referred to the Environmental Law Enforcement Directorate of this Department for possible prosecution. A person convicted of an offence in terms of the above is liable for a fine not exceeding R5 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.</p> <p>5. Kindly quote the abovementioned reference number in any future correspondence in respect of the application.</p> <p>6. This Department reserves the right to revise its initial comments and request further information from you based on any new or revised information received.</p>	<p>3. Noted with thanks.</p> <p>4. Noted.</p> <p>5. Noted.</p> <p>6. Noted.</p>
Comment on Site Sensitivity Verification Report			
12.	<p>Format: Email Letter I&AP: DEA&DP Date: 18th February 2021</p>	<p>REF: 16/3/3/1/F5/16/2002/21</p> <p>COMMENT ON THE SITE SENSITIVITY VERIFICATION (“SSV”) REPORT FOR THE PROPOSED EXPANSION OF AN INSTREAM DAM ON THE REMAINDER OF FARM ZWARTFONTEIN NO. 792 AND PORTION 8 OF THE FARM ZWARTFONTEIN NO. 792, ZWARTFONTEIN, MALMESBURY.</p> <p>1. The SSV report compiled by Mr. Anthony Mader of EnviroAfrica, as received by this Department via email correspondence on 20 January 2021, this Department’s e-mail correspondence dated 10 February 2021 and the information received via e-mail on 12 February 2021, refer.</p> <p>2. The SSV report indicates that the said report was compiled based on desktop studies as well as a site visit (conducted in March 2019). The SSV</p>	<p>Good afternoon Natasha,</p> <p>I hope all is well.</p> <p>Thank you for your response regarding the SSV report for the proposed expansion of the Zwartfontein Dam (Ref: 16/3/3/1/F5/16/2002/21).</p> <p>Below, please find responses to the Directorate’s comments:</p>

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		<p>report further provides the following information, which is read together with the document titled "DEA Screening Tool_ Specialist Assessments Identified" and the Screening Tool Report dated 24 November 2020:</p> <p>2.1. The Screening Tool Report revealed the following site sensitivities:</p> <p>2.1.1. Agriculture Theme - Very High sensitivity;</p> <p>2.1.2. Animal Species Theme - Medium sensitivity;</p> <p>2.1.3. Aquatic Biodiversity Theme - Very High sensitivity;</p> <p>2.1.4. Civil Aviation Theme - High sensitivity;</p> <p>2.1.5. Defence Theme - Low sensitivity;</p> <p>2.1.6. Paleontology Theme - Low sensitivity;</p> <p>2.1.7. Plant Species Theme - Medium sensitivity; and</p> <p>2.1.8. Terrestrial Biodiversity - Theme Very High sensitivity.</p> <p>2.2. According to the additional information received on 12 February 2021, the abovementioned site sensitivities are either agreed to or disputed, as follows:</p> <p>2.2.1. The Very High sensitivity in terms of the Agriculture Theme is disputed, as the proposed development is in line with the agricultural zoning of the property. It is further revealed that approximately 4.5ha of orchards will be lost due to the proposed dam enlargement. Based on this information a Low sensitivity rating in terms of the Agriculture Theme is requested.</p> <p>Although the proposed development is in keeping with the existing land use rights, please be reminded that the impacts relating to the lost agricultural land, due to the dam expansion must assessed in the Final Basic Assessment Report ("BAR"). This must include the measures to avoid or if not possible, mitigate such impacts. This information was also requested in this Directorate's letter of comment on the Draft BAR dated 8 February 2021. Since the Western Cape Department of Agriculture did not request any agricultural assessment in their comments on the pre-application BAR, an Agricultural Compliance Statement will not be required.</p> <p>2.2.2. The Medium sensitivity in terms of the Animal Species Theme is disputed, as no animals were noted during the site visit. The BAR and Environmental Management Programme ("EMPr") will include measures to mitigate potential impact(s) of the proposed development on animal species. Based on this information a Low sensitivity rating in terms of the Animal Species Theme is requested.</p> <p>This Directorates response is as follows:</p>	<p>2.1.1 – 2.1.8. Noted and confirmed.</p> <p>2.2.1. Noted. Impacts relating to the loss of agricultural land will be included in the Final BAR. It has also been noted that an Agricultural Compliance Statement will not be required.</p> <p>2.2.2. It is noted that the Directorate agrees with the Low Sensitivity rating for the Animal Species Theme. Measures to mitigate any potential impacts will be provided in the Final BAR and EMPr.</p>

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		<p>This Directorate agrees to the Low sensitivity rating in terms of the Animal Species Theme. Please be reminded to provide the measures to mitigate potential impact(s) of the proposed development on animal species in the BAR and EMPr, as stated above.</p> <p>2.2.3. The Very High sensitivity in terms of the Aquatic Biodiversity Theme is disputed, as the proposed development comprises the expansion of an existing dam. A Low sensitivity rating in terms of the Aquatic Biodiversity Theme is therefore requested. This Directorates response is as follows: This Directorate acknowledges the nature of your proposal entailing a dam expansion. However, a Fresh Water Report dated June 2020 was already conducted. As such, the Protocols have been complied with for this environmental theme.</p> <p>2.2.4. The High sensitivity in terms of the Civil Aviation Theme is disputed, as the proposed dam expansion will not pose any threat to civil aviation activities within the area. a Low sensitivity rating in terms of the Civil Aviation Theme is therefore requested. This Directorates response is as follows: This Directorate agrees to the Low sensitivity rating in terms of the Civil Aviation Theme and no further requirements are applicable in this regard.</p> <p>2.2.5. The Low sensitivity in terms of the Defence Theme is agreed to, due to the nature of the proposed development and since there are no defence related structures or zones on the site or within close proximity to the site. This Directorates response is as follows: This Directorate agrees to the Low sensitivity rating in terms of the Defence Theme and no further requirements are applicable in this regard.</p> <p>2.2.6. The Low sensitivity in terms of the Paleontology Theme is agreed to, as the site is located within an area of low paleontological sensitivity no impacts to significant palaeontological resources are anticipated. This Directorates response is as follows: This Directorate agrees to the Low sensitivity rating in terms of the Paleontology Theme and no further requirements are applicable in this regard.</p> <p>2.2.7. The Medium sensitivity in terms of the Plant Species Theme is disputed, as the Botanical Study concluded that the proposed enlargement of the Dam will not impact on any remaining vegetation or plant species of</p>	<p>2.2.3. It is noted that the Protocols regarding the Aquatic Biodiversity Theme have been complied with.</p> <p>2.2.4. It is noted that the Directorate agrees with the Low Sensitivity for the Civil Aviation Theme and that no further requirements are applicable.</p> <p>2.2.5. It is noted that the Directorate agrees with the Low Sensitivity for the Defence Theme and that no further requirements are applicable.</p> <p>2.2.6. It is noted that the Directorate agrees with the Low Sensitivity for the Palaeontology Theme and that no further requirements are applicable.</p>


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		<p>conservation value. A Low sensitivity rating in terms of the Plant Species Theme is therefore requested. Furthermore, the Very High sensitivity in terms of the Terrestrial Biodiversity Theme is being disputed, as it is projected that the proposed dam expansion will not impact on terrestrial and/or flora biodiversity of conservation value. A Low sensitivity rating in terms of the Terrestrial Biodiversity Theme is therefore requested.</p> <p>This Directorate's response is as follows: This Directorate agrees that the sensitivity rating in terms of the Plant Species Theme and Terrestrial Biodiversity Theme could be regarded as low. It is however noted that Botanical Statement Report dated 18 June 2020 does indicate that some remaining indigenous species were found. As such, please ensure that the report assesses the impacts associated with the proposed clearance of identified indigenous vegetation on the site.</p> <p>3. Kindly ensure that the information requested in this letter be submitted together with the Final BAR.</p> <p>4. Please note that it is prohibited in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) for a person to commence with a listed activity unless the competent authority has granted an environmental authorisation for the undertaking of the activity. Failure to comply in terms of this prohibition will result in the matter being referred to the Environmental Law Enforcement Directorate of this Department for possible prosecution. A person convicted of an offence in terms of the above is liable for a fine not exceeding R5 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.</p> <p>5. Kindly quote the abovementioned reference number in any future correspondence in respect of your application.</p> <p>6. This Department reserves the right to revise its initial comments and request further information from you based on any new or revised information received.</p>	<p>2.2.7. It is noted that the Directorate agrees that the proposed sensitivity for the Plant Species and Terrestrial Biodiversity Themes could be regarded as low.</p> <p>3. Noted. This information has been appended to the Revised DBAR.</p> <p>4. Noted.</p> <p>5. Noted.</p> <p>6. Noted.</p>

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			Thank you for your response, it is kindly appreciated.
Comments on Draft BAR			
13.	<p>Format: Email Letter I&AP: HWC Date: 13th January 2021</p>	<p>Good day</p> <p>HWC's comment as attached dated 30 April 2021 still applies.</p> <p>" Case Number: 19040414AS0415E</p> <p>The matter above has reference.</p> <p>Heritage Western Cape is in receipt of your application for the above matter received on 15 April 2019. This matter was discussed at the Heritage Officers meeting held on 29 April 2019.</p> <p>You are hereby notified that, since there is no reason to believe that the proposed dam and pipelines will impact on heritage resources, no further action under Section 38 of the National Heritage Resources Act (Act 25 of 1999) is required.</p> <p>However, should any heritage resources, including evidence of graves and human burials, archaeological material and paleontological material be discovered during the execution of the activities above, all works must be stopped immediately and Heritage Western Cape must be notified without delay.</p> <p>The decision is subject to an appeal period of 14 working days. The appeal period shall be taken from the date above. It should be noted that for an appeal to be deemed valid it must refer to the decision, it must be submitted by the due date and it must set out the grounds of the appeal. Appeals must be addressed to the official named above and it is the responsibility of the appellant to confirm that the appeal has been received within the appeal period.</p> <p>Applicants are strongly advised to review and adhere to the time lines contained the Standard Operational Procedure (SOP) between DEADP and HWC. The SOP can be found using the following link http://hwc.org.za/node/293</p>	<p>It has been noted that the HWC's previous comment (dated 30th April 2019) still stands where there was no reason to believe that the proposed development will impact on heritage resources and that no further action (under the NHRA, Act 25 of 1999) is required.</p> <p>Thank you for providing comments on the aforementioned project.</p>

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		<p>This letter does not exonerate the applicant from obtaining any necessary approval from any other applicable statutory authority.</p> <p>HWXC reserves the right to request additional information as required.</p> <p>Should you have any further queries, please contact the official above and quote the case number.</p>	
14.	<p>Format: Email Letter I&AP: DoA Date: 13th January 2021</p>	<p>BASIC ASSESSMENT REPORT: RE & PTN 8 ZWARTFONTEIN 792; DIVISION MALMESBURY; SWARTLAND MUNICIPALITY:</p> <p>In principle; the Department of Agriculture supports agricultural development that is sustainable in the long term and is regulated in terms of the applicable legislation.</p> <p>General: The farming unit of Zwartfontein is 435 hectares and consists of the following Farm Portions:</p> <ul style="list-style-type: none"> • Remainder ZWARTFONTEIN 792: Malmesbury: 237.7340Ha • Portion 7 ZWARTFONTEIN 792: Malmesbury: 101.5743Ha • Portion 8 ZWARTFONTEIN 792: Malmesbury: 95.8493Ha • <p>The farm is registered in the name of Black Orchid Farming (Pty) Ltd according to T70698/2015.</p> <p>Background: This application is for the expansion of an in-stream irrigation dam with a gross storage capacity of 915 000m³ and with a surface area of approximately 10.9 hectares. The dam wall will be 22.5 meters in height.</p> <p>It is stated that no new water will be abstracted additionally. Zwartfontein must therefore comply with the existing water use allocation as listed under the Berg River Irrigation Board and the curtailments which are associated with the listed use as determined by the competent authority from time to time. The proposed enlarged dam will overlap both farming portions of the Remainder and Portion 8. The dam is located within a non-perennial stream and on a site that will impact on existing approximately 7.3 hectares of perennial crops. It can be argued that the site for the proposed development will impact on High and Unique Potential Agricultural Land (HUAL).</p>	<p>Respondent: EAP and Mr Francois Joubert</p> <p>Noted, thank you for providing comment on the proposed expansion of the Zwartfontein Dam.</p> <p>Noted and confirmed.</p> <p>The proposed development can improve and provide increased sustainability in terms of the remaining HUAL. Black Orchid Farming suffered severe losses during the recent drought and the additional storage capacity in the enlarged dam will ensure that the assurance of supply is high enough for the sustainable irrigation of the vineyards and orchards. Water stress is recorded mainly during the blossoming and fruit-set stages, fruit development stages and also towards the end of the growing season. Available irrigation water at</p>

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			<p>a higher assurance of supply than normal cash crops is thus critically important to ensure that the orchards do not suffer from water stress under dry spells during the year. In order to increase the assurance of supply, the only viable option is to increase the storage capacity of the existing Zwartfontein dam. The economic feasibility of the activity was taken into account and the sacrificing of some 7.3 of perennial crops will ensure that the remaining HUAL is optimally cultivated, while mitigating the risk of low yields as a result of dry spells and drought situations.</p>
14.1.		<p>Fresh water Report: In the report the following is stated:</p> <ul style="list-style-type: none"> "The pumping of seepage and return flow back into the dam commended and should be expanded if volumes increase." <p>What is the quality of this seepage and return flow? Is there a possibility that this will contaminate the water quality in the dam if the seepage and subsurface drainage is saline?</p> <ul style="list-style-type: none"> "There is no need for mitigation to address the eventuality of the dam overflowing when more than full. The catchment above the dam is only 130ha. Even with a rainfall event of 60mm in a single day, when 78 000m³ of storm water falls on the catchment, it is puny if compared to the 915 000m³ capacity of the dam. It is unlikely that the dam would overflow because of high rainfall events." 	<p>Respondent: Mr Francois Joubert</p> <p>No ecological releases from the dam are recommended. To the contrary, increased seepage from the larger dam, as well as increased agricultural return flow, should be controlled, if not prevented, to preserve as much as possible of the mostly dry state of the drainage line as it was prior to development.</p> <p>The mitigation measures are readily implementable. Mud and agricultural chemicals can be prevented from moving down the drainage line and eventually in the Berg River, if care is taken and best practices are implemented. With such a large turn-over of water in the dam water quality problems are less of a problem. Biomonitoring in the Berg River that was done for this application is a regular requirement for WULA's.</p>
14.2.		<p>The dam will be filled up to 100% capacity in late winter when the Berg River water levels are high. The winter is also the time when rain can be expected in the winter rainfall area of the Swartland. Although the catchment is only 130 hectares all the drainage lines and storm water management systems will flow in an event of a rainstorm. If the dam is filled to 100% and a rainstorm occur the dam will no longer be a buffer against</p>	<p>As per the Spatial Development Plan (Appendix B1; see Figure below), a spillway has been proposed to account for any excess water exceeding the 100% dam storage capacity. Erosion mitigation measures¹ must be implemented where applicable.</p>

¹ Erosion control methods may include (but is not limited to) silt fences, retention basins, detention ponds, interceptor ditches, seeding and sodding, riprap of exposed embankments, erosion mats and mulching. Exposed areas, susceptible to erosion, must be rehabilitated. This includes planting vegetation, characteristic of the pertinent vegetation type, to stabilize the soil.

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		<p>runoff. The dam must have a spillway that is protected against erosion. The slope in this constructed canal will be higher than the natural slope of the original drainage line. Energy and flow velocity in the spillway will be higher than that in the natural drainage lines. Erosion may occur where the spillway disperse its water into downstream drainage line. These downstream drainage lines on this property and the one downstream, must not be altered or closed-up with the assumption that no runoff will ever occur in future again.</p>	 <p>Spillway associated with the proposed expansion of the Zwartfontein Dam. Please refer to Appendix B1.1.</p> <p>Moreover, there is no runoff during winter, where the applicant only fills up the dam to 100% in the summertime (when there is no rainfall) and not winter. The spillway is designed by the engineer.</p>
14.3.		<p>Site inspection: No site inspection was conducted yet.</p>	Noted.
14.4		<p>Information required: The proposed development will impact on approximately 7.3ha HUAL.</p> <ol style="list-style-type: none"> 1. What is the potential of the land that will be lost? 2. What is the actual impact on production and loss of jobs? 3. How, when and where will the existing perennial crops be replaced? 4. Is there enough HUAL farm land on the farming unit to do the replacement? 	<p>Respondent: Mr Francois Joubert, Applicant, and EAP</p> <ol style="list-style-type: none"> 1. None, as the proposed expansion is for the irrigation of existing crops. 2. No job losses or lower production, on the contrary, the higher assurance of supply will secure jobs and increase production. 3. TBC 4. Yes

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14.5		<p>5. Is the Bonathaba dam and Zwartfontein dam seen as an integrated irrigation water management system?</p> <p>Please note: The Western Cape Department of Agriculture reserves the right to request further information and revise initial comments based on any additional information that might be received.</p>	<p>5. The Bonathaba and Zwartfontein dams are separate systems (and are separate applications).</p> <p>Noted. Thank you for providing comment on the aforementioned project.</p>
14.6	<p>Format: Email Letter I&AP: DWS Date: 5th February 2021</p>	<p>DRAFT BASIC ASSESSMENT REPORT - THE PROPOSED EXPANSION OF AN INSTREAM DAM ON THE REMAINDER OF FARM ZWARTFONTEIN NO. 792 AND PORTION 8 OF THE FARM ZWARTFONTEIN NO. 792, ZWARTFONTEIN, MALMESBURY, WESTERN CAPE</p> <p>Reference is made to the above-mentioned document dated January 2021 with DEA&DP Reference Number: 16/3/3/6/7/1/F5/16/2037/19.</p> <p>The Department provided comments on the Pre-Application Basic Assessment Report dated 15 January 2020. Please note that these comments are still valid.</p> <p>The Department acknowledges receipt of the Water Use Authorisation Application dated 18 November 2019 (Reference No.: WU12245); for the following water uses: - Sections 21 (b), (c), and (i) of the National Water Act, 1998 (Act No. 36 of 1998); and an assessment of the application is currently underway.</p> <p>Please do not hesitate to contact the above office should there be any queries.</p>	<p>Thank you for providing comment on the Draft BAR. It is noted that previous comments provided (Comment 4) are still valid.</p> <p>Please refer to Comment 4 above for comment previously provided by the DWS.</p>
15.1	<p>Format: Email Letter I&AP: DEA&DP Date: 8th February 2021</p>	<p>COMMENT ON THE DRAFT BASIC ASSESSMENT REPORT FOR THE PROPOSED EXPANSION OF AN INSTREAM DAM ON THE REMAINDER OF FARM ZWARTFONTEIN NO. 792 AND PORTION 8 OF THE FARM ZWARTFONTEIN NO. 792, ZWARTFONTEIN, MALMESBURY.</p> <p>1. The Draft Basic Assessment Report ("BAR") dated January 2021, as received by this Department via electronic mail correspondence on 11 January 2021 and this Department's correspondence dated 20 January 2021, acknowledging receipt of the Draft BAR, refer.</p>	<p>Good evening Natasha,</p> <p>I hope all is well.</p> <p>Thank you for your comments. We acknowledge receipt of the DEA&DP's comments and will submit the Final BAR in due course.</p> <p>As per comment 2.11 (regarding the submission of the SSV Report to the DEA&DP prior to the compilation and submission of the Final BAR), please be advised that the SSV Report was submitted to your Department on the 23rd January 2021 (please find email attached</p>

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		2. Having considered the information contained in the BAR, this Department in accordance with Regulation 7 (5) of the Environmental Impact Assessment (“EIA”) Regulations, 2014 (as amended), hereby provides the following comments:	for your convenience). This communication has been appended as Appendix F. Please do not hesitate to contact me should you have any queries.
15.2		2.1. It is stated on page 9 of the Draft BAR that the expansion of the dam is required in order to double the productive hectares of the farm(s). It is therefore this Department’s understanding that agricultural expansion for the cultivation of citrus and grapes will take place, page 17 of the BAR indicates “the water stored will be used for the irrigation of orchards (table grapes & citrus) ...” Please note that it was previously requested in this Department’s letter dated 31 January 2020 (comments on the pre-application BAR), that the impacts of agricultural expansions must be assessed. The Draft BAR does not provide the assessment of impacts relating to the proposed cultural expansions. Since new agricultural activities are proposed, you must assess the impacts thereof, including the measures to avoid and if not possible, mitigate such impacts. Furthermore, the assessment must include, inter alia the assessment and/or confirmation of the suitability of the soil for cultivation of citrus and grapes, as proposed.	In reference to Page 9, “ <i>The proposed enlargement of the existing dam on the Zwartfontein Farm (located adjacent to Bonathaba Farm), forms part of a development plan to approximately double the productive hectares of the farm’s agricultural output. The aim of this development plan is to create a large-scale, sustainable citrus and grape operation, creating over 200 new employment opportunities while retaining over 600 jobs . Soil and climatic conditions, along with the farms’ proximity to Cape Town Harbour (approximately 60km as the crow flies), provides suitable growing and export conditions for the grape and citrus production industry</i> ”. In reference to Page 17, “ <i>The water stored will be used for the irrigation of existing crops</i> ” The proposed expansion of the Zwartfontein Dam is for the storage of water which will be used for the irrigation of existing crops on Remainder of Farm Zwartfontein No. 792 and Portion 8 of the Farm Zwartfontein No. 792, Zwartfontein, Malmesbury, Western Cape. The overall vision of the applicant is to increase the productivity of agricultural activities which includes the proposed expansion of the Zwartfontein Dam (this application) and the proposed construction of the Bonathaba Dam (a separate application). Therefore, no expansion of agricultural cropland will take place and has thus, not been applied for (i.e., no development of new cultivated crops will take place). Water stored in the proposed, expanded Zwartfontein Dam will only be used for irrigation of existing crops. Please refer to https://uff.co.za/projects/bonathaba-zwartfontein-farms/ for more information.
15.3		2.2. Please ensure that you provide detailed information on the proposed layout of irrigation areas. This information must be accompanied by maps, which spatially illustrate the proposed layout of irrigation areas.	Please note that irrigation infrastructure will run along tree rows. Please refer to Spatial Design Layout (Appendix B1) for layout of plant rows.
15.4		2.3. It is noted that separate Impact Assessment Tables, as included in Appendix J.2.1 and Appendix J2.2. were provided which includes the	The Department’s BAR template will be included in the Final BAR.

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		impact assessment of the identified impacts. It is however requested that this Department's BAR Template be used to include the impact assessment of the identified impacts. This information must be included in the Final BAR.	
15.5		2.4. The Impact Assessment Tables, as included in Appendix J.2.1 and Appendix J2.2. does not provide an assessment of the socio-economic impacts (positive and negative) nor the measures to avoid/mitigate any negative impacts. Please be reminded to provide this information, as previously also requested in this Department's letter dated 31 January 2020.	This will be included in Final BAR. It must be noted that no job losses or lower production are envisaged but that the higher assurance of supply will secure jobs and increase production. This will be a positive impact. Please refer to <i>Section H (subsection 4 of the Revised DBAR)</i> where the socioeconomic impact has been identified and assessed.
15.6		2.5. Please be reminded to provide all co-ordinates of the proposed linear infrastructure (i.e. new access road and irrigation pipeline), i.e. starting, middle and end points.	Noted. Co-ordinates of proposed linear activities, namely the new access road and irrigation pipes have been appended (Appendix A5 and A6).
15.7		2.6. It is hereby acknowledged that while comments were obtained from key authorities during the pre-application process for the proposed development (16/3/3/6/7/1/F5/16/2037/19), please be reminded to provide the comments from the following relevant authorities, which were obtained during the Public Participation Process undertaken post the submission of the Basic assessment application: <ul style="list-style-type: none"> • CapeNature; • Department of Water and Sanitation; • Swartland Municipality; • Heritage Western Cape; • Eskom; and • Western Cape Department of Agriculture. 	Noted. Please see comments attached as Appendix F.
15.8		2.7. Please be reminded to provide the reasons why each alternative is either preferred or rejected.	Please refer to Section H of the Revised DBAR.
15.9		2.8. The Freshwater Impact Assessment indicates that certain maintenance activities may be necessary. It is therefore recommended that a Maintenance Management Plan ("MMP") should be compiled and form part of this Basic Assessment application, so that the MMP be approved as part of this application. Should you decide to compile the said MMP, please include the MMP as part of the Environmental Management Programme ("EMPr") and provide all registered I&APs with an opportunity to provide comment on the revised BAR	Please find Maintenance Management Plan (Appendix M) and relevant method statements appended as Appendix M1-4. This MMP has been included in the Revised DBAR (this report) which has been provided to I&APs with a 30-day comment period.
15.10		2.9. The recommendations and mitigation measures proposed throughout the BAR and specialist studies must be included in the EMPr.	Noted. Please refer to Appendix H.
15.11		2.10. Your attention is drawn to the "Procedures for the Assessment and Minimum Criteria for Reporting on identified Environmental Themes in	Noted.

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		<p>terms of Sections 24(5)(a) and (h) and 44 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA"), when applying for Environmental Authorisation" ("the Protocols") (Government Notice No. 320 as published in Government Gazette No. 43110 on 20 March 2020) which came into effect on 9 May 2020. It is noted that the following specialist reports were provided:</p> <ul style="list-style-type: none"> • Fresh Water Report dated June 2020, compiled by Watsan Africa; • Botanical Statement Report dated 18 June 2020, compiled by PB Consult Environmental Management Services; and • Geophysical survey dated 13 March 2020, compiled by GEOSS South Africa (Pty) Ltd 	
15.12		<p>2.10.1. The Fresh Water Report dated June 2020 does not provide proof of having complied with the requirements of the environmental theme, i.e. Aquatic Biodiversity for the site's rating as very high, as detailed in the Screening Tool Report dated 24 November 2020. The specific requirements that must be met includes:</p> <ul style="list-style-type: none"> - contact details of the specialist, their SACNASP registration number, their field of expertise and a curriculum vitae; - a signed statement of independence by the specialist; - the location of areas not suitable for development, which are to be avoided during construction and operation, where relevant; - additional environmental impacts expected from the proposed development; - a suitable construction and operational buffer for the aquatic ecosystem, using the accepted methodologies; - proposed impact management actions and impact management outcomes for inclusion in the EMPr; - a motivation must be provided if there were development footprints identified that were identified as having a "low" aquatic biodiversity sensitivity and that were not considered appropriate; 	<p>Please refer to Page 32 of the Freshwater Report (Appendix G2) stipulating the following information:</p> <ul style="list-style-type: none"> - Dr Dirk van Driel (PhD, MBA, PrSciNat, NWISA); Water Scientist Salinga2030@gmail.com 022 492 2102 / 079 333 5800 SACNASP Reg: 400041/96 Please refer to Page 32 for Resume / CV - Please refer to Page 31 of the Freshwater Report (Appendix G2) for Declaration of Independence. - This project is for the proposed expansion of an existing dam. Mitigation measures have been proposed in the Freshwater Report. - A 32m buffer has been included on the Spatial Development Plan (Appendix B1.1). This buffer area is associated with the non-perennial drainage line (ESA2). - Please refer to Appendix B1. <p>Mitigation measures have been proposed in the Freshwater Report which has been incorporated into the EMPr. As per the conclusion of the Freshwater Report, "Apart from the incremental demand for water, not only from Zwartfontein, but from many more similar establishments, it is not foreseen that the higher dam wall would</p>

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		<ul style="list-style-type: none"> - a substantiated statement, based on the findings of the specialist assessment, regarding the acceptability or not of the proposed development and if the proposed development should receive approval or not; and - any conditions to which this statement is subjected. <p>Please ensure that the Fresh Water Report is updated so that these requirements are met.</p>	<p><i>have any significant impacts on the drainage line and the Berg River. The demands on the Berg River has long been discounted against the minimum flow requirements and the Ecological Reserve. Hence it is recommended that the elevation of the dam wall is allowed, either by a letter of consent or a General Authorisation, should the DWS elect to do so, considering the fact that the current taking of water from the Berg River for the Zwartfontein Farm is considered to be an Existing Legal Water Use.</i></p>
15.13		<p>2.10.2. The Botanical Statement Report dated 18 June 2020 does not provide proof of having complied with the requirements of the environmental theme, i.e. Terrestrial Biodiversity Theme for the site's rating as very high, as detailed in the Screening Tool Report dated 24 November 2020.</p> <p>Although the Botanical Statement Report dated 18 June 2020 report does indicate that "botanically speaking the proposed dam is not expected to have any long term impacts on vegetation...", the said report does not contain the following information -</p> <ul style="list-style-type: none"> - a description of the assumptions made and any uncertainties or gaps in knowledge or data as well as a statement of the timing and intensity of site inspection observations; - a location of the areas not suitable for development, which are to be avoided during construction and operation (where relevant); - additional environmental impacts expected from the proposed development; - any direct, indirect and cumulative impacts of the proposed development; - the degree to which impacts, and risks can be mitigated; - the degree to which the impacts and risks can be reversed; - the degree to which the impacts and risks can cause loss of irreplaceable resources; and - a motivation must be provided if there were development footprints identified as having a "low" terrestrial biodiversity sensitivity and that were not considered appropriate. <p>Please ensure that the Botanical Statement Report is updated so that these requirements are met.</p>	<p>2.10.2. Please find the Revised Botanical Report attached as Appendix G1.</p>
15.14		<p>2.10.3. You are advised to ensure that the Geophysical survey dated 13 March 2020 is updated to meet the following requirements of Appendix 6 of the EIA Regulations, 2014 (as amended): Regulation (1):</p>	<p>Respondent: GEOSS</p> <p>The geophysical investigation that was completed addressed potential leakage through the subsurface of the dam surface or</p>

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		<p>“(1) A specialist report prepared in terms of these Regulations must contain—</p> <p>(a) details of—</p> <p>(ii) the expertise of that specialist to compile a specialist report including a curriculum vitae;</p> <p>(b) a declaration that the specialist is independent in a form as may be specified by the competent authority;</p> <p>(cA) an indication of the quality and age of base data used for the specialist report;</p> <p>(cB) a description of existing impacts on the site, cumulative impacts of the proposed development and levels of acceptable change; and</p> <p>(i) a description of any assumptions made and any uncertainties or gaps in knowledge</p> <p>(n) a reasoned opinion—</p> <p>(i) whether the proposed activity, activities or portions thereof should be authorised;</p> <p>(iA) regarding the acceptability of the proposed activity or activities; and</p> <p>(ii) if the opinion is that the proposed activity, activities or portions thereof should be authorised, any avoidance, management and mitigation measures that should be included in the EMP, and where applicable, the closure plan”.</p>	<p>below the dam wall. The ToR was as follows; The objective of the study is to assess the subsurface at the proposed dam wall sites. This is to delineate areas that may potentially be associated with leakage/fractured zones below the existing and proposed new dam wall site.</p> <p>This aided the engineers in the design process and delineated areas where attention is required or if the design of the physical dam wall structure needs to be revised.</p>
15.15		<p>2.11. According to the Screening Tool Report dated 9 March 2020, the following site sensitivities are indicated:</p> <ul style="list-style-type: none"> • Agriculture Theme – Very High sensitivity; • Animal Species Theme - Medium Sensitivity; • Aquatic Biodiversity Theme - Very High sensitivity; • Civil Aviation Theme – High sensitivity; • Defence Theme - Low Sensitivity; • Paleontology Theme - Low Sensitivity; • Plant Species Theme - Medium Sensitivity; and • Terrestrial Biodiversity Theme - Very High sensitivity. <p>According to the Protocols, before commencing with a specialist assessment, the current use of the land and environmental sensitivity of the site under consideration identified by the screening tool must be confirmed by undertaking a site sensitivity verification which must be recorded in the form of a Site Sensitivity Verification Report (“SSV”) Report. The submission of a SSV was requested in this Department’s correspondence dated 20 January 2021. Although the motivation was</p>	<p>Noted, please refer to Appendices F6.2, F6.5, F6.6, and F6.7 for the Site Sensitivity Verification (SSV) Report and correspondence regarding the SSV Report and the outcome thereof.</p>

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		<p>included in the BAR as to why the remaining specialist studies were not compiled, a SSV Report is still required. This Directorate notes that Agricultural land will not be impacted (other than the proposed irrigation pipelines to be developed within previously ploughed areas. Further, there are no impacts from a heritage, civil aviation and defence theme. However, this must be reported in a SSV Report, with an indication of the significance rating for each environmental theme.</p> <p>Please ensure that the SSV Report is submitted to this Department prior to the compilation and submission of the Final BAR. You are reminded that should the results of the SSV Report reveal that additional specialist studies are indeed required, and other applicable Protocols need to be complied with, then these requirements must be met prior to the submission of the Final BAR to this Department. In accordance with Regulation 40 (2) of the EIA Regulations, 2014 (as amended), registered Interested and Affected Parties ("I&APs") must also be provided with additional opportunities to view and comment on the additional studies, if so required.</p>	
15.16		2.12. Your attention is drawn to Appendix 1 of the EIA Regulations, 2014 (as amended), for the requirements with respect to the 'Content of basic assessment reports'. Please ensure that these requirements are met.	Noted. The latest DEA&DP template has been utilized in the compilation of this application.
15.17		<p>2.13. Your attention is drawn to Appendix 4 of the EIA Regulations, 2014 (as amended), for the requirements with respect to the 'Content of Environmental Management Programme'. Please ensure that the following additions are included in the EMPr:</p> <ul style="list-style-type: none"> - page number 26 of the EMPr must be amended to reflect that an Environmental Control officer ("ECO") must be appointed for the duration of the construction phase; - although the ECO will compile ECO monitoring reports, the Final Environmental Audit Report after project completion, must be compiled an appointed Environmental Auditor who will be required to submit the Audit Report to the Competent Authority (as specified in section 7.7 Auditing Programme, below). - a final Audit Report must be compiled by an independent and suitably qualified auditor as appointed by the holder of the Environmental Authorisation. - Any proposed changes to the EMPr, must be submitted to this Department (with reference to point 9 of section 7.9. of the EMPr) - emergency provisions in terms of Section 30 of the NEMA must be included (with reference to point 7.11.20 of the EMPr. 	<p>Noted.</p> <ul style="list-style-type: none"> - Noted. Statement has been included in the EMPr. - This has been included in the EMPr.

No.	Comment Date, Comment Format, Organisation/I&AP	Comment	Response from EAP/Applicant/Specialist/Project Manager
		The EMPr must also be amended to reflect the roles and responsibilities in terms of the actions included in the EMPr, including the parties responsible to ensure compliance with the said actions.	
15.18		2.14. Please be reminded that in accordance with Regulation 19(1) of the EIA Regulations, 2014 (as amended), the Final BAR must be submitted within 90 days of receipt of the application by the Department, calculated from 11 January 2021. In terms of Regulation 45 of the EIA Regulations, 2014 (as amended), an application in terms of the EIA Regulations, 2014 (as amended) lapses and the competent authority will deem the application as having lapsed, if the applicant fails to meet any of the timeframes prescribed in terms of these Regulations, unless extension has been granted in terms of Regulation 3(7).	As per Regulation 19 (1b) of the EIA Regulations, 2014 (as amended) a notification for the extension to the process has been submitted to and acknowledged by the competent authority. Therefore, the Final BAR will be submitted within 140 days from the date the application was lodged with the competent authority. Please refer to Appendix N for proof of notification and further information.
15.19		<p>3. Please note that it is prohibited in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) for a person to commence with a listed activity unless the competent authority has granted an environmental authorisation for the undertaking of the activity. Failure to comply in terms of this prohibition will result in the matter being referred to the Environmental Law Enforcement Directorate of this Department for possible prosecution. A person convicted of an offence in terms of the above is liable for a fine not exceeding R5 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.</p> <p>4. Kindly quote the abovementioned reference number in any future correspondence in respect of your application.</p> <p>5. This Department reserves the right to revise its initial comments and request further information from you based on any new or revised information received.</p>	<p>3. Noted.</p> <p>4. Noted.</p> <p>5. Noted.</p> <p>Thank you for providing comments on the Draft BAR. Please note that as per Comment 2.8, an MMP has been compiled and appended to this report (<i>Revised DBAR</i>) where I&APs will be provided the opportunity to comment. Please note that as per Regulation 19(1b) of the EIA Regulations, 2014 (as amended), the competent authority has been notified about an extension to the process (due to the submission of the MMP and required comment period to be undertaken). Please refer to Appendix N for more information.</p>