



**REFERENCE:** 16/3/3/6/7/1/F5/16/2037/19

**ENQUIRIES:** Natasha Bieding

**DATE:**

2020 -03- 0 6

The Board of Directors  
Black Orchard (Pty) Ltd  
P O Box 6100  
ROGGEBAAI  
8012

**Attention: Hannah Young**

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Dear Madam

**RE. THE PROPOSED EXPANSION OF AN INSTREAM DAM AND THE INSTALLATION OF ASSOCIATED INFRASTRUCTURE ON THE REMAINDER OF THE FARM NO. 792, ZWARTFONTEIN, MALMESBURY**

1. The 'Notice of Intent' and the correspondence dated 4 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, 19 November 2019, 25 November 2019 and 29 November 2019, the electronic correspondence from this Department dated 20 November 2019 and 27 November 2019, the site inspection undertaken on 15 January 2020, 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 31 January 2020 providing comments on the Draft Basic Assessment Report, the electronic correspondence from this Department dated 5 February 2020 and the telephonic conversation on 3 March 2020 between Maboe Nthejane of this Department and Emile Esquire of EnviroAfrica, refer.

2. Your attention is drawn 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.

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):

▪ **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 1 000 metres in length; or*
  - (b) where the throughput capacity of the facility or infrastructure will be increased by 10% or more;*

*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".*

Item 45 of Listing Notice 1 seems triggered, as the existing pipeline 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%.

4. Furthermore, please be advised that the following listed activity in terms of the EIA Regulations of 2014 (as amended) will also be triggered, should the pipeline route result in a new footprint of 100m<sup>2</sup> or more between the existing dam wall and pumphouse.

▪ **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;*

*where such expansion 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 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 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 expansion occurs within an urban area; or
- (ee) where such expansion occurs within existing roads, road reserves or railway line reserves".

5. **Written authorisation is therefore required from the competent authority prior to the undertaking of the abovementioned listed activities for the expansion of the on-site water transportation infrastructure on the Remainder of the Farm No. 792, Zwartfontein, Malmesbury.**
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 on this Department's website: [www.westerncape.gov.za](http://www.westerncape.gov.za). Failure to include any applicable listed activity may invalidate the application.
7. **Please be 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 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.**
8. This Department reserves the right to revise or withdraw comments or request further information from you based on any information received.

Yours faithfully

  
hp

**HEAD OF DEPARTMENT**

**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

Copied to: (1) Emile Esquire (EnviroAfrica)  
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