



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

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File Reference: 12/9/11/L73467/6

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www.environment.gov.za

LICENCE NUMBER : 12/9/11/L73467/6
SECTOR : DECOMMISSIONING
WASTE MANAGEMENT FACILITY : KOMATI POWER STATION
LOCATION : PORTION OF FARM KOMATI POWER STATION 56 IS,
KOMATI, NKANGALA DISTRICT MUNICIPALITY,
MPUMALANGA PROVINCE.
LICENCE HOLDER : ESKOM HOLDINGS SOC LIMITED
ADDRESS : PRIVATE BAG 2, BLINKPAN, 2250
CONTACT PERSON : RUDI VAN DER WAL
CONTACT DETAILS : TEL: 013 295 9119 , **Email:** vdwalrw@eskom.co.za

DECOMMISSIONING WASTE MANAGEMENT LICENCE IN TERMS OF SECTION 49(1)(a) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT: WASTE ACT, 2008 (ACT NO. 59 OF 2008)


In terms of section 49(1)(a) of the National Environmental Management: Waste Act, 2008 (Act No.59 of 2008) read with the Environmental Impact Assessment Regulations 2014 (as amended), published in Government Notice No. 982 of 04 December 2014, the Deputy Director General: Chemicals and Waste Management, hereby grants **Eskom Holdings SOC Limited** a Waste Management Licence for the following waste management activities as listed in Category A of Government Notice No 921 dated 29 November 2013:

(14) "The decommissioning of a facility for a waste management activity listed in Category A or B of this Schedule".

In this Licence, "Director" means the Director: Licensing of the National Department of Environmental Affairs (DEA)

Batho pele- putting people first

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(14) "The decommissioning of a facility for a waste management activity listed in Category A or B of this Schedule".

In this Licence, "Director" means the Director: Licensing of the National Department of Environmental Affairs (DEA) who may be contacted at the address below:

Director: Licensing
Department of Environmental Affairs
Private Bag X447
PRETORIA
0001

In this Licence, "Director: RPW" means the Director: Resource Protection and Waste of the National Department of Water and Sanitation (DWS) who may be contacted at the address below:

Director: Resource Protection and Waste.
Department of Water and Sanitation
Private Bag X 313
PRETORIA
0001

1. SITE DETAILS

1.1 LOCATION

1.1.1 This Licence authorises the decommissioning of Komati Power Station asbestos disposal site located on portion of Farm Komati Power Station 56 IS, near Komati within the jurisdiction of Mpumalanga Province (hereafter referred to as the "Site").

1.1.2 The location of the Site must be according to the co-ordinates indicated on the licence application form, which is defined as follows:



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NUMBER OF CORNERS	LATITUDE	LONGITUDE
A	26° 6' 17.70"	29° 28' 19.12"
B	26° 6' 16.75"	29° 28' 23.44"
C	26° 6' 22.30"	29° 28' 24.94"
D	26° 6' 23.28"	29° 28' 20.42"

1.2 DOCUMENTS CONSIDERED

- 1.2.1 The Waste Management Licence Application Form received by the Department on 05 June 2017;
- 1.2.2 The Final Basic Assessment Report for the proposed closure of the asbestos disposal facility at the Komati Power Station compiled by Jones and Wagener, dated 26 July 2017 and hereinafter referred to as "Report"; and
- 1.2.3 The Record of Decision (RoD) issued by the Department of Water and Sanitation, dated and received by the Department on 01 December 2017.

2. GENERAL LICENCE CONDITIONS

2.1 SITE SECURITY AND ACCESS CONTROL

- 2.1.1 The Licence Holder must ensure effective access control during the decommissioning and closure of the asbestos disposal facility to prevent unauthorised entry.
- 2.1.2 Weatherproof durable and legible signs in at least three official languages applicable in the area must be displayed at each entrance to the site.
- 2.1.3 The signs must indicate the risks involved in entering the Site. It should include details of the responsible person, contact details, emergency number and indicate that the site is closed.

2.2 GENERAL MANAGEMENT

- 2.2.1 The decommissioning and rehabilitation activities shall be managed and operated:



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- a) In accordance with a documented Environmental Management Programme (EMPr), that, *inter alia*, identifies and minimises the risk of pollution, including those arising from operations, maintenance, accidents, incidents and non-conformance as well as those drawn to the attention of the Licence Holder as a result of complaints;
- b) In accordance with conditions of this Licence and any other written instruction by the Director; and
- c) By an adequate, competent staff complements.

2.2.2 Any persons having duties that are or may be affected by this Licence must have convenient access to a copy thereof, which copy must be kept at or near the place where those duties are carried out.

2.2.3 A copy of this Licence may be published by the Department, in its discretion, on SAWIC or any website or other media.

2.3 DESIGNATION OF WASTE MANAGEMENT CONTROL OFFICER

2.3.1 A Waste Management Control Officer (WMCO) must be designated in writing to monitor and ensure compliance and correct implementation of all mitigation measures and provisions as stipulated in the Licence and standard operation procedures. The Licence Holder must keep proof of designation of the WMCO. The WMCO must:

- a) Report any non-compliance with any licence conditions or requirements or provisions of NEM: WA to the Director.

2.3.2 The duties and responsibility of the WMCO should not be seen as exempting the Licence Holder from any other legal obligations in terms of the NEM:WA

2.4 EMERGENCY PREPAREDNESS PLAN

2.4.1 The Licence Holder must maintain and implement an emergency preparedness plan. The plan must, amongst others, include measures to address:

- a) Power failure;



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- b) Equipment malfunction;
- c) Site fires;
- d) Spillage (on Site);
- e) Industrial action; and
- f) Natural disasters such as floods.

2.4.2 The plan must include contact details of the nearest police station, ambulance services and the emergency centre as well as the contact details of the on-site emergency response person/s.

3. DECOMMISSIONING OF THE SITE

3.1 The closure of Komati Power Station asbestos disposal facility shall be in accordance with Komati Power Station Asbestos Disposal Site Closure Report JW244/13/E082 – Rev dated July 2014 compiled by Jones and Wagener Consulting Engineers.

3.2 Decommissioning within the Site must be carried out under the supervision of a Professional Civil Engineer, registered under the Engineering Profession of South Africa Act, 2000 (Act 46 of 2000).

3.3 The Site, or any portion thereof must be covered and maintained in such a way that:-

- a) The formation of pools, and/or damming due to rain is prevented;
- b) Free surface runoff of rainwater is ensured;
- c) Contamination of storm water is prevented;
- d) No objects or material which may hamper the rehabilitation of the Site are present; and
- e) Minimal or no erosion occurs.

3.4 The closure of the Site must be carried out in accordance with recognised civil engineering practice, with special consideration to stability.

3.5 The slope of the Site must be constructed and maintained in such a manner that the occurrence of erosion is prevented.



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- 3.6 Any development which occurs within 1:100 year flood line and/or within the horizontal distance of 500m from the boundary of a wetland would require a water use licence in terms of Section 40 of the National Water Act, 1998 (Act No. 36 of 1998).
- 3.7 No building development of any structures may take place on the footprint of the capped asbestos containing waste mapped disposal area.
- 3.8 The Licence Holder must ensure that the capping closure of the Ash Dam 1 shall include demarcation of the identified asbestos disposal area with restrictions preventing future mining activities or other excavation of ash in the area.
- 3.9 The demarcated asbestos disposal area should be fenced off and locked at all times when unattended to prevent the public from potential health and safety hazard.

4 MONITORING

4.1 METHODS OF ANALYSIS

- 4.1.1 The Licence Holder shall carry out all tests in accordance with methods prescribed by and obtainable from the South African Bureau of Standard (SABS), referred to in the Standard Act, 2008 (Act 08 of 2008), to analyse the samples taken under the monitoring programmes specified in this licence.
- 4.1.2 The Licence Holder shall only use another method of analysis if written proof that the method is at least equivalent to the SABS method, is submitted to the Responsible Authority.

4.2 WATER MONITORING

- 4.2.1 The Licence Holder must develop and implement a groundwater quantity and quality monitoring programme which should include both newly drilled and historic boreholes up gradient and down gradient of the facility.
- 4.2.2 The groundwater monitoring should be conducted on bi-annual basis as per the current groundwater protocol to quantify the impacts on groundwater resources.



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- 4.2.3 Monitoring should be conducted for inorganic and microbiological parameters as reflected in report JW238/16/F155.
- 4.2.4 Monitoring boreholes must be equipped with lockable caps. The Responsible Authority reserves the right to take water samples at any time and to analyse these samples or have them analysed.
- 4.2.5 The source for the microbiological parameters in the boreholes should be determined and remediation measures be implemented to the satisfaction of the Responsible Authority.
- 4.2.6 In cases where the subsurface soil and groundwater are contaminated as a result of the disposal facility, remediation measures should be implemented to reduce the potential for migration of any contaminants outside the demarcated disposal area.
- 4.2.7 In the event that groundwater and downstream users are affected by migration of pollution from the asbestos waste disposal facility, the Licence Holder should compensate them with potable water.
- 4.3 DETECTION MONITORING
- 4.3.1 Monitoring for groundwater quality must be conducted for variables listed in Annexure II bi-annually or such frequency as may be determined by the Director.
- 4.4 INVESTIGATIVE MONITORING
- 4.4.1 If in the opinion of the Director, a water quality variable listed under the detection monitoring programme, as referred to in condition 4.3.1, shows an increasing trend, the Licence Holder shall initiate a monthly monitoring programme until such time that the variable is within acceptable limits.
- 4.5 POST CLOSURE MONITORING
- 4.5.1 Groundwater monitoring must continue after closure of the Site and must be maintained for a period of 30 years, or for such period and/or frequency as may be determined by the Responsible Authority for variables listed in Annexure II bi-annually.

5 INVESTIGATIONS



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- 5.1 If, in the opinion of the Director, environmental pollution, nuisances or health risk may be occurring or are occurring on the Site, the Licence Holder must initiate an investigation into the cause of the problem or suspected problem.
- 5.2 If, in the opinion of the Director and/ or Director: RPW, water pollution may be occurring or is occurring, the Licence Holder must initiate an investigation into the cause of the problem or suspected problem. Such investigation must include the monitoring of the water quality variables at those monitoring points and at such frequency as may be specified by the Director: RPW.

6 MONITORING COMMITTEE

- 6.1 The Licence Holder must maintain and ensure continued functioning of a Monitoring Committee for a period of at least two years after the closure of the Site, or at such longer period may be determined by the Director.
- 6.2 The Monitoring Committee must formulate a terms of reference and code of conduct, according to the latest edition of the Minimum Requirements.
- 6.3 The Monitoring Committee must be representative of relevant interested and affected persons as recommended in the latest edition of the Minimum Requirements.
- 6.4 The Monitoring Committee must meet at least twice a year and not later than 30 days after the external audit report has been finalised.
- 6.5 The Licence Holder must keep minutes of all meetings of the Monitoring Committee and distribute the minutes to all parties and the Director within 14 days after the meeting.

7 RECORDS

- 7.1 The Licence Holder must keep records and update all the information referred to in Annexure II and submit this information to the Director on an annual basis.
- 7.2 All records required or resulting from activities required by this Licence must:
- a) Be legible;
 - b) If amended, be amended in such a way that the original and any subsequent amendments remain



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legible and are easily retrievable;

- c) Be made available on request to the Licensing Authorities; and
- d) Be retained in accordance with documented procedures.

- 7.3 Records demonstrating compliance with this Licence must be maintained for at least five (05) years.
- 7.4 The License Holder must ensure that a record is kept for notification of the location of the asbestos containing waste demarcated area which shall include coordinates and clear warnings prohibiting excavation of such area in future. The record shall be submitted to the relevant regulatory authorities such as the Department of Health and local municipality and shall be made available to the Responsible Authority upon request.

8 REPORTING

- 8.1 The Licence Holder must, within 24 hours, notify the Director of the occurrence or detection of any incident on the Site, which has the potential to cause, or has caused water pollution.
- 8.2 The Licence Holder must, within 14 days, or a shorter period of time, if specified by the Responsible Authority, from the occurrence or detection of any incident referred to in condition 9.1 submit an action plan, which shall include a detailed time schedule, to the satisfaction of the Director of measures taken to –
- a) correct the impact resulting from the incident;
 - b) prevent the incident from causing any further impacts; and
 - c) prevent a recurrence of a similar incident.
- 8.3 In the event that measures have not been implemented within 21 days to address impacts caused by the incident referred to in condition 9.1, or measures which have been implemented are inadequate, the Director may implement the necessary measures at the cost and risk of the Licence Holder.
- 8.4 The Licence Holder must keep an incident and complaints register, which must be attached to the external audit report, and be made available to the Department and DWS for audit purposes.



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- 8.5 The Department must be notified without delay in the case of the following:
- a) Any malfunction, breakdown or failure of equipment or techniques, accident or fugitive emission which has caused, is causing or may cause significant pollution.
 - b) The breach of this Licence; and
 - c) Any significant adverse environmental and health effects.
- 8.6 The Department must be notified within 14 days of the following changes:
- a) The Licence Holder's trading name, registered name or registered office address;
 - b) Particulars of the Licence Holder has become a subsidiary; and
 - c) Steps taken with a view to the Licence Holder, or any one of them, going into bankruptcy, entering into agreement with creditors, or, in the case of them being in a partnership dissolving the partnership.
- 8.7 Each external audit report must be submitted to the Director within 30 days from the date the external audit was undertaken.
- 8.8 The information required in terms of condition 5 must be reported to the Responsible Authority in a yearly report. The information must also be included into a trend report, which must contain a graphical presentation of all results obtained previously at any specific point, as well as an interpretation and discussion of the results of each monitoring occasion.
- 8.9 The Licence Holder must submit a report to the Responsible Authority regarding any deviations from plans described in this licence and must obtain written permission from the Responsible Authority before such deviations may be implemented.
- 8.10 The Licence Holder must ensure that a record is kept for notification of the location of the asbestos containing waste demarcated area which shall include coordinates and clear warnings prohibiting excavation of such area in future. The record shall be submitted to the relevant regulatory authorities such as Department of Health and the Local Municipality and shall be made available to the Responsible authority upon request.



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9 AUDITING

9.1 INTERNAL AUDITS

10.1.1 Internal audits must be conducted **quarterly** during the duration of decommissioning activities by the Licence Holder and on each audit occasion an official report must be compiled by the relevant auditor to report the findings of the audits, which must be made available to the external auditor.

9.2 EXTERNAL AUDITS

10.2.1 The Licence Holder must appoint an independent external auditor to audit the site **biennially** till such time decommissioning of the site is complete. The auditor must compile an audit report documenting the findings of the audit, which must be submitted to the Department by the Licence Holder.

10.2.2 The external audit report must:

- a) Specifically state whether conditions of this Licence were adhered to;
- b) Include and interpretation of all available data and test results regarding the operation of the site and all its impact on the environment;
- c) Specify targets dates for the implementation of the recommendations by the Licence Holder to achieve compliance;
- d) Contain recommendations regarding non-compliance or potential non-compliance and must specify target dates for the implementation of the recommendations by the Licence Holder and whether corrective action taken for the previous audit non conformities was adequate; and
- e) Show monitoring results graphically and conduct trend analysis.

10.2.3 Audit report must be finalized within sixty (60) days from the date the external audit was undertaken. Each external audit report referred to in condition 10.2.1 above must be submitted to the Director within thirty (30) days from the date on which the external auditor finalised the audit.

9.3 DEPARTMENTAL AUDITS AND INSPECTIONS



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- 10.3.1 The Department reserves the right to audit and/or inspect the Site without prior notification at any time and at such frequency as may be determined by the Director.
- 10.3.2 The Licence Holder must make any records or documentation available to the Director upon request, as well as any other information he/she may require.

11 LEASING AND ALIENATION OF THE SITE

- 11.1 Should the Licence Holder want to alienate or lease the Site, he/she must notify the Director in writing of such an intention at least 120 days prior to the said transaction for approval.
- 11.2 Should the approval be granted, the subsequent Licence Holder shall remain liable for compliance with all licence conditions.

12 TRANSFER OF WASTE MANAGEMENT LICENCE

- 12.1 Should the Licence Holder want to transfer the Licence, he/she must apply in terms of Section 52 of the NEM: WA.
- 12.2 Any subsequent Licence Holder shall be bound by conditions of the Licence.

13 GENERAL

- 13.1 This Licence shall not be construed as exempting the Licence Holder from compliance with the provisions of national and provincial legislation and any relevant ordinance, regulation, by-law or relevant National Norms and Standards.
- 13.2 This licence shall not be transferrable unless such transfer is subject to condition 12.1.
- 13.3 Transgression of any condition of this Licence could result in the Licence being withdrawn by the Department.
- 13.4 Non – compliance with a condition of this Licence may result in criminal prosecution or other actions provided for in Section 67 (1) of the NEM: WA.



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13.5 In terms of section 28 and 30 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and section 19 and 20 of the National Water Act No. 36 of 1998, any costs incurred to remedy environmental damage must be borne by the person responsible for the damage. It is therefore imperative that the Licence Holder reads through and understands the legislative requirements pertaining to the project. It is the Applicant's responsibility to take reasonable measures which include informing and educating contractors and employees about the environmental risks of their work and training them to operate in an environmentally acceptable manner.

14 APPEAL OF THE LICENCE

14.1 The Licence Holder must notify every registered interested and affected party of the Department's decision, in writing and within twelve (12) days of receiving the decision.

14.2 An appeal against the decision must be lodged in terms of chapter 2 of GN No. R993 of 08 December 2014 in terms National Environmental Management Act, 1998, as amended.

14.3 The notification referred to in 14.1 must: –

14.3.1 Specify the date on which the licence was issued;

14.3.2 Inform the registered interested and affected party of the appeal procedure provided for in Chapter 2 of GN No. R 993 of 08 December 2014 in terms of National Environmental Management Act, 1998, as amended (see Annexure I); and

14.3.3 Advise the interested and affected party that a copy of a licence will be furnished on request.

14.4 Should any person wish to lodge an appeal against this decision, he/she must submit the appeal to the appeal administrator, and a copy of the appeal to the applicant, any registered interested and affected party, and any organ of state with interest in the matter within 20 days from the date that the notification of the decision was sent to the interested and affected parties by the applicant; or the date that notification of the decision was sent to the applicant by the Department, whichever is applicable.



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14.5 Appeals must be submitted in writing in the prescribed form to: Mr Z. Hassam, Director: Appeals and Legal Review of this Department at the below mentioned addresses:

By email: appeals@environment.gov.za

By Hand: Environment House, 473 Steve Biko Road, Arcadia, Pretoria, 0083 or

By post: Department of Environmental Affairs, Private Bag X 447, PRETORIA, 0001.

14.6 Please note that in terms of Section 43 (7) of the National Environmental Act, 107 of 1998, as amended, the lodging of an appeal will suspend the waste management licence or any provision or condition attached thereto. In the instance where the appeal is lodged, you may not commence with the activity until such time that the appeal is finalised.

14.7 To obtain the prescribed appeal form and for guidance on the submission of appeals, please visit the Department's website at https://www.environment.gov.za/documents/forms/legal_authorisations or request a copy of the documents at appeals@environment.gov.za.

Mr Mark Gordon

DEPUTY DIRECTOR-GENERAL: CHEMICALS AND WASTE MANAGEMENT

DATE: 01/02/2018



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ANNEXURE I

APPEALS PROCEDURE IN TERMS OF THE NATIONAL APPEAL REGULATIONS GN 993 TO BE FOLLOWED BY THE APPLICANT AND INTERESTED AND AFFECTED PARTIES UPON RECEIPT OF NOTIFICATION OF A WASTE MANAGEMENT LICENCE

1. LODGING OF AN APPEAL

1.1 An appellant must submit the appeal submission (the Appeal Questionnaire and Appeal and Response Form) to the appeal administrator, and a copy to the applicant, and registered interested and affected parties within twenty (20) days from:

- the date that the notification of the decision for an application for an environmental authorisation or a waste management licence was sent to the registered interested and affected parties by the applicant; or
- the date that the notification of the decision was sent to the applicant by the competent authority, issuing authority or licencing authority, in the case of decisions other than those referred to above.

1.2 An appeal submission must be submitted in writing in the form of the appeal questionnaire annexed to this guideline as "Appendix A" and accompanied by:

- a completed Appeal and Response Form setting out the grounds of the appeal,
- supporting documentation that is referred to in the appeal which did not form part of the documentation considered when the original decision was made.



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Appendix A

APPEAL QUESTIONNAIRE

An electronic copy of this questionnaire may be obtained from:

Mr Z Hassam at telephone: 012 399 9356 or e-mail:

Appeals@environment.gov.za

Once completed, this document must be forwarded to:

E-mail: Appeals@environment.gov.za

Physical Address: Department of Environmental Affairs, 473 Steve Biko Road,
Environment House, Arcadia, Pretoria, 0002

Appellant's contact information:	
Name:	_____
Address:	_____ _____ _____
Phone:	_____
Cell:	_____



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Email: _____

Project information:

Project name: _____

Authorisation register number as on environmental authorisation:

Authorisation date as on environmental authorisation:

IMPORTANT! Please note:

- *The decision of the department is reflected in the letter of authorisation or rejection. The conditions of approval are contained in the environmental authorisation document, attached to the authorisation letter.*
- *The appeal must be accompanied by all relevant supporting documents or copies of these that are certified as true by a commissioner of oaths.*
- *The grounds of your appeal and the facts upon which they rest must be set out. You should formulate your objections or concerns as averments and not as questions about the project. Please therefore refrain from material or remarks that do not contribute to the merits of your appeal.*
- *To assist in this regard, the following questions are listed as a guideline only – more space may be used if necessary:*



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1. Are you lodging this appeal as an individual or on behalf of a community/organisation?

Individual	Community/ organisation
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If on behalf of a community or organisation, please provide proof of mandate to do so.

2. Is your appeal based on factors associated with the process that was followed by the applicant in obtaining authorisation?

Yes	No
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Please provide reasons:

3. Is your appeal based on factors associated with environmental impacts not taken into account by the department in refusing or authorising the application?

D. Gordon



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Yes	No
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Please provide reasons:

4. Would you agree to the activity proceeding if your concerns can be addressed by rectifying the process or mitigating or eliminating the impacts of the activity?

Yes	No
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Please provide reasons:

5. Are you fundamentally opposed to any development activity on the site?

Yes	No
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Please provide reasons:

6. Do you have an objection in principle against the development?

Yes	No
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Please provide reasons:

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7. Does your appeal contain any new information that was not submitted to the environmental consultant or department prior to the department's consideration of the application?

Yes	No
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If the answer above is yes, please explain why it should be considered by the Minister and why it was not made available to the environmental consultant or department during the application process.

8. **DECLARATION:**

I declare that the contents of this submission are to the best of my knowledge the truth and I regard this declaration as binding on my conscience.

APPELLANT
DATE:



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ANNEXURE II

WATER QUALITY VARIABLES REQUIRED FOR DETECTION MONITORING:

Monitor at bi-annual intervals for:

Alkalinity (P. Alk)

Ammonia (NH₃-N)

Chemical Oxygen Demand (COD)

Chlorides (Cl)

Electrical Conductivity (EC)

Nitrate (NO₃-N)

pH

Potassium (K)

Total Dissolved Solids (TDS)

Calcium (Ca)

Fluoride (F)

Magnesium (Mg)

Sodium (Na)

Sulphate (SO₄)