



Centre for Environmental Rights

Advancing Environmental Rights in South Africa

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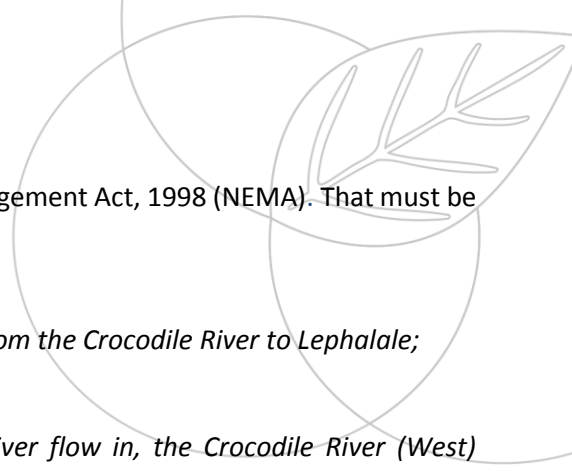
Our ref: CER12.4/NL
24 June 2016

Dear Mr Henning

SUBMISSIONS ON THE BACKGROUND INFORMATION DOCUMENT FOR THE PROPOSED MOKOLO CROCODILE (WEST) WATER AUGMENTATION PROJECT PHASE 2

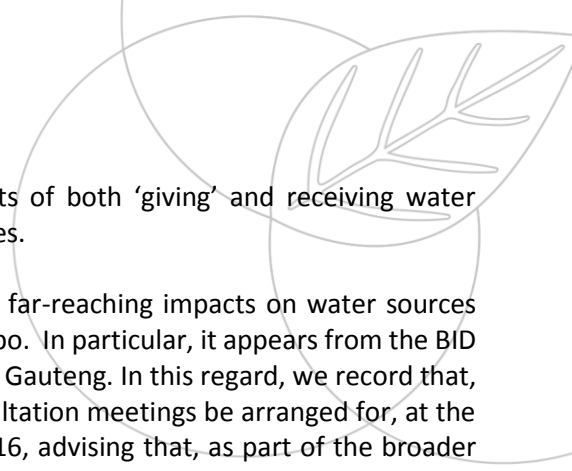
1. We act for Earthlife Africa Johannesburg (ELA or “our client”), an organisation founded in 1988 to mobilise civil society around environmental issues in relation to people. It is a membership organisation, with currently approximately 100 members, led by a Core Group which serves as its management committee. ELA challenges environmental degradation and aims to promote a culture of environmental awareness and sustainable development in South Africa.
2. We refer to the Background Information Document (BID) for the Proposed Mokolo Crocodile (West) Water Augmentation Project Phase 2 (MCWAP-2) published on 16 May 2016. We confirm that our client has been duly registered as an interested and affected party (I&AP) in relation to this project.
3. While we do not intend to make full and detailed submissions on the content of the BID, we are instructed to place on record that we reserve our client’s rights to make full submissions during the subsequent stages of the environmental impact assessment (EIA) process for MCWAP-2. The absence of extensive comments at this stage is not, by any means, to be construed as approval for or acceptance of the proposed MCWAP-2 project.
4. We note that the purposes of the BID, as stated, is to:
 - 4.1 provide an overview of the proposed MCWAP-2;
 - 4.2 provide an outline of the EIA process that will be undertaken for the project; and
 - 4.3 grant the opportunity to be registered as an I&AP and allow for comments to be made on the proposed project.
5. We note that no mention is made of the need to remedy negative impacts (through, for example, appropriate restoration, compensation, or offsets) – as required in terms of the National Environmental Management

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principles encompassed in section 2 of the National Environmental Management Act, 1998 (NEMA). That must be addressed.

6. The BID notes that MCWAP-2 consists of the following components:
 - “1. *Water Transfer Infrastructure (topic of this BID) - transfer of water from the Crocodile River to Lephalale;*
 2. *Bulk Power Supply (topic of this BID);*
 3. *Borrow Pits - sourcing of construction material; and*
 4. *River Management System - manage abstractions from, and the river flow in, the Crocodile River (West) between Hartbeespoort Dam and Vlieëpoort Weir as well as the Moretele River from Klipvoor Dam to the confluence with the Crocodile River (West), and also the required flow past Vlieëpoort.”*
7. It is not clear if, and how, components 3 and 4 above – which are clearly integral to the MCWAP-2 and will require environmental authorisation (Table 2 in the BID) – are to be addressed in a ‘combined application’ process, particularly given that separate applications will be submitted for different components. Our client requests clarity on this approach and an explanation of why there is a need for these ‘separate applications’ rather than one combined application.
8. We state, at the outset, that our client has significant reservations about the feasibility and sustainability of the proposed MCWAP-2 project based on, *inter alia*;
 - 8.1 the current water shortages throughout South Africa, and the predictions that the water shortage will worsen;
 - 8.2 the impending and increasing impacts of climate change; and
 - 8.3 the communities and the agricultural industry which are dependent on water sources such as the Crocodile River, which will be impacted and affected by MCWAP-2.
9. Our client is very concerned about the impacts that the proposed MCWAP-2 poses for human health and the environment. We note, in this regard, that the BID focuses on the engineering designs (which themselves are far from clearly understandable), and provides very little information on potential environmental and social impacts.
10. All potential impacts of MCWAP-2 must be fully assessed, and, as part of the requisite assessments, adequate consideration must be given to, amongst other things:
 - 10.1 impacts both on the ‘giving’ (Crocodile River West) and receiving water systems;
 - 10.2 water scarcity, water quality, ecological flow, and the cumulative impacts that the project will have on existing water resources in South Africa;
 - 10.3 potential and predicted flood patterns and flows, and associated risks;
 - 10.4 socio-economic aspects, such as livelihoods and health;
 - 10.5 impacts of climate change on both the giving and receiving water systems over the life of the proposed project, with reference, *inter alia*, to: ‘the ecological reserve’, and flood patterns and flows;
 - 10.6 impacts of population growth and foreseeable demand for water from both water systems over the life of the proposed project, in terms of anticipated trends, taking into account ‘the reserve’;
 - 10.7 section 24 of the Constitution, which guarantees a right to an environment not harmful to health or wellbeing and the right to have the environment protected for the benefit of present and future generations; and
 - 10.8 the National Environmental Management principles set out in NEMA’s section 2; including, in particular, the precautionary, preventive and “polluter pays” principles.
11. In relation to the proposed specialist studies set out in the BID:
 - 11.1 a land use impact assessment, rather than an “agricultural” assessment should be conducted;
 - 11.2 a freshwater ecologist could be appointed to conduct both the “aquatic and riverine impact assessment” and the “wetland assessment and delineation”; and
 - 11.3 if biodiversity components of concern arise either from a terrestrial or freshwater aquatic system perspective, additional, more focussed taxa studies would need to be conducted; and

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- 11.4 the socioeconomic impact assessment must assess the impacts of both 'giving' and receiving water systems on livelihoods, health and safety of affected communities.
12. We point out that the MCWAP-2 has potential to have significant and far-reaching impacts on water sources which will affect substantial portions of the country, and not only Limpopo. In particular, it appears from the BID that it will, at the very least, impact on water sources in North West and Gauteng. In this regard, we record that, on 2 June 2016, we wrote to you to request that additional public consultation meetings be arranged for, at the very least, the North West and Gauteng. You responded on 3 June 2016, advising that, as part of the broader Public Involvement Programme for the River Management System - which extends beyond the scope of the EIA's Public Participation Process - meetings would be scheduled with key interest groups, which include: Formal Agricultural Groups (including the Hartebeespoort Irrigation Board, Crocodile-West Irrigation Board, Makoppa Water Users and the Transvaal Agricultural Union); and Hartebeespoort Dam Interested and Affected Parties. You advised that the abovementioned interest groups were specifically identified based on the nature and scope of the river management system. Kindly confirm that these invitations will be sent to all I&APs, and not only these interest groups.
13. We trust that you will give due consideration to the above recommendations as you prepare the scoping report for MCWAP-2.
14. Kindly respond to our queries regarding the separate EIA applications and regarding the expansion of the I&AP interest groups as set out above in paragraphs 7 and 12 respectively.

Yours sincerely

CENTRE FOR ENVIRONMENTAL RIGHTS

per: 

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