PHASE-2 OF MOOI-MGENI TRANSFER SCHEME EIA REVIEW

MINUTES OF ENVIRONMENTAL AUTHORITY MEETING
AS HELD ON 16 FEBRUARY 2007 AT 10:00

Chair: Solly Mabuda (DWAF)
Minutes: Marinda le Roux (BKS)

Attendance:

Mr Solly Mabuda (DWAF)	SM
Mr Johann Geringer (DWAF)	JG
Mr Danie Smit (DEAT)	DS
Ms Mosili Ntene (DEAT)	MN
Mr Peter Teurlings (BKS)	PT
Ms Marinda le Roux (BKS)	MLR
Adv N Massyn (Green Gain)	NM
Ms Lene Grobbelaar (DEAT)	LG
Mr Barend Smit (TCTA)	BS

Apologies:

Mr Bob Pullen (BKS)
Mr James Perkins (DWAF, KZN)
Mr Peter van Niekerk (DWAF)
Mr Johann Enslin (DWAF)
Ms Lize McCourt (DEAT)
Ms Lyn Archer (Umgeni Water)
Ms Lebogang Molefe (DEAT)

ACTION

1. Welcome and Introductions

DS welcomed all present and invited all to help themselves to tea, coffee and biscuits. Each attendee introduced him/herself to the meeting.

SM thanked the team for arranging the meeting at such short notice. All agreed to be concise at the meeting and present the essential information. DS said that files on the project were retrieved containing information already submitted by DWAF.

2. Historical Project Overview

2.1. Programme of securing water for Umgeni River System users

During a meeting with Mgeni System Water Users, in Durban a few years ago (2004), DWAF gave a presentation that captures the essence of the project. The document was handed out at the meeting (attached as **Annexure A**).

ACTION

2.2. Phase 1 of Mooi-Mgeni Transfer Scheme EIA (MMTS-1)

JG explained that the Mgeni River has been fully developed (4 dams) and that to augment the current water supply in the Mgeni River water needs to be obtained from elsewhere. Planning was done extensively to investigate transferring water from either the Mooi or the Mkomazi rivers. DWAF found that the former would be a cheaper scheme with the least impact on the taxpayer and end-user. MMTS-1 utilised the 1983 Mearns Emergency Transfer Scheme that transferred water from the Mooi River at Mearns to the Mpofana River in the Mgeni River catchment upstream of Midmar Dam. MMTS-1 comprised the construction of a new and higher weir at Mearns, the raising of Midmar Dam by 3.5m to create extra storage for water transferred from the Mooi River and the registration of servitude of aqueduct on the receiving rivers, viz. the Mpofana, Lions and Mgeni. The MMTS-1 essentially remains a run-of-river scheme that can only transfer water from the Mooi if there is sufficient flow in the river. Construction of the MMTS-1 was completed in 2003.

PT noted that the RoD on Phase 1 was signed by DEAT on 15 March 2001.

Phase 2 (MMTS-2) is the development of a further dam on the Mooi River (MMTS-2A) and additional transfer infrastructure from the dam to the Mpofana River (MMTS-2B). The MMTS-2B comprises the construction of a new pump station at the proposed Spring Grove Dam and a new pipeline from the dam to the existing transfer outfall works on the Mpofana River. The 14km long new transfer pipeline will for 3km from the dam follow a new route where after it will join the existing pipeline and run parallel to it for the remaining 11km in a 25m wide existing servitude of aqueduct. Past studies indicated that it would be sensible to construct the dam and new transfer infrastructure in two separate phases, one following several years after the other.. With MMTS-2A water would be released from Spring Grove Dam down the Mooi River to Mearns from where it would be transferred by means of the existing MMTS-1 pipeline to the Mgeni catchment. Once the MMTS-2B was implemented water would be transferred directly from the dam to the Mpofana River. However, in the short periods when sufficient flow is available in the Mooi River at Mearns, then water would also be transferred simultaneously from Mearns and Spring Grove Dam, or just from Mearns depending on the magnitude of the flow in the river at Mearns. At Mearns the Mooi River is supported by the Little Mooi River, a major tributary of which the confluence with the Mooi is immediately upstream of Mearns Weir which is situated about 8km downstream of the proposed Spring Grove dam site. The water

demands of the Mgeni System have now increased to such and extent that it is now necessary to construct both phases (2A and 2B) simultaneously.

At the moment the MMTS-2 is the only water project of which the planning is that far advanced that it can be immediately implemented to augment the water supplies of the about 5 million people and industry dependant thereon. The next augmentation scheme, the proposed Mkomazi Water Project, has only been studied at a pre-feasibility level and it is unlikely that implementation of this 4 to 5 year long project could be started before 2012 with a likely completion date of about 2016. With the current growth in demand it is anticipated that the MMTS-2 will already be fully utilised by 2010/11 and as a result other interim measures will have to be taken to augment the water supplies of the Mgeni System in the period 2011 to 2016. These interim measures, e.g. desalination of sea water, recycling of treated sewage effluent, groundwater sources, etc. have not yet been identified and it is unlikely that they would match the augmentation capacity of the proposed Mkomazi Water Project. It is therefore crucial that the MMTS-2 be implemented as soon as possible.

2.3. Environmental Application for Phase 2 of Mooi-Mgeni Transfer Scheme EIA (MMTS-2)

JG: The MMTS-2 Feasibility Study commenced in 2000. The technical study had a parallel EIA process. In those years, DWAF had some uncertainties regarding the length of time that an application would be valid. KZN DAEA said that the ROD would only be valid for about 2 years before construction started. The problem is that the approval of water projects depends on the specific water need at the time and if the demand is not there then a project is delayed until the demand requires the implementation of the project. In this manner the state can use the funding required for the project to fund other urgent projects elsewhere in the country. It is therefore possible that it can sometimes take much longer than the ROD period granted by the environmental authorities. This is exactly what happened in the case of the MMTS-2. While DWAF was preparing to implement the MMTS-2 the eThekweni Municipality embarked on the DWAF policy for water conservation and demand management, which was anticipated to lower the water demands to such an extent that the dam (MMTS-2A) would only be required by about 2018 and the transfer scheme (MMTS-2B) only by 2028. As a result DWAF stopped its MMTS-2 implementation programme and started to monitor the actual water use of the Mgeni System on an annual basis. The changing water demand projections and the resulting timing of the

project is reflected graph of **Annexure B** where the annual updates of projections are shown. From the graphs it is clear that despite some initial success obtained with water conservation and demand management the actual water use has generally increased over the years and the growth rate is now approaching that of the 1997 projections. The 2005/06 water use was 354 million m^3 and it is anticipated that the 2006/07 water use will reach 363 million m^3. This means that system yield of the 334 million m^3/a has been exceeded by 20 million m^3 in 2005/06 and is anticipated to be exceeded by 29 million m^3 in 2006/07. The latter situation implies that the assurance of supply will have decreased from the required 99.0% to less than 95% which unacceptable for a metropolitan area.

The DWAF planning process comprises various levels of investigations, viz. **reconnaissance investigations** to identify potential dam sites, **pre-feasibility investigations** to compare various potential dam sites with each other and to select the best scheme on technical, economical and environmental grounds and **feasibility investigations** to finalize the configuration of a scheme, to establish the overall costs of a project (inclusive of environmental costs) and to establish the timing of project implementation. **EIA**s usually run in parallel with feasibility studies to establish all environmental impacts and to propose acceptable mitigation measures for it. Both types of investigations may however disclose shortcomings in certain areas that require further investigation. These investigations are usually commissioned as **bridging studies** that follows on the main studies. Bridging studies are normally encountered between pre-feasibility and feasibility studies and also after feasibility studies and can take anything from 6 months to two years. The longer investigation periods are usually associated with environmental studies that need to take cognisance of seasonal effects, e.g. bloom periods of plants, spawning of fish, etc. In general, the planning process takes 6 to 7 years, and is followed by a negotiation phase with the water users to finalise funding arrangements and water tariffs. The planning of the MMTS-2 followed a similar process.

These matters were discussed with KZN DAEA during the course of the MMTS-2 feasibility study so that the project application would not be closed within 2 years, but rather that the ROD remain valid for a longer period.

SM noted that all the users, i.e. Umgeni Water and all three municipalities viz. the eThekwini Metropolitan Municipality, the Msunduzi Local Municipality and the

ACTION

Umgungungdlovu District Municipality agreed that the project is needed and should be implemented as soon as possible. DEAT and DAEA, however, advised DWAF that a formal EIA review process still had to be followed for potential social changes that may have occurred within the project area within the 3 years since project registration with KZN DAEA in order to enable the environmental authorisation of the project.

DS added that the all the information (e.g. bridging studies) were not included in the original reports and therefore did not fulfil all the requirements of the EIA Regulations of that time. He further stated that a new independent environmental consultant would be requested to re-package the existing information into the required format in a single document.

PT stated that the application was submitted to KZN DAEA in terms of the old EIA regulations in January 2004, along with the Project Scoping and EIA Reports. PT handed out the application form (refer to **Annexure C**) and referred to page 3: the activity was *the construction of the Spring Grove Dam and the upgrading of the transfer capacity (which implies pipelines).*

The meeting with Ian Felton of KZN DAEA took place on 15 December 2005 (refer to **Annexure D**). DS recalled that JG discussed the project prior to that date, and that it was recommended that a meeting should be held with Ian Felton. JG noted that Ian Felton stated at this meeting that the new EIA regulations would soon be promulgated. At that time only Spring Grove Dam was discussed in detail. Subsequent to the meeting, it was, however, discovered with a new update of the water demands that both the dam AND the transfer infrastructure is now required to meet the current water demands and that it was now necessary to apply for authorisation of both phases of the scheme, i.e. the whole scheme. PT stated that telephonic discussions with Ian Felton in January 2007 confirmed that the file would remain open for a longer period of time.

MN wanted to know why a new EIA consultant was required. JG replied that DWAF's procurement rules are such that proposals of several Professional Service Providers (PSPs) should be obtained and that the project be awarded following a prescribed adjudication process. Besides this fact, the team leader of the PSP appointed for the original EIA has subsequently emigrated and is not available anymore.

ACTION

PT explained that the various studies were undertaken during different stages of the planning of the project, some as current as 2006. Basically, BKS has been reviewing the existing documents, proposes to continue with the public participation process in terms of the old EIA Regulations and upgrade reports previously conducted on behalf of DWAF. It was the task of KZN DAEA to refer the project to DEAT if they thought that they did not have the capacity to evaluate the EIA.

DS stated that the initial view of DEAT and DAEA was that a new application would be required because the new EIA Regulations were now valid. At closer inspection of the situation DS, however, realised that it was still possible to submit the EIA in terms of the old EIA Regulations provided a certain process is followed. He was concerned that if this proposed process is not followed, and an appeal should be lodged at the end, the process would have to be undertaken in terms of the new EIA Regulations. He was also concerned that the current advertisements of BKS already created the wrong impression and he advised that the consultants should be very careful not to "rush in and spoil the meal".

PT stated that the notices only invited the public to register as I&APs, and that no information was as yet provided. PT proposed that the Public Participation Process (PPP) be re-started because the social infrastructure may have changed somewhat since 2002. The natural environment has remained pretty much the same. Existing reports will then be updated to include the issues as identified during the new PPP. From this information, a final EIA Report will then be compiled and submitted for approval.

DS suggested that a letter be written by KZN DAEA to DEAT to request exemption from complying with the submission of a Scoping Report, based on the bulk of existing reports. MN suggested that exemption NOT be requested, but that an "expanded Scoping Report" is submitted with appendices. PT stated that since other consultants compiled the previous reports, it would be easier for BKS to compile a new Environmental Impact Report (EIR), with updated information based on the previous reports (which would be included in the EIR as appendices). DS said that PT as the independent environmental consultant should accept the content of the reports in writing.

KZN DAEA

BKS

	ACTION
JG has a letter indicating which reports are still outstanding. Only the EIA for the fish barrier was outstanding according to JG. DS stated this issue can be resolved outside of the meeting.	
The next step was to submit a PoS for EIA for the project. JG said that ALL listed activities must be included in the amended application, and that all activities are mentioned in the PoS. PT said that an HIA and TIA will also be done (that was not required in the past). DS said that procedurally this would be acceptable. JG said that, apart from the EIA, DWAF has to ensure that promises made at previous public meetings would be kept, such as a promise made that a public meeting will be held as soon as the project kicks off. Should this promise not be kept, the next project (the Mkomazi Water Project) will be met with resistance from the public.	**BKS**
PT handed out the summarised list of activities to be included in the amended application (refer to **Annexure E**). DS said that <u>everything</u> that may feature in the project should be listed (rather include too much than to omit something). DS reviewed the list, and felt that everything was included. BS added the "alterations to a river bank or bed". PT said that although this is a Water Act requirement, it is covered in the list of activities.	**BKS**
NM said that the quarry was an existing land use, and that DWAF was exempted from applying for approval in terms of section 106 of the MPDRA. DS requested that confirmation of this statement be obtained from the DME during the EIA process, and that the EMP for the quarry be included in the EIR. PT said that a draft EMP will be included in the EIR to address the management of the project from cradle to grave.	**BKS**
PT presented a map to show the various activities that will form part of the project. He explained why the 100m corridor was proposed for the pipeline route (to allow deviations in the alignment). DS recommended that the corridor be discussed with the land owners as early as possible. DS found the map to be very useful, and was given a copy for his file.	**BKS**

ACTION

In summary, the procedural steps that BKS had to undertake in order to be compliant with the old EIA Regulations (R1182, R1183 and R1184), are as follows: BKS

- Request that KZN DAEA compile a letter referring the project to national DEAT in terms of section 4(3)(c) of the EIA Regulations R1183, on the basis that the applicant is a national government department.
- Once confirmation has been received by DEAT that KZN DAEA has referred the project, apply to DEAT for an exemption from complying with the EIA Regulations R1183 in terms of Section 28 of the Environment Conservation Act (Act 73 of 1989) for the submission of a scoping report, on the basis that an application form was submitted to KZN DAEA, which was subsequently referred to DEAT, an EIA has been conducted in the past, a public participation process has taken place and various specialist studies have been undertaken; and attach all the reports previously undertaken.
- Apply to DEAT for the amendment of the existing application to ensure that all relevant listed activities are included in the RoD.
- Submit to DEAT a letter that the independent environmental consultant accepts the contents of the reports compiled by other consultants and the findings there from.
- Submit to DEAT a Plan of Study for EIA (POS for EIA) which needs to include the historical background as well as the proposed upgrading of previous reports (including the public participation process), including the proposed programme.
- During the EIA process, submit to DEAT a letter from the DME confirming that DWAF has been exempted from complying with section 106 of the Mineral and Petroleum Resources Development Act (Act 28 of 2002).
- The documents referred to in bullets 2 to 5 above can be submitted to DEAT simultaneously.

2.4. Proposed Time Frame

The programme for the project was shown on a Gantt chart (refer to **Annexure F**). JG explained that construction is planned by the TCTA for October 2007, but that it is not sure if the target date will be met. To review the PoS for EIA, it was agreed that 2 weeks would be sufficient. The official PPP would then commence with an announcement in March 2007, and to allow only 14 days before the public meeting. DEAT agreed that 14 days notification for the public meetings is sufficient. An advert will be placed to announce the date for the 2nd Public Meeting, and also when the public review process will start. It is expected that the EIA report be submitted to BKS

ACTION

DEAT on 12 June 2007, and DEAT will be given 90 days to review the report and consider approval of the project. **DEAT**

JG stressed that the project will affect 5 million people, and that the water demand renders the project to be quite urgent. He explained that, if a drought were to occur during 2007/8, water restrictions would have to be imposed and that a large area would be affected. There is also a concern about water supply during the 2010 World Cup in Durban, and political pressure is placed on DWAF to speed up the process. DEAT agreed that they will attempt to keep to the target dates. **DEAT**

3. Hazelmere Dam Raising EIA Review

JG mentioned that a similar EIA review process is being followed for the Hazelmere Dam Raising. A similar meeting with DEAT would probably have to be convened to discuss the project. **DWAF** He stated that it is a relatively simple project, entailing the installation of radial gates for which provision has already been made in the original design and construction of the dam in 1976. Apart from a small area in the upper part of the dam basin, all the basin land has been expropriated for the raised water level. As in the case of the MMTS-2, a proper EIA with a PPP was conducted along with the feasibility study. The project has been registered with KZN DAEA and like the MMTS-2 the file has been kept open and DWAF has not cancelled the project. The water demands in the dam's supply area, the KZN North Coast Area (Ballito to Stanger) has recently, as a result of new developments, grown to such an extent that there is an urgent need that the dam be raised by not later than 2008. Delays in the raising would negatively impact on development of the KZN North Coast amongst which is the King Shaka Airport and Dube Trade Port along with new upmarket and low cost housing projects. The area is considered to considerably benefit from the 2010 Soccer World Cup.

DS recommended that the same process be followed as for the Mooi-Mgeni.

JG requested that a date for a similar meeting with DEAT be set to discuss the Hazelmere Dam Raising project in order to also fast-track this project, i.e. to get KZN DAEA to transfer the project to DEAT, and thereafter to follow the process agreed to by DEAT in this meeting.

	ACTION
The DEAT officials unanimously stated that there is no need for such a meeting since the principles have already been set in this meeting. However, it is proposed that the independent environmental consultant appointed for the Hazelmere Dam Raising follow the procedures proposed in this meeting and in his future correspondence to DEAT and KZN DAEA make reference to the decisions made in this meeting, i.e. refer to the decisions captured in the minutes of this meeting.	**DEAT**
Furthermore, the independent environmental consultant should arrange a meeting with DEAT to discuss the specifics of the project (as this is required for all EIA projects).	**DWAF**

4. General

PT wanted to know: once KZN DAEA has written the letter of referral, can the PoS for EIA and the exemption be submitted to DEAT at the same time?

DS confirmed that this could be done, but that KZN DAEA would also have to comment on the PoS for EIA. He requested that PT should keep Ian Felton informed of the progress on the EIA process for MMTS-2. **BKS**

DS further suggested that DWAF undertake an internal audit to determine which other projects may still be dormant in terms of the old ECA EIA Regulations, to assist DEAT in resolving problems. He recommended that DWAF send a letter to DEAT to list all the projects that are still on hold and which process will be followed to resolve the matter. In the past, the ROD was valid for a period up to 5 years, but it is the responsibility of DWAF to inform DEAT if a project is still alive, by writing a letter as soon as possible re the status of all the DWAF projects and request an extension of time if required. He continued by stating that the old regulations are “dead” and projects will be closed by DEAT at some stage in the immediate future, requiring the process to restart using the new 2006 EIA regulations. SM stated that DWAF will follow this up. **DWAF**

JG thanked DEAT for the opportunity to request an extension on old projects.

5. Closure

SM thanked all for their attendance, and closed the meeting at 11h45.

ANNEXURE A

URGENT NEED FOR AUGMENTATION OF MGENI SYSTEM

ANNEXURE B

MGENI SYSTEM WATER DEMAND PROJECTIONS

ANNEXURE C

APPLICATION FORM TO KZN DAEA

ANNEXURE D

LETTER FROM KZN DAEA ON MEETING HELD ON 15 12 05

ANNEXURE E

SUMMARISED LIST OF LISTED ACTIVITIES FOR AMENDED APPLICATION

ANNEXURE F

PROPOSED PROGRAMME