

23 October 2012

Interested and Affected Party in respect of the Acid Mine Drainage Project

**ENVIRONMENTAL IMPACT ASSESSMENT FOR THE SHORT TERM INTERVENTION FOR
THE TREATMENT OF ACID MINE DRAINAGE IN THE WITWATERAND GOLD FIELDS:
DELAY OF SUBMISSION OF THE FINAL SCOPING REPORT**

Dear Sir/Madam,

It was previously announced that the submission of the Final Scoping Report to the Department of Environmental Affairs (DEA) would be delayed. This communiqué serves to explain this delay as well as outline some future steps in terms of the Environmental Impact Assessment (EIA) process.

It has been made clear from the outset of the project that the Trans-Caledon Tunnel Authority (TCTA) would need to commence construction of the proposed treatment plants for the short term intervention prior to receiving environmental authorisation. This was necessitated by the fact that pumping of Acid Mine Drainage (AMD) needed to commence in time to prevent the Environmental Critical Level (ECL) in the Central Basin from being breached.

It was initially proposed that TCTA would apply under Section 24G of the National Environmental Management Act, Act No.107 of 1998 (NEMA) for those activities which would commence prior to receiving authorisation from the DEA. Section 24G, provides for the 'rectification of unlawful activities' in the event that an activity is commenced before environmental authorisation has been granted. However, TCTA regarded this as untenable.

TCTA and the relevant authorities have met over a period of time to discuss alternative processes that could be followed. Digby Wells Environmental (Digby Wells) was not party to these discussions, but have now been informed by TCTA that after much investigation the Department of Water Affairs (DWA) intends to apply for exemption from the EIA process for the short term intervention in terms of Section 24M of NEMA. DWA will argue, in its exemption application, that the reason it is applying for exemption is to allow the construction of the project, which has been declared an emergency government water works under section 110 of the National Water Act, Act No. 36 Of 1998 (NWA) to start prior to the completion of an environmental assessment process.

These discussions have resulted in a delay in the submission of the Final Scoping Report to ensure that alternative processes to those initially proposed in the report be examined. Digby Wells has recommended to TCTA that it continue with the specialist studies as defined in the Scoping Report as the findings from these studies will be relevant to any future decisions made by the authorities.

Digby Wells also understands that DWA has committed to the immediate commencement of a full EIA in accordance with the EIA regulations for all the activities associated with the long term, sustainable solution to the AMD problem. Included in this EIA, will be a detailed assessment of the impacts associated with the implementation of the short term interventions.

Digby Wells is not entirely clear of how it's role as the independent Environmental Assessment Practitioner (EAP) for the project will continue, if at all. Digby Wells will, however, finalise the Scoping Report for submission to the authorities and public for review. Any comments regarding the Final Scoping Report should be made to Digby Wells.

As Digby Wells is not part of the submission of the exemption application we urge you to communicate directly with BKS, who will be submitting the application on behalf of DWA, on matters regarding the proposed exemption application. BKS has indicated to us that it will make the motivation for the exemption application available to the public in the near future. The contact details for BKS are as follows:

- Contact Person: Mamokete Maimane
- Telephone: (012) 421 3699
- Email: mamoketema@bks.co.za

Regards,



Grant Beringer
EIA Project Manager



Graham Trusler
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