

30 January 2017

Dear Interested and Affected Party,

APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 FOR A PART 2 AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 1 APRIL 2009: THE DEVELOPMENT OF A SEAWEED FARM AND ASSOCIATED INFRASTRUCTURE ON ERF NO. 11000 AND THE CONSTRUCTION OF A SEAWEED STORAGE DAM ON LOT 36 OF ERF NO. 248, HERMANUS (REF NO: E12/2/3/1-E2/15-0311/07)

This letter serves as a notification that the Department of Environmental Affairs and Development Planning (the Department) approved and issued an amendment to the Environmental Authorisation (EA) held by the Abagold Development Trust (the Trust) with reference number E12/2/3/1-E2/15-0311/07 on 20 January 2017 (note that the date of decision is also the 20 January 2017). All interested and affected parties were given the opportunity to respond and provide feedback to the proposed amendments, and the Department issued the amended EA after thorough review of the documentation that was submitted as required in terms of the Environmental Impact Assessment Regulations 2014, promulgated under the National Environmental Management Act (Act No. 107 of 1998) (NEMA).

The amendment was issued in terms of Part 2 of the EIA Regulations 2014 to Abagold Ltd (details of the holder of the amended EA are listed below) and has the reference number 16/3/3/5/E2/15/1005/16. A copy of the amended EA and record of decision has been attached to this document.

Abagold Ltd
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You are advised that an appeal to the decision taken by the Department may be lodged in terms of the National Appeal Regulations 2014 (as amended) promulgated in terms of the National Environmental Management Act (NEMA) (Act No. 107 of 1998). Please find a copy of the regulations attached to this document.

The regulations stipulate that the appellant must, within 20 (twenty) calendar days from the date the holder of the decision sent notification of the decision to the registered I&APs –

1. *Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and*
2. *Submit a copy of the appeal to the holder of the decision, any registered I&AP, any organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.*

A prescribed appeal form as well as assistance regarding the appeal process is obtainable from the Appeal Authority at:

Phone: (021) 483 3721

E-mail: jaap.devilliers@westerncape.gov.za

Web address: <https://www.westerncape.gov.za/eadp/>

The appeal must be submitted to the decision-maker at the address listed below:

By post:

Western Cape Ministry of Local Government, Environmental Affairs and Development Planning
Private Bag X9186
Cape Town
8000

By facsimile:

(021) 483 4174

By hand:

Attention: Mr Jaap de Villiers

Address: Room 809, 8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

Phone: (021) 483 3721)

Note: For purposes of electronic database management, you are also requested to submit electronic copies (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Authority to the address listed above and/or via e-mail to jaap.devilliers@westerncape.gov.za.

Background information pertinent to the decision-making process:

The Trust was issued with Environmental Authorisation (EA) for the development of the Sulamanzi Abalone Farm and associated infrastructure (storage dam and pipework) by the Department in terms of the National Environmental Management Act, 1998 (Act no. 107 of 1998) (NEMA) and the Environmental Impact Assessment (EIA) Regulations, 2006, on 1 April 2009. Construction of the Sulamanzi farm commenced a short time after the authorisation was issued and is now nearing completion. Owing to a number of challenges that were encountered during the development of this facility, however, the final design and ownership structure for the development differs from that conceptualised in the original Basic Assessment report and in the Environmental Authorisation.

Abagold thus applied to the DEA&DP to amend the original EA and also approached Anchor Environmental Consultants (Pty) Ltd (Anchor Environmental), an independent environmental assessment practitioner, to assist with this process including identifying any deviations from the original EA and assessing potential risks and impacts of these deviations. The potential risks and impacts of these deviations were captured in an impact assessment report, which was submitted to the Department on 29 February 2016 alongside an application for amendment where no change in scope occurs (i.e. Regulation 29: Amendments to be applied for in terms of Part 1). The application for amendment of the EA was however re-categorised as an amendment where a change in scope occurs. Thus, requirements as stated in *Regulation 31* were followed (*Amendments to be applied for in terms of Part 2*):

39. An environmental authorisation may be amended by following the process prescribed in this Part if the amendment will result in a change to the scope of a valid environmental authorisation where such change will result in an increased level or nature of impact where such level or nature of impact was not –
 - a. Assessed and included in the initial application for environmental authorisation; or
 - b. Taken into consideration in the initial environmental authorisation;

And the change does not, on its own, constitute a listed or specified activity.

To satisfy the requirements of a Part 2 Amendment, the impact assessment report was subjected to public participation. For this purpose a stakeholder list was compiled using the original EIA Report containing meeting registers and comments submitted by individual stakeholders or organisations during the EIA process. In addition, other relevant government agencies were contacted and invited to comment on this process. Abagold also requested that engagement with interested and affected parties should be done in person, where possible, to ensure that all concerns or issues could be raised and reviewed by the parties. A number of meetings were indeed held with stakeholders to address their questions and discuss their concerns and possible resolutions.

In some cases negotiations during meetings lead to the formulation of a resolution or a number of conditions to be met by Abagold in order for the stakeholder to agree to the proposed amendment of the existing EA. For example, the impact assessment report¹ and the Environmental Management Programme (EMPr) dated August 2008 were updated as requested by I&Aps². Overall, all stakeholders were supportive of the application for amendment. Full comments and responses

¹ Massie V and Clark B. 2016a. Application for amendment of the environmental authorisation E12/2/3/1-e2/15-0311/107 issued to the Abagold Development Trust: Assessment of potential impacts arising from deviations from the environmental authorisation. Report prepared for Abagold Ltd. by Anchor Environmental Consultants (Pty) Ltd. for submission to the Western Cape Department of Environmental Affairs and Development Planning. Anchor Environmental Consulting Report No, 1690/1, September 2009.

² Massie V and Clark B. 2016b. Application for amendment of the environmental authorisation E12/2/3/1-e2/15-0311/107 issued to the Abagold Development Trust: Operational Environmental Management Programme. Report prepared for Abagold Ltd. by Anchor Environmental Consultants (Pty) Ltd. for submission to the Western Cape Department of Environmental Affairs and Development Planning. Anchor Environmental Consulting Report No, 1690/3, September 2009.

were summarised in the Stakeholder Consultation Report³ (these documents have been attached to this letter).

The documentation collated during the public participation process was submitted to the Department on 12 September 2016. Considering the information at hand, the Department issued the amendment of the EA in terms of Part 2 of the EIA Regulations 2014 on 20 January 2017 to Abagold Ltd. In reaching its decision, the Department took, inter alia, the following into consideration (Excerpt from the amended EA issued on 20 January 2017, Ref: 16/3/3/5/E2/15/1005/16):

1. *The information contained in application for amendment dated 29 February 2016, the Amended application form for amendment dated 12 September 2016, as received by the Department on 14 September 2016.*
2. *Funding for the Abagold Development Trust to start the project was not achieved, as such, Abagold Ltd. financed the entire project and the Abagold Development Trust became a shareholder in Abagold Ltd.*
3. *Erf No. 11000, Hermanus was amalgamated with Erven 11066 and 11067, Hermanus to form Erf No. 11166, Hermanus. Abagold Ltd is the rightful owner of Erf No. 11166, Hermanus.*
4. *Changes were made to the project design during implementation in an effort to mitigate biosecurity risks posed by the project.*
5. *The deviations from the approved development did not measurably affect any of the negative environmental impacts associated with the development nor did the effects extend beyond the approved development footprint. As such, the impacts of the facility being primarily an abalone grow-out facility are considered to be negligible.*
6. *The public participation process that was conducted for the amendment application, which comprised of the following:*
 - *All previous registered Interested and Affected Parties ("I&APs"), including Organs of State, which have jurisdiction in respect of any aspect of the relevant activity, were notified of the amendment application on 6 May 2016; and*
 - *A commenting period was allowed from 6 May 2016.*

At the end of the commenting period, comments were received, none of which were objections. The Department is satisfied that the comments received were adequately addressed. The following Authorities were consulted but had no objection to the amendment application.

- *Overstrand Municipality;*
- *Western Cape Government: Department of Economic Development and Tourism;*
- *Department of Agriculture, Forestry and Fisheries;*
- *Department of Environmental Affairs: Oceans and Coasts; and*
- *CapeNature.*

³ Massie V and Clark B. 2016c. Application for amendment of the environmental authorisation E12/2/3/1-e2/15-0311/107 issued to the Abagold Development Trust: Stakeholder Consultation Report. Report prepared for Abagold Ltd. by Anchor Environmental Consultants (Pty) Ltd. for submission to the Western Cape Department of Environmental Affairs and Development Planning. Anchor Environmental Consulting Report No, 1690/2, September 2009.

Available documentation

The following documentation is available to I&APs (1) the Amended Environmental Authorisation (Ref: 16/3/3/5/E2/15/1005/16); and (2) contact details of the decision-maker and all registered I&APs (3) the Final Impact Assessment Report; (4) the updated Environmental Management Programme (EMP) dated September 2016; (5) the Stakeholder Consultation Report; and (6) the National Appeal Regulations 2014.

These documents can be obtained from Anchor Environmental via:

Website: www.anchorenvironmental.co.za under the 'Document Download' tab.

Note that the contact details of all registered stakeholders are not available on the website, but can be obtained by contacting Anchor Environmental.

Email: vera@anchorenvironmental.co.za

Facsimile: (021) 7015280

Telephone: (021) 7013420

Post: Suite 8, Steenberg House, Silverwood Close, Tokai 7945

Please note that the closing date for submission of appeals is 18th February 2017. Please do not hesitate to contact me should you have any queries.

DISCLAIMER: Any I&AP who decides to appeal the decision taken by the Department shall be solely responsible for ensuring compliance with the conditions as set out in the National Appeal Regulations 2014 (as amended) promulgated in terms of the National Environmental Management Act (NEMA) (Act No. 107 of 1998).

Yours faithfully



Vera Massie
Anchor Environmental Consultants (Pty) Ltd.