

Vukosi Mabunda

From: Phumla Ngesi <NgesiP@petroleumagency.co.za>
Sent: Friday, 29 March 2024 16:44
To: Vukosi Mabunda; Azwifarwi Thovhakale; Natasha Thomas
Cc: Liam Whitlow; Sharon Adams; Sinazo Mnyaka
Subject: RE: Public Participation Plan for the Motuoane Hennenman EA (12/3/315) Amendment

Dear Vukosi

Your email is well received. It confirms the discussion I had with Liam concerning the right process to be followed as the seismic survey activity in question is included in the work programme for exploration right renewal application.

We confirm receipt of the public participation plan. We will revert.

Regards,

Phumla

From: Vukosi Mabunda <vukosi@eims.co.za>
Sent: Wednesday, March 27, 2024 9:35 AM
To: Azwifarwi Thovhakale <ThovhakaleA@petroleumagency.co.za>; Natasha Thomas <ThomasN@petroleumagency.co.za>; Phumla Ngesi <NgesiP@petroleumagency.co.za>
Cc: Liam Whitlow <liam@eims.co.za>; Sharon Adams <SharonA@petroleumagency.co.za>; Sinazo Mnyaka <MnyakaS@petroleumagency.co.za>
Subject: RE: Public Participation Plan for the Motuoane Hennenman EA (12/3/315) Amendment

CAUTION: This email originated from outside of the Petroleum Agency SA organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good Day Azwifarwi, Phumla and Natasha,

Thank you for your detailed feedback.

As the ER period in question was approaching its expiration period, Motuoane has submitted an application for the renewal of the right (ER315 2nd renewal). A work program and budget has been submitted as part of the renewal as required and will be processed under Section 81 of MPRDA. Therefore, Section 102 of MPRDA is no longer applicable in this case as the work programme is being amended through Section 81 of the Act. Subsequently, LN21D cannot be then triggered and therefore, the correct application process will be an EA Part II Amendment Process and not a new environmental authorization.

For the application process to move forward, please see the attached revised PP Plan for your approval. We would appreciate your swift response.

KIND REGARDS
VUKOSI MABUNDA



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From: Azwifarwi Thovhakale <ThovhakaleA@petroleumagencysa.com>

Sent: Tuesday, March 19, 2024 4:38 PM

To: Vukosi Mabunda <vukosi@eims.co.za>

Cc: Liam Whitlow <liam@eims.co.za>; Sharon Adams <SharonA@petroleumagencysa.com>; Sinazo Mnyaka <MnyakaS@petroleumagencysa.com>; CENGLBRECHT@dffe.gov.za

Subject: FW: Public Participation Plan for the Motuoane Hennenman EA (12/3/315) Amendment

Dear Vukosi

Following EIMS and DFFE emails below, it appears the main question to be clarified is, does amendment/variation of a work programme constitute amendment to a right or permit? Furthermore, we believe it is necessary explain our understanding of section 102 and its relevance to the matter.

LN1 21D, provides – “Any activity including operation of that activity which requires amendment or variation to a right or permit in terms of section 102 of the MPRDA as well as any other applicable activity in this listing Notice or listing Notice 3...”

Section 102 of MPRDA provides – “reconnaissance permission, prospecting right, mining right, mining permit, retention permit, technical corporation permit, reconnaissance permit, exploration right, production right, prospecting work programme, exploration work programme, production work programme, mining work programme, environmental management programme or an environmental authorisation issued in terms of the National Environmental Management Act, 1998, as the case may be, may not be amended or varied ... without the written consent of the Minister”.

It appears there is misalignment between the two, the Listed Activity LN1 21D only specifies amendment/variation of right or permit whilst section 102 itself of the MPRDA includes amendment/ variation of work programmes. It is our understanding that LN1 21D seek to regulate the activities which may have environmental impact which such activities if introduced or undertaken will require amendment of right / permit or a **work programme** in terms of section 102 of the MPRDA.

Section 102

The amendment of a right or permit in terms of section 102 of the MPRDA can happen under various circumstances, some which may result in some environmental impact and others which may not. Simply put,

there are amendments or variations of a right or permit which the cause of such amendment will under no circumstances the application of EIA Regulations find relevance, for example, amendment relating to terms and conditions of State Participation in the right, Payment Fees, Social and Labour, etc.

The type of activities which will result in or trigger the application of LN1 21D are in most instances if not all, require the amendment of the work programme in terms of section 102 of the MPRDA, for example addition of a new activity which was not part of the approved work programme, extension of the area which in turn will require change to a work programme by introducing activities over an extended area, and others. These are the types of section 102 applications these Regulations intend to regulate. Such amendment/variation of work programme/s will definitely affect a right or permit.

Right/permit and work programme

Does the amendment of a work programme constitute amendment to a right or permit ?

Approved work programme forms part of a right or permit which is registered with the Mineral and Petroleum Titles Registration Office and any amendment to the work programme does constitute amendment/variation to the relevant right or permit which the amendment must also be registered with the said office.

Our conclusion is that the amendment/variation of a work programme constitute amendment of a right or permit and depending on the nature of amendment of the work programme LN1 21D will apply. It is our view that it will serve no purpose to have section 102 under LN1 21D if the understanding/intention is that such amendment/variation of a right or permit should not include the amendment of work programme since the activities to be amended will largely happen through/in the the work programme.

Kind Regards

Azwifarwi Thovhakale | Senior Licensing and Legal Compliance Officer | Petroleum Agency SA
T: 021 938 3579 | F: 021 910 0811 | E: thovhakalea@petroleumagency.co.za

From: Natasha Thomas <ThomasN@petroleumagency.co.za>

Sent: Tuesday, March 12, 2024 6:22 PM

To: Vukosi Mabunda <vukosi@eims.co.za>

Cc: Liam Whitlow <liam@eims.co.za>; Sharon Adams <SharonA@petroleumagency.co.za>; Azwifarwi Thovhakale <ThovhakaleA@petroleumagency.co.za>; Sinazo Mnyaka <MnyakaS@petroleumagency.co.za>; Phumla Ngesi <NgesiP@petroleumagency.co.za>

Subject: RE: Public Participation Plan for the Motuoane Hennenman EA (12/3/315) Amendment

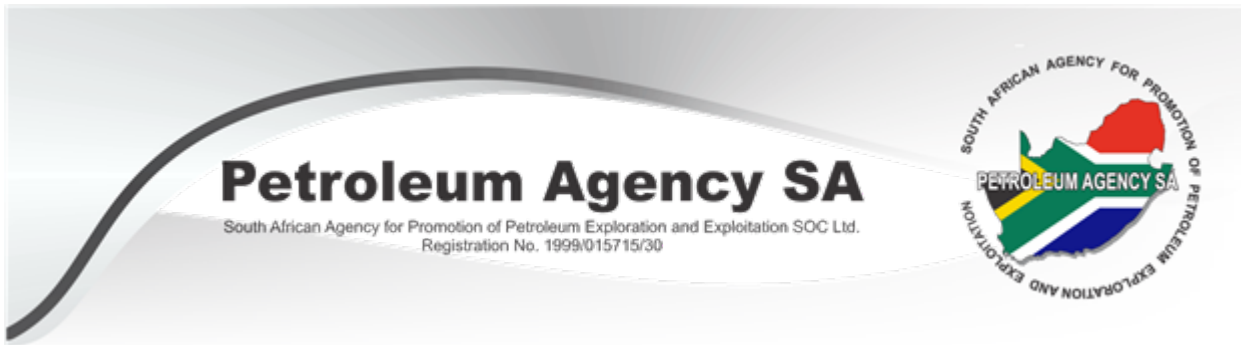
Dear Vukosi

Thank you for the feedback. We will revert.

Kind Regards

Natasha Thomas | Environmental Compliance | Petroleum Agency SA

T: 021 938 3527 | Cell: 083 306 5424 | E: ThomasN@petroleumagency.co.za



From: Vukosi Mabunda <vukosi@eims.co.za>

Sent: Tuesday, March 12, 2024 4:56 PM

To: Natasha Thomas <ThomasN@petroleumagencycsa.com>

Cc: Liam Whitlow <liam@eims.co.za>; Sharon Adams <SharonA@petroleumagencycsa.com>; Azwifarwi Thovhakale <ThovhakaleA@petroleumagencycsa.com>; Sinazo Mnyaka <MnyakaS@petroleumagencycsa.com>

Subject: RE: Public Participation Plan for the Motuoane Hennenman EA (12/3/315) Amendment

CAUTION: This email originated from outside of the Petroleum Agency SA organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good Day Natasha,

Kindly see the attached feedback from DFFE. DFFE has confirmed that:

1. **The work programme is not included in the 21D LN1 activity.** The activity is only triggered for an amendment to the existing right or permit; not all the other actions in section 102 of the MPRDA- unless such also requires an amendment of that particular permit or right;
2. In terms of regulation 54(2) of the EIA Regulations, 2014 (as amended) it is clear the amendment of an EMPr must be done i.t.o. Part 1 or Part 2 of Chapter 5 of this Act. The amendment of an existing EMPr, in itself, is not a listed or specified activity and will not require environmental authorisation.

It can be deduced from the DFFE response that it is only if a right or permit will be amended/varied, that activity 21D can be applied. If the right itself is not varied, but a MPRDA section 102 process is followed to amend the works programme, this falls outside the scope of activity 21D, unless the amendment/ variation of the work programme also requires the exploration right to be amended. Our understanding as confirmed by the IQ Query is that as there will be no amendment/ variation to the existing right, a Part II Amendment Process applies.

Kindly advise if we have the same understanding and/or if we can proceed with the Part II Amendment Process.

KIND REGARDS
VUKOSI MABUNDA



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From: Vukosi Mabunda

Sent: Friday, January 26, 2024 9:51 AM

To: Natasha Thomas <ThomasN@petroleumagencysa.com>

Cc: Liam Whitlow <liam@eims.co.za>; Sharon Adams <SharonA@petroleumagencysa.com>; Azwifarwi Thovhakale <ThovhakaleA@petroleumagencysa.com>; Sinazo Mnyaka <MnyakaS@petroleumagencysa.com>

Subject: RE: Public Participation Plan for the Motuoane Hennenman EA (12/3/315) Amendment

Good Day Natasha,

We confirm receipt of your email. We have requested for a clarification from DFFE regarding the interpretation/applicability of LN1 Activity 21D and we will revert as soon as we receive feedback. Hopefully, we will then be able to come to an agreement on the process to be followed for this application.

KIND REGARDS
VUKOSI MABUNDA



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From: Natasha Thomas <ThomasN@petroleumagencysa.com>

Sent: Thursday, January 25, 2024 5:45 PM

To: Vukosi Mabunda <vukosi@eims.co.za>

Cc: Liam Whitlow <liam@eims.co.za>; Sharon Adams <SharonA@petroleumagencysa.com>; Azwifarwi Thovhakale <ThovhakaleA@petroleumagencysa.com>; Sinazo Mnyaka <MnyakaS@petroleumagencysa.com>

Subject: RE: Public Participation Plan for the Motuoane Hennenman EA (12/3/315) Amendment

Dear Vukosi

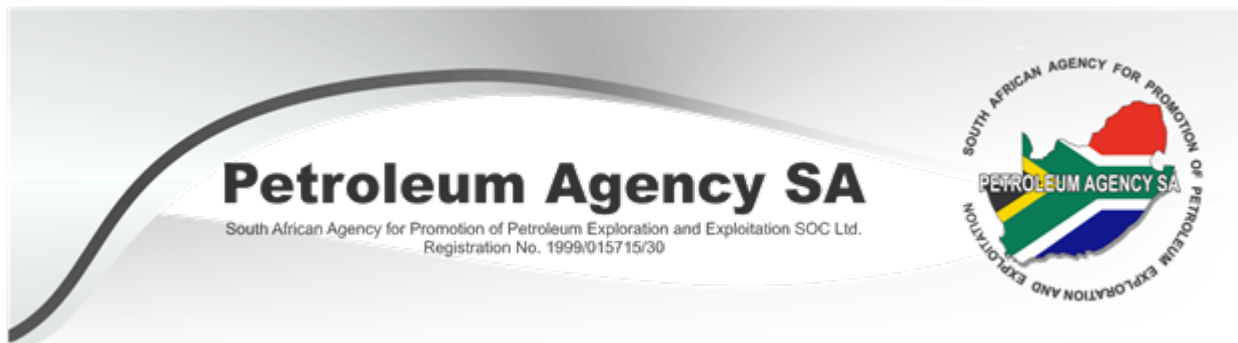
Trust you are keeping well.

Kindly see the intercalated response.

Kind Regards

Natasha Thomas | Environmental Compliance | Petroleum Agency SA

T: 021 938 3527 | Cell: 083 306 5424 | E: ThomasN@petroleumagencysa.com



From: Vukosi Mabunda <vukosi@eims.co.za>

Sent: Wednesday, January 24, 2024 9:04 AM

To: Natasha Thomas <ThomasN@petroleumagencysa.com>

Cc: Liam Whitlow <liam@eims.co.za>; Sharon Adams <SharonA@petroleumagencysa.com>; Azwifarwi Thovhakale <ThovhakaleA@petroleumagencysa.com>; Sinazo Mnyaka <MnyakaS@petroleumagencysa.com>

Subject: RE: Public Participation Plan for the Motuoane Hennenman EA (12/3/315) Amendment

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Good Day Natasha,

We also had the same understanding of this activity until our recent consultation with DFFE.

It is agreed that there is likely to be a need to amend the Exploration Works Programme as well as the EMPR, and that this would need to be achieved through a S102 application. We agree. However, it is our understanding that the **Mining Right** is listed as a distinct item in S102 of the MPRDA together with Works Programme and EMPr amongst others. We maintain our view that S102 of the MPRDA refers to petroleum as well, refer to S69(2)(a) and (b) of the MPRDA (Chapter 7 refers to petroleum). Our reading of Listed Activity 21D as confirmed with DFFE is that it does not state all applications under S102 but, is **explicit to a S102 of a Mining Right** - which in our view is isolated from the Works Programme and EMPr and others listed in S102. We agree, it does not state all applications under S102 explicitly, however in the same sense it also does not say excluding exploration and production rights for petroleum. There is no wording in Listed Activity 21D which implies that it only applies to Mining Rights. The amendment of the work programme in this case is for the addition of onshore seismic survey, which is an activity which must be assessed.

21D Any activity including the operation of that activity which requires an amendment or variation to a right or permit in terms of section 102 of the Mineral and Petroleum Resources Development Act, as well as any other applicable activity contained in this Listing Notice or in Listing Notice 3 of 2014, required for such amendment.

[Activity 21D inserted by GN 517/2021]

Considering that the Mining Right is defined by the geographical area and the mineral resource approved, the only time we would need to amend the Mining right specifically would be to extend the area and/or change the target

resources. As indicated, we have previously engaged the DFFE and they have verbally confirmed this understanding. Therefore, in our view 21D is not triggered as we do not intend amending the Mining Right (i.e. changing the area or the resources). **We do not agree.**

If the intent of Listed activity 21D was to cover all of the specified items in S102, this would in practice be a significant burden as it would imply that ANY amendment to the EMPR would trigger a new and standalone EA. This, in our view is not the intention as there is specific provisions in NEMA regs to permit amendment to EMPR's without triggering a standalone EA. **This is correct, NEMA is applicable in the case of environmental matters.**

Please consider the view above and advise? **Perhaps to move forward we should have a meeting?**

KIND REGARDS
VUKOSI MABUNDA



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From: Natasha Thomas <ThomasN@petroleumagency.co.za>

Sent: Tuesday, January 23, 2024 12:19 PM

To: Vukosi Mabunda <vukosi@eims.co.za>

Cc: Liam Whitlow <liam@eims.co.za>; Sharon Adams <SharonA@petroleumagency.co.za>; Azwifarwi Thovhakale <ThovhakaleA@petroleumagency.co.za>; Sinazo Mnyaka <MnyakaS@petroleumagency.co.za>

Subject: RE: Public Participation Plan for the Motuoane Hennenman EA (12/3/315) Amendment

Dear Vukosi

Trust you are keeping well.

LN 1 Activity 21D in our opinion is triggered. This is because of the following reasons:

- 1) In addition to increasing the number of boreholes, an onshore seismic survey is also proposed. We agree that LN1 Activity 21C is not triggered because there is no requirement for the application of an exploration right, however, the work programme of the exploration right in question does not include seismic survey.
- 2) Thus, because the work programme does not include seismic survey, section 102 of the MPRDA becomes applicable and hence LN 1 Activity 21D is triggered. Section 102 states the following:

Amendment of rights, permits, programmes and plans

102. A reconnaissance permission, prospecting right, mining right retention permit, technical corporation permit, reconnaissance permit, and production right work programme; mining work programme management programme, and environmental management plan may not be varied (including by extension of the area covered by it or by the addition of a share or shares or seams mineralised bodies or strata which are not

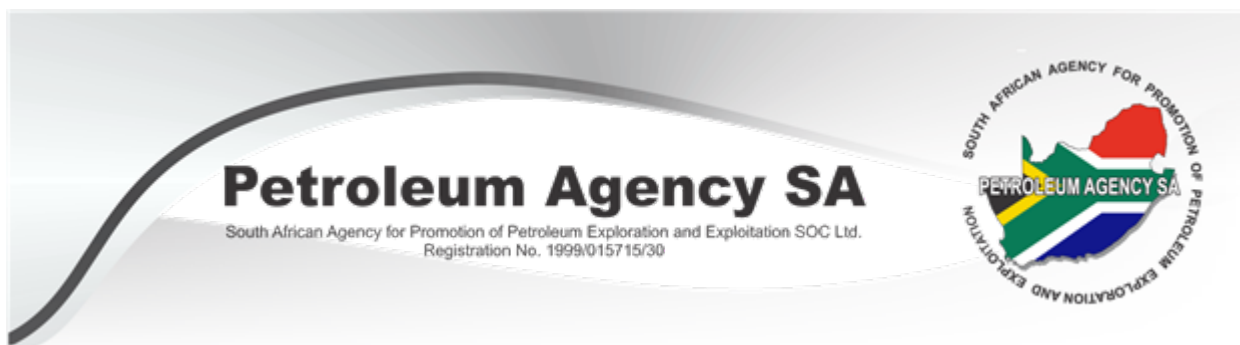
In conclusion, if you agree, a Part 2 amendment application is not the correct process because a listed activity is triggered. An EA application is therefore required.

We can have a meeting to discuss this if you wish. Let me know.

Kind Regards

Natasha Thomas | Environmental Compliance | Petroleum Agency SA

T: 021 938 3527 | Cell: 083 306 5424 | E: ThomasN@petroleumagency.co.za



From: Vukosi Mabunda <vukosi@eims.co.za>

Sent: Thursday, January 11, 2024 4:24 PM

To: Natasha Thomas <ThomasN@petroleumagency.co.za>

Cc: Liam Whitlow <liam@eims.co.za>; Sharon Adams <SharonA@petroleumagency.co.za>

Subject: RE: Public Participation Plan for the Motuoane Hennenman EA (12/3/315) Amendment

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Good Day Natasha,

Thanks for the feedback. As discussed, kindly find the attached revised PP Plan for your approval.

In terms of Listing Notice 1 Activity 21D, the application does not trigger an amendment to the right in terms of section 102 of the Mineral and Petroleum Resources Development Act as there is no change to the approved right (exploration area and the mineral). Subsequently, our pre-application consultations with both Departments (DFFE and PASA) found that since there is no new exploration right required or changes made to the existing exploration right, no new listed activities are triggered.

Please note that we have engaged the applicant in terms of the validity of the right, they are intending to extend the period by a further year before it lapses.

We hope all is in order for our PP Plan to be approved.

KIND REGARDS
VUKOSI MABUNDA



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From: Natasha Thomas <ThomasN@petroleumagency.co.za>

Sent: Thursday, January 11, 2024 9:45 AM

To: Vukosi Mabunda <vukosi@eims.co.za>

Cc: Liam Whitlow <liam@eims.co.za>; Sharon Adams <SharonA@petroleumagency.co.za>

Subject: RE: Public Participation Plan for the Motuoane Hennenman EA (12/3/315) Amendment

Hi Vukosi

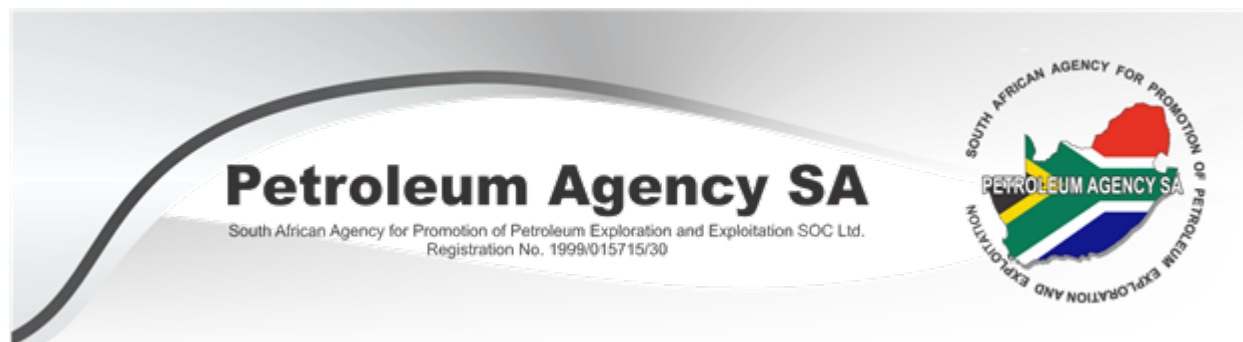
Yes, I was just going to give you a call, but we can do teams. Pls include Sharon as well.

Thank you.

Kind Regards

Natasha Thomas | Environmental Compliance | Petroleum Agency SA

T: 021 938 3527 | Cell: 083 306 5424 | E: ThomasN@petroleumagency.co.za



From: Vukosi Mabunda <vukosi@eims.co.za>
Sent: Thursday, January 11, 2024 8:43 AM
To: Natasha Thomas <ThomasN@petroleumagencysa.com>
Cc: Liam Whitlow <liam@eims.co.za>
Subject: RE: Public Participation Plan for the Motuoane Hennenman EA (12/3/315) Amendment

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Good Day Natasha,

We are available after 10h30, should we set up a team's meeting for 11h00?

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From: Natasha Thomas <ThomasN@petroleumagencysa.com>
Sent: Thursday, January 11, 2024 8:40 AM
To: Vukosi Mabunda <vukosi@eims.co.za>
Subject: RE: Public Participation Plan for the Motuoane Hennenman EA (12/3/315) Amendment

Dear Vukosi

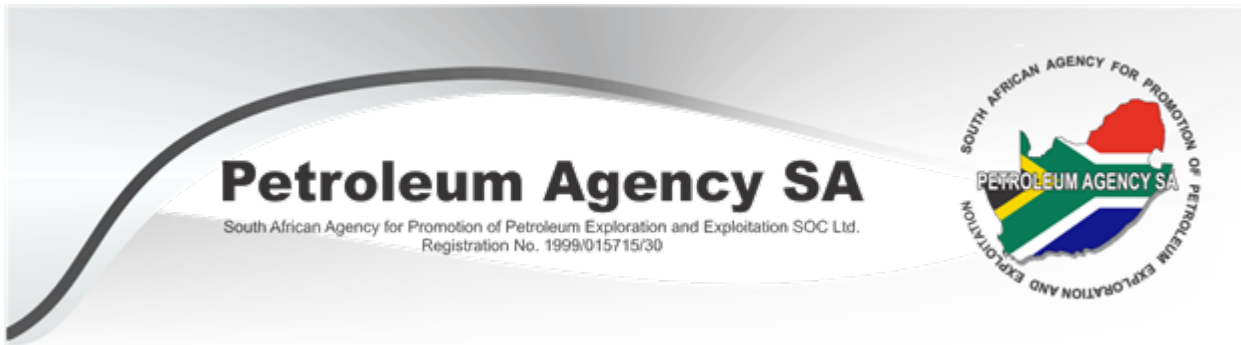
Trust you are keeping well.

Kindly let me know when I can give you a call. I'm available after 10:30. I require clarity on some aspects regarding the PPP.

Kind Regards

Natasha Thomas | Environmental Compliance | Petroleum Agency SA

T: 021 938 3527 | Cell: 083 306 5424 | E: ThomasN@petroleumagencysa.com



From: Vukosi Mabunda <vukosi@eims.co.za>
Sent: Monday, January 8, 2024 10:16 AM
To: Natasha Thomas <ThomasN@petroleumagencycsa.com>
Cc: Phumla Ngesi <NgesiP@petroleumagencycsa.com>; Liam Whitlow <liam@eims.co.za>; Jolene Webber <jolene@eims.co.za>
Subject: RE: Public Participation Plan for the Motuoane Hennenman EA (12/3/315) Amendment

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Good Day Natasha,

Compliments for the new year.

We would like to follow up if a decision on our PP Plan has been reached by the Department as we are preparing to commence with public participation next week.

KIND REGARDS
VUKOSI MABUNDA



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From: Vukosi Mabunda
Sent: Tuesday, December 12, 2023 2:55 PM
To: Natasha Thomas <ThomasN@petroleumagencycsa.com>
Cc: Phumla Ngesi <ngeisip@petroleumagencycsa.com>; Liam Whitlow <liam@eims.co.za>; Jolene Webber

<jolene@eims.co.za>

Subject: RE: Public Participation Plan for the Motuoane Hennenman EA (12/3/315) Amendment

Good Day Natasha,

Noted with thanks, we are looking forward to your feedback.

KIND REGARDS
VUKOSI MABUNDA



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From: Natasha Thomas <ThomasN@petroleumagency.co.za>

Sent: Tuesday, December 12, 2023 2:22 PM

To: Vukosi Mabunda <vukosi@eims.co.za>

Cc: Phumla Ngesi <ngesip@petroleumagency.co.za>; Liam Whitlow <liam@eims.co.za>; Jolene Webber <jolene@eims.co.za>

Subject: RE: Public Participation Plan for the Motuoane Hennenman EA (12/3/315) Amendment

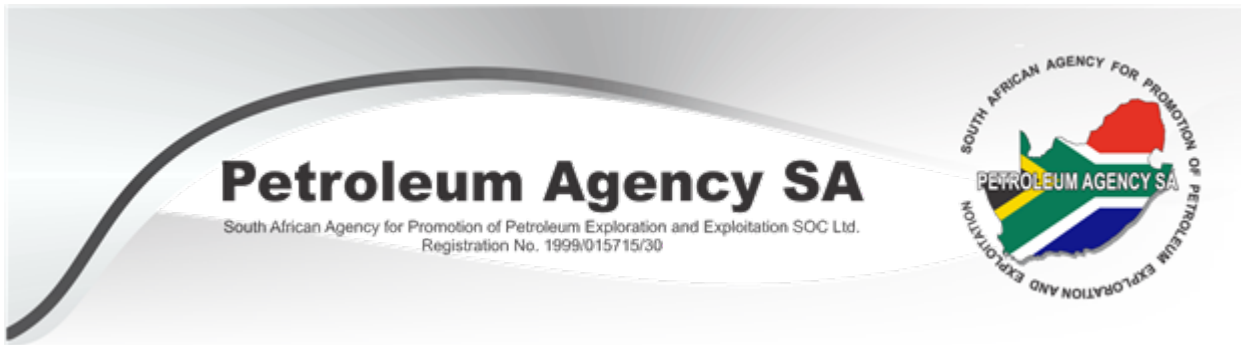
Dear Vukosi

I acknowledge receipt.

Kind Regards

Natasha Thomas | Environmental Compliance | Petroleum Agency SA

T: 021 938 3527 | Cell: 083 306 5424 | E: ThomasN@petroleumagency.co.za



From: Vukosi Mabunda <vukosi@eims.co.za>
Sent: Tuesday, December 12, 2023 1:28 PM
To: Natasha Thomas <ThomasN@petroleumagencysa.com>
Cc: Phumla Ngesi <NgesiP@petroleumagencysa.com>; Liam Whitlow <liam@eims.co.za>; Jolene Webber <jolene@eims.co.za>
Subject: Public Participation Plan for the Motuoane Hennenman EA (12/3/315) Amendment

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Good Day Natasha,

Kindly find attached our public participation plan for your approval as per Section (32)(a)(iv) of NEMA. We would appreciate your swift response as we plan to commence with public participation in early January 2024.

KIND REGARDS
VUKOSI MABUNDA



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From: Vukosi Mabunda <vukosi@eims.co.za>
Sent: Wednesday, November 22, 2023 3:17 PM
To: Phumla Ngesi <NgesiP@petroleumagencysa.com>; Natasha Thomas <ThomasN@petroleumagencysa.com>
Cc: Sharon Adams <SharonA@petroleumagencysa.com>; Liam Whitlow <liam@eims.co.za>
Subject: FW: IQ/2023/287: Referred to legal for input:: Query Regarding the applicability of Listing Notice 1 Activity 21c for an existing Mining Right Issued before the listing activity was promulgated
Importance: High

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Good Day Phumla and Natasha,

As per the action items in our pre-application meeting, we approached National Department (DFFE) inquiring about the applicable process to be followed. Herewith below their feedback indicating that a **Part 2 EA Amendment process** is applicable for this scenario. Therefore, we will be proceeding with the Part 2 EA Amendment process, unless PASA is of a different opinion.

Please confirm if we are all on the same page for the Part 2 EA Amendment process or not (with reasons).

KIND REGARDS
VUKOSI MABUNDA



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From: IQ <IQ@dffe.gov.za>

Sent: Wednesday, November 22, 2023 2:23 PM

To: Vukosi Mabunda <vukosi@eims.co.za>

Subject: IQ/2023/287: Referred to legal for input:: Query Regarding the applicability of Listing Notice 1 Activity 21c for an existing Mining Right Issued before the listing activity was promulgated

Dear Vukosi

Thank you for your patience. In reference to your query below and within the limits of the information provided, kindly refer to the inline response below, in [blue](#).

A Part 2 amendment process will be applicable for the scenario, as set out below, with the most important being that activity 18 of Listing Notice 2 (activity requiring an exploration right), is not triggered under the circumstances described. If any other listed or specified activities are triggered – which have not been assessed and authorised previously – such may require a new environmental authorisation process, but in the absence of evidence/ information to that effect, it does not seem to be the case.

Regards
Chantal Engelbrecht

From: Vukosi Mabunda <vukosi@eims.co.za>

Sent: Monday, October 23, 2023 3:18 PM

To: IQ <IQ@dffe.gov.za>

Cc: Liam Whitlow <liam@eims.co.za>

Subject: Query Regarding the applicability of Listing Notice 1 Activity 21c for an existing Mining Right Issued before the listing activity was promulgated

To whom it may concern,

Please could you assist with the following query.

- a. **Background:** The client is in possession of an Environmental Authorisation (EA) issued in 2017 for the activities associated with an application for an on-shore natural gas exploration right covering an area of approximately 150 000ha. The existing EA provides for the drilling of up to 3 exploration boreholes over the area. The existing EA authorises the following listed activities:
 - Listing Notice 1, Activity 27;
 - **Listing Notice 2, Activity 18;** and
 - Listing Notice 3, Activity 12.
 - Note: onshore seismic surveys listing (LN1, 21C) was not listed at the time of the original EA, nor were on-shore seismic's originally envisaged and included in the EIA.
- b. The applicant would now like to expand their exploration activities to include additional boreholes (total of 9 new sites) and also to include on-shore seismic surveys (~25km).
- c. All of the proposed additional activities fall within the existing approved Exploration Right area and EA extent. There will be no additional areas or petroleum resources added to the exploration right.

Applicant proposes to undertake a Part 2 Amendment to the existing EA to expand the EA to include the additional activities indicated in 1b above (i.e. seismic and additional drilling boreholes) as per Chapter 5 Regulation 31 of NEMA (Act 107 of 1998). [The attached environmental authorisation authorises up to 3 boreholes \(condition 5.1.1.3\). The addition of 9 more would result in a scope change. A Part 2 amendment would apply where the additional 9 boreholes, on its own, would NOT trigger a listed activity. Note that Activity 18 will only be triggered if a new exploration right is also required. If Activity 18 is not triggered and no other activities are triggered, then a part 2 amendment process will apply.](#)

It is our view that, considering that the existing EA provides for the drilling of boreholes (albeit only 3) and all associated listed activities, and that the exploration right will not require amendment (i.e. same area and same resource), that the expansion/ amendment of the EA to allow for additional boreholes should be applied for in accordance with Regulation 31 of NEMA EIA Regulations (i.e. Part 2 Amendment). No new listed activities are triggered by the amendment of the EA to allow for additional boreholes.

[The listed activity would only be triggered if a new exploration right is required, which is not the case here. You have indicated below that the existing exploration right will not require an amendment, so activity 21D would also not be triggered.](#)

Regarding the applicants intention to include on-shore seismic activities, it is noted that subsequent to the issuance of the original EA, listing notice 1 was amended to include Listed activity 21C: *"Any activity including the operation of that activity associated with an onshore seismic survey **which requires an exploration right** in terms of section 79 of the Mineral and Petroleum Resources Development Act, as well as any other applicable activity as contained in this Listing Notice or in Listing Notice 3 of 2014, required to exercise the exploration right"*.

In this regard it should be noted that the EA authorises Listing Notice 2, Activity 18, which states: *"**Any activity** including the operation of that activity **which requires an exploration right** in terms of section 79 of the Mineral and Petroleum Resources Development Act, **as well as any other applicable activity** as contained in this Listing Notice, in Listing Notice 1 of 2014 or in Listing Notice 3 of 2014, required to exercise the exploration right"*. Therefore, the EA already authorises any applicable activity associated with exercising the exploration right.

The environmental authorisation authorises activities, which were listed or specified at the time that the authorisation was issued. Activity 21C is a new listed activity, that is triggered by the proposed onshore seismic survey. This activity did not form part of the original application and was therefore neither assessed, nor considered and authorised. If, however a new exploration right is not required then activity 21C would not be triggered. A Part 2 amendment process thus need to be followed to authorise the activities (unless any other listed or specified) activities not previously authorised are now being triggered.

It is also noted that Activity 21C of Listing Notice 1 lists activities associated with an “*onshore seismic survey which requires an exploration right...*”. The holder does not require a new Exploration Right as the Exploration Right has already been awarded and the EA already obtained. The IQ Helpdesk agrees that activity 21C cannot be triggered if a new exploration right is not required. Please note comments above.

It is our view that Activity 21C would not be triggered as a NEW activity due to the fact that the Holder already has an Exploration Right over the area and for the same resource. However, it is noted that the original EIA which underpins the existing EA, did not consider or assess the seismic activities and consequently these potential impacts need to be assessed. It is our view that this would be achieved by means of a Part 2 amendment process (Regulation 31 of NEMA EIA). Since there is no exploration right required or changes made to the existing exploration right, it does not appear as if any activities will be triggered. Therefore it would be a Part 2 amendment.

It is therefore our request that the National Department (DFFE) provides guidance on the matter considering that the applicant has an Active Exploration Right which was obtained before the onshore seismic activity was promulgated. Could the Department kindly advise on the following:

1. Whether an EA Amendment Process is applicable or a New EA Application process must be followed for the addition of seismic activity? An amendment process would be applicable in this instance (as indicated above).
2. Should a new EA Application process be required, how will the proposed additional boreholes be catered for to the Existing EA?

A new application process is not required, for the scenario under discussion, since no new listed or specified activities are triggered.

However, in general, where a new application for environmental authorisation is required (**which is not the case for this scenario**), regulation 25(4) provides that “(4) *The competent authority may replace an existing valid environmental authorisation with an environmental authorisation contemplated in this regulation, indicating the extent of replacement in the environmental authorisation, if the existing valid environmental authorisation is directly related to the application for environmental authorisation.*” The competent authority may therefore decide to issue a new authorisation, in addition to the existing valid authorisation, or replace the existing valid authorisation with a new authorisation.

- a. Does that mean the applicant will undertake two simultaneous processes or one integrated process? This question and (i) and (ii) below is now redundant, since a Part 2 amendment and not an application for environmental authorisation, is applicable for the scenario under discussion.
 - i. One process for the new EA Application to add the seismic activity and another process to amend the existing EA for the additional boreholes? **OR**
 - ii. One integrated process for the new EA Application to add the seismic activity and amend the existing EA for the additional boreholes?

3. Should a new EA Application process be required, does that mean that the applicant will have two active EA’s for the same overall activity (exploration) within the same property? See comments above.

Your feedback would be greatly appreciated.

KIND REGARDS
VUKOSI MABUNDA



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