

# **APPEAL FORM IN TERMS OF THE NEMA EIA REGULATIONS**

(A digital copy of this form may be obtained from the Department's website at <http://www.capegateway.gov.za/eadp> ).

**Please address your completed appeal to:**

**Provincial Minister for Environment, Planning and Economic Development  
Private Bag X9186  
CAPE TOWN  
8000**

**Fax: (021) 483-6081**

**NOTE:**

1. Appeals not submitted to the above address will not be regarded as valid;
2. Information requested must be provided in the spaces allocated therefore. Additional pages may be attached if the allocated space is insufficient;
3. Your appeal submission should be brief, clearly explained and to the point;
4. A copy of your Notice of Intention to Appeal must be attached to this document when submitted to the Department; and
5. This form must be duly signed by the appellant and witnessed.

**A. PROJECT INFORMATION**

**DEA&DP Reference Number: EG12/2/3/1-D2/11-911/08**

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**Project Description: Canalization of a section of the Kat River from Adderley Street to Charlotte Street, George.**

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**Date of issue of the Decision: 28/10/ 2008**

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**Type of Appeal (please circle the appropriate options):**

<b>Environmental Authorisation</b>	<b>Refusal</b>	<b>Disqualification of EAP</b>	<b>Amendment</b>	<b>Withdrawal</b>	<b>Exemption</b>
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**B. APPELLANT'S INFORMATION**

I as the appellant am: (Please tick the appropriate box below)

the applicant	a registered interested and affected party	other (please specify)
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Name: Friends of the Katrivier

Address: 5 Vogelsteeg

Fernridge

George

Tel: 044 8744474

Cell:

Fax: 086 564 6327

Email: info@katrivier.org.za

**C. APPEAL NOTICE INFORMATION:**

1. Please indicate the date you were notified of the Department's decision.  
29/10/2008
2. Are you a registered Interested & Affected Party (I&AP) or the applicant?  
I &AP
3. Have you lodged a Notice of Intention to Appeal within 10 days of being notified  
of the decision taken by the Department? **Yes** / **No**

4. Please indicate the date your Notice of Intention to Appeal was lodged with the MEC. *5 November 2008*
5. Has this Notice of Intention to appeal been served on the Applicant/ all Registered I&AP's? *Yes*
6. Please indicate the dates on which this was done. *5 November 2008*
7. Did the Notice indicate where and for what period the appeal submission will be available for inspection? **Yes** / **No**
8. Please indicate where and for what period the appeal submission has been made available for inspection./ Explain why this was not done.

*The appeal submission will be available at [www.katrivier.org.za](http://www.katrivier.org.za) and in the George Library from the 4<sup>th</sup> December 2008 to the 4<sup>th</sup> January 2009.*

9. Has the relevant application fee been paid? (please attach proof of payment)  
*Not applicable.*

**D. GROUNDS FOR APPEAL**

10. Provide a statement setting out the grounds of your appeal.
  - A. *The Applicants Public Participation regulations were not adequately fulfilled.*
  - B. *Two separate applications running concurrently over the same section of river have been submitted and authorized contrary to NEMA regulations.*
  - C. *The environmental impact and long term effects of a canal on the entire Kat River system and its Nature Reserve were not considered of importance. 60% of the Kat River runs through a protected Nature Reserve that is threatened by the project.*
  - D. *No consideration is given to the inadequate size of the bridges causing major erosion.*
  - E. *The urgency of this application can not be considered, given the neglect to clear the blockages in the river path.*

11. Is your appeal based on factors associated with the process that was followed by the applicant/the Department in obtaining/issuing authorization or/ refusal or/ amendment or /withdrawal or/ disqualification?

**Yes** / **No** (Circle the appropriate response). Please provide details.

- A. *Public Participation regulations were not fulfilled as the local newspaper advert contravenes the Copyright Act of 1978 which states that reproductions be "clearly visible, legible and comprehensible to a casual observer" "the type size no smaller than that used predominantly throughout the form, and in no case shall the type size be smaller than 8 points." The legal notice in the George Herald on the 10<sup>th</sup> of April 2008 does not conform to these guidelines (See **Addendum A**) the font size is illegible to a casual observer.*
- B. *Both this application Ref.EG12/2/3/1-D2/11-911/08 and Ref. EG12/2/3/1-D2/11-958/08 have been authorized this year although the guidelines for applications are as follows:*

#### **APPLICATIONS FOR ENVIRONMENTAL AUTHORISATIONS**

##### **Combination of applications**

**15.** (1) If an applicant intends undertaking two or more activities as part of the same development, a single application on one application form must be submitted in respect of all those activities.

and

(3) If the competent authority grants permission in terms of subregulation (2), the application must be dealt with as a consolidated process in respect of all the activities covered by the application, but the potential environmental impacts of each activity must be considered in terms of the location where the activity is to be undertaken.

12. Is your appeal based on factors associated with matters of unacceptable environmental impacts/extenuating circumstances not taken into account by the competent authority?

**Yes** / **No** / **Not applicable** (Circle the appropriate response). Please provide details.

- C. *YES. The adverse long term cumulative impact on the entire Kat River was not adequately considered.  
It was not considered that more than 60 percent of the Katrivier is protected by a Proclaimed Local Authority Nature Reserve registered with the Western Cape*

*Nature Conservation Board. (See **Addendum B**) This Nature Reserve lies adjacent directly down stream of the proposed canal.*

*The proposed canal will fragment the Nature Reserve from the mountain source and increase the water speed having a detrimental affect on the nature reserve. The importance of the protected Nature Reserve has not been stressed yet the National Water Act No. 36 of 1998 (NWA) has ascribed equal status to aquatic ecosystem integrity and to the requirements of basic human needs.*

13. Have your appeal issues been raised previously in the public participation process?

**Yes** / **No** (Circle the appropriate response). Please provide details.

*No . We were not aware of the canalization.*

14. Are you fundamentally opposed to any development activity on the site?

**Yes** / **No** / **Not applicable** (Circle the appropriate response). Please provide details.

*D. No. The cause of the erosion in this section of river has not been fully identified. (See **Addendum C** This contour map of the area proposed for canalization from Adderley Street to Charlotte Street is of the 1980s and clearly illustrates the inadequately sized bridges as a major cause of erosion then.) Today the changed weather patterns must speed up this erosive affect.*

*E. Furthermore the blockages of growth, debris and service lines in the river path upstream of each bridge illustrate the dangers in the event of heavy rainfalls. (See **Addendum G&H** showing all three bridges crossing the river looking down stream.)*

15. Are you in favour of the decision of the Department if your concerns can be remedied by rectifying the process or by mitigating or eliminating the impacts of the activity?

**Yes** / **No** / **Not applicable** (Circle the appropriate response)

16. Please indicate what measures you propose to have your concerns remedied.

*Yes. We request a holistic study to determine how the project will affect the river both up and down stream (Hydraulic analysis) be conducted. Map the existing infrastructure to allow some bank stabilization in occupied areas and not in areas with no structures. Delineate the channel migration zone mapping the erosion risk areas using the finest scale possible. Implement an integrated Environmental Management Plan to asses the health of the aquatic ecosystem in the Katrivier and keep intact the biodiversity in this protected corridor to prevent fragmentation and detrimental effects.*

*To consider building larger bridges with integrated service lines.*

17. Does your appeal contain any new information that was not submitted to the Environmental Assessment Practitioner (EAP) /or registered I&AP's/ or the Department prior to the Department's decision?

**Yes / No** (Circle the appropriate response)

If the answer above is "Yes" please explain what this information is and why it should be considered by the MEC and why it was not made available to the EAP/ or I&AP/ or the Department prior to the decision. (Please ensure that the new information is attached hereto.)

*Yes, It was not considered that the three bridges over the river have been a major cause of erosion.*

*Nor has the Nature Reserve been considered. An Environmental Management Plan has not been done prior to modifying the river significantly. The Friends of the Katrivier Group was established in July 2008. The canalization advertisement was run in April 2008 prior to our formation. We became aware of the canal proposal when studying the Remedial work in the entire Kat River.*

18. Please clearly list your appeal issues.

A. *Public Participation was hampered by concealing the advert in the Newspaper.*

B. *Two applications have been applied for authorization on the same section of river.( See **Addendum E and Addendum F**)*

- C. *The authorization of the activity was passed as it “will have minimal localized environmental impact.” Yet the impact is significant as it is upstream of a protected Nature Reserve. No Environmental Management Plan has been done prior to altering the river channel.*
  - D. *The bridges and service lines are a significant contributor to erosion and should be upgraded.*
  - E. *Blockages in the river path are a flood risk and cause unnecessary erosion.*
19. Please provide an explanation of why you listed each issue in section 18 above.
- A. *Few people are aware of this canal, particularly those down stream of the activity who will be affected.*
  - B. *It seems as if an audit should be done on both these applications as duplication has occurred from Adderley Street to Charlotte Street.*
  - C. *A request from the Department of Agriculture has been put forward to our group to ask the George Municipal Manager to provide someone to do an Environmental Management Plan for the Kat River. Dr Steve Du Toit of WESSA has advised that a Management Plan on the entire river be done to protect it from degradation. At a meeting with the Environmental Practitioners and George Municipality he recommended a Geo hydrologist be consulted to determine the affect of this project and help predict problems in order to prevent further problems. He too mentioned that international trends are moving away from canalization as a canal is no longer seen as the best solution.*
  - D. *Building larger bridges is favorable to the river health unlike the canal which is detrimental. Sewerage or water pipes crossing in the river path is unwise.*
  - E. *The authorization of this project was passed as an “emergency long term measure” yet the blockages left in this section of river show no genuine concern of imminent danger of flooding nor has a long term study been done on this activities affect..*
20. Please provide details of how you will be or have been affected by each issue listed under 18 above.

- A&B. We were unaware of the canal being a separate application from the remedial work in the entire Kat River and stumbled upon it in the George Library.*
- C. The Nature Reserve will be detrimentally affected due to the canal speeding up water flow and causing erosion and flooding below the canal as the water enters the Reserve.*
- D&E. The River typography has changed with steep banks eroded just below each bridge and around blockages.*

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**Appellant's Signature**

\_\_\_\_\_  
**Place**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Witness**

\_\_\_\_\_  
**Place**

\_\_\_\_\_  
**Date**