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Ms Madeleine Oosthuizen
Department of Environmental Affairs
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Dear Ms Oosthuizen

Comment on sub-theme reports: National Environmental Impact Assessment and Management Strategy

Herewith Agri Wes-Cape's comments on the draft sub-theme reports prepared in support of the national EIAMS.

Agri Wes-Cape is affiliated to Agri South Africa, a federal organisation which promotes, on behalf of its members, the sustainable profitability and stability of commercial agricultural producers and agribusinesses through its involvement and input on national and international level. Agri SA represents commercial and emerging farmers through nine provincial unions (including Agri Wes-Cape) and 28 commodity organisations.

Please find herewith Agri Wes-Cape's comments on sub-theme reports prepared in support of the Department of Environmental Affairs' national Environmental Impact Assessment and Management Strategy (EIAMS).

We trust that you will find these comments to be constructive and relevant to the EIAMS process, and look forward to future interactions in this regard.

1. Agriculture in socio-economic context

Over 75% of South Africa's land surface is managed by farmers, meaning that agriculture represents the single largest user (and custodian) of biodiversity and ecosystem goods and services in South Africa. Agriculture is also a significant if stressed contributor to the national economy, socio-economic development and custodianship of the national agroecosystem resource base.

Primary agriculture contributes approximately 3% to the Gross Domestic Product of South Africa with a total value of production of approximately R130 billion in 2010. However, the total contribution, taken all the linkages into account, is estimated to be more than 15%. From 1993 to 2007 the number of commercial farming units declined by 45%. Over the same period employment declined by 41,8%.

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Profitability of the sector is currently under immense pressure due to, among others, high input costs. Unfortunately these price increases cannot be transmitted forward in the chain due to the fact that farmers are price takers. This implies that structural adjustments in production (less production) are the most likely reaction to such a cost-price disparity. This furthermore implies a likelihood of a reduced economic contribution and disproportional job shedding due to the labour intensive nature of irrigation farming with a resultant negative impact on the rural economy and development. Agriculture, and in particular irrigation agriculture, creates more jobs per R1 million invested than any of the other sectors.

The agricultural sector has to compete on an unlevel footing with its counterparts in other countries due to subsidies and other support measures prevailing in these countries. A decline in agricultural production might result in South Africa turning from a net exporter of primary agricultural products to a net importer. This in turn will have a negative effect on the ability of the country to earn foreign exchange as well as the trading account of the country.

Agriculture creates more jobs per R1 million invested than any other sector. However, as pointed out, employment in the sector declined substantially since 1993. This results in serious implications for vulnerable groups, especially farm workers.

The capacity of the broad sector to carry and absorb transaction costs such as imposed by environmental regulation is limited. This, by implication, translates into limited public oversight over agricultural land use and, potentially, reduced willingness or ability to comply with excessively onerous regulatory requirements.

As presented below, however, there are arguably far better and more efficient methods of introducing sustainability objectives and criteria to agricultural development and agroecosystem management than is currently the case in terms of an inflexible, prescriptive and y ineffectual system of EIA and management – particularly so in agricultural contexts.

2. Agriculture as a custodian of biodiversity and ecosystem resilience

Agriculture is also a key strategic partner in biodiversity conservation and the achievement of the goals and objectives of the National Biodiversity Strategy and Action Plan.

The National Protected Areas Expansion Strategy has indicated that 12% of the country's land surface needs to be protected (now only 6.5% is protected) to meet the 20-year target for securing a system of protected areas that is representative of South Africa's biodiversity, ecologically viable and able to mitigate the impacts of climate change on ecosystems. The Succulent Karoo, Grasslands and Nama Karoo biomes – each of which represents major farming regions – have been singled out as priorities for protected areas expansion.

Because the state will never be able to purchase so much land for conservation, co-operation by farmers will be crucial to the success of the National Protected Areas Expansion Strategy. As it is, farmers are already closely involved in off-reserve conservation and sustainable land management projects in many parts of the country.

3. Why EIA in agriculture needs a different approach to other sectors

There are several features that distinguish agriculture, and particularly cultivation and use of natural resources, from other economic sectors in South Africa.

These are mentioned not to claim a special dispensation for farmers, but to illustrate some of the key questions that need to inform our thinking around the most appropriate methods – including strategic planning, co-management, extension and incentives – for promoting sustainable production on the basis of agroecosystem resilience.

Firstly, today's farmers have inherited historical patterns of land use – which, in some areas, are subject to land reform projects – that in many instances may not be sustainable but nonetheless these patterns of land use make a significant contribution to the national economy (directly, and through the multiplier effect), rural development and maintaining food and livelihood security.

Secondly, compared to other sectors that have a long association with the statutory system of environmental regulation (e.g. industrial and energy projects, construction or expansion of public infrastructure and housing development), agriculture was only conclusively brought into the 'NEMA' fold in mid-2006.

Lastly, there is the crucial question as to whether reactive, activity-specific environmental regulation can adequately predict and deal with the type and scale of cumulative impacts that are typically manifested in agricultural contexts and contribute to long-term degradation of the agroecosystem resource base.

Experience here and elsewhere in the world suggests that EIA and excessive reliance on regulation and control cannot fulfill this task optimally.

Instead, with the EIAMS, we would also advocate a more strategic and less peremptory approach to agricultural sustainability assurance. Such a strategy would be premised on planning for agroecosystem resilience, co-operative resource management and using incentives and dedicated extension to guide and encourage agricultural practises that contribute to the achievement of national objectives for sustainable development.

4. Overall response to the national EIA and Management Strategy

In general, our comments are:

- Strategic, objectives'-led approach to co-operative agri-environmental governance is essential, and recommendations in this regard are strongly supported;
- Activity-specific, reactive EIA is seldom guided by sustainability objectives and fails to predict cumulative, supra-farm impacts on biodiversity pattern or ecological processes, or the condition of affected ecosystems;

- Environmental planning, regulation and management must be geared towards maintaining the integrity and productivity of agroecosystems (e.g. irrigation, grazing, flood control etc all intrinsically dependent on – and influence – natural systems in positive feedback relationships);
- Strategically-guided, co-operative management of the farming-environment interface is infinitely more preferable than inefficient and haphazard regulation that may have some control over individuals but makes little contribution towards promoting sustainable farming or positive attitudes towards environmental governance; and
- Sound agricultural land use practices and management need to be encouraged through strategic planning, incentives and competent, widely available technical extension services – this requires a multi-sectoral strategy that cannot only rely on the environmental function in government.

The challenge is how to move agricultural towards more sustainable land use practices without compromising its strategic contribution to the economy and justifiable socio-economic development.

5. Why EIA doesn't work well in agriculture

Factors that inhibit the effective implementation and acceptance of NEMA EIA regulations in agriculture, and which need to be addressed by the EIAMS, include:

- The phenomenon that farmers are subject to the same regulatory controls as urban property developers but in many cases complain that they cannot afford the rates charged by EIA consultants (a survey by the IAIAAsa in the Western Cape in 2008 found that EAPs were charging between R40 000 and R150 000 for a basic assessment, for example – this, in theory, could be the price charged to obtain authorisation to clear a field, or to replace a gravel causeway washed away by a flood);
- Major dissatisfaction with administrative inefficiency (which is not only restricted to the environmental authorities, but includes commenting authorities who hold up applications) that can result in major delays in environmental assessment procedures, the processing of applications and issuing of environmental authorisations. Farmers who try to respond rapidly to good rainfall or changes in market demands regarding particular crops or cultivars find that their planning is held up by bureaucratic delays which means that economic opportunities are lost or cannot be realised because loans cannot be raised.
- The low numbers of environmental assessment practitioners outside main urban centres which significantly increases travel and accommodation budgets for environmental assessments;

- Coupled to this, the isolation of many farms and farming regions, limited access to print media, and increasing number of absentee landowners or farmland that is locked up in legal instruments such as trusts or companies, make it exceedingly difficult (and ineffectual) to conduct public participation processes as currently prescribed in the EIA regulations;
- The perception that farming is by implication being criminalised because certain farming practices, that may have developed over decades in response to a particular agricultural need and/or specific environmental circumstance (such as cultivation in floodplains that necessitate flood defences and drainage), have suddenly become unlawful. This is particularly problematic for farmers who need to manipulate rivers to either protect land, or to obtain access to water in low flow conditions, or to clear irrigation sumps channels after floods. These responses may by current standards and knowledge be unacceptable, but often represent the most practical way of dealing with potentially serious problems (erosion, rivers that cannot be forded, or crops or animals that cannot be watered or ferd) – and, crucially, have been tactitly endorsed by the agricultural and water functions in the state for many years.
- Farmers have limited access to information on their legal obligations, compounded by the fact that very little has been done by the state and its partners to engage with organised agricultural around the introduction of environmental regulation to the sector since 1998;
- The perception that people from cities are trying to inhibit development in the ‘platteland’, where development and job creation are, in fact, welcomed, and where the advantages of environmental assessment are not apparent or understood, or it is difficult to reconcile the high costs and inefficiencies of environmental assessments with their alleged benefits; and
- Farmers purchase land for its production potential only to be told that it cannot be developed because of presence of important biodiversity – such land viewed as being useless, although it is still taxed, and of little value compared to developed land that is accepted as security by banks.

6. Counter-productive implementation of environmental controls

Some of the perceived contradictions of environmental regulation in agriculture are presented below.

‘Environmental regulation obstructs environmental rehabilitation and management’

There is a widely-held perception that provincial agriculture departments that are mandated and equipped to conserve agricultural resources and combat their degradation are,

perversely, withheld from doing so effectively and efficiently due to the primacy of environmental regulation, which vests with another department. It is probably less the intention of environmental legislation than the manner of its implementation that imposes significant costs (both monetary and in terms of delays) on the construction of government-funded river bank protection in flood-damaged rivers, restoration of burnt, bulldozed and drained wetlands, and soil conservation works in the Karoo.

'The EIA regs make it difficult and expensive to convert to more sustainable agricultural practices'

Another source of discontent is the degree to which onerous and expensive environmental assessments and delayed decisions constrain farmers from adopting more sustainable production practices.

For example, farmers who wish to minimise the impacts of ostriches on indigenous vegetation and habitats in semi-arid ecosystems by confining the birds in camps would now be required to first undergo an expensive environmental assessment procedure when a system of corralling would be highly desirable from an ecological and biodiversity perspective.

It is especially in these cases, where a clear environmental advantage would accrue from a particular change in agricultural practice, potential impacts are well understood, residual effects can be effectively mitigated, and targeted impact assessment and management plan would suffice, that the reasonableness and desirability of environmental impact regulation are called into question.

'The state is not consistent in its enforcement of the EIA regulations'

The question of seeming 'double standards' is also one that engenders considerable dissatisfaction among farming communities.

An example is farmers who are expected to apply for environmental authorisations in order to clear flood debris from existing pumpholes in riverbeds whereas the roads authorities can rebuild bridges over the same river without environmental authorisation or any apparent fear of sanction from their environmental counterparts in the provincial government. This is patently unfair and calls into the question the state's obligation to even-handed and reasonable enforcement of legislation.

'Floods cause major, disastrous damage to farms and farming, but are not seen as emergencies'

Also, flood repair work should be seen as 'emergency work' due to the unforeseen nature of floods and the escalated impact that can result if not dealt with speedily.

The current viewpoint of some environmental authorities that floods can be expected and therefore do not qualify as emergencies ignores the historical and practical reasons for current agricultural land use practices in floodplains, and inappropriately trivialises the real dilemmas faced by many farmers during and in the immediate aftermath of floods.

The 'maintenance' provisions (e.g. Activity 18 of GN R. 544 of 18 June 2010) in the revised NEMA EIA regulations certainly represent an importance advance in this regard but in most

cases urgent attention is required to, for example, re-instate pumping installations or to prevent further erosion damage from occurring.

'The state over-reacts to symptoms instead of addressing root causes'

The enforcement of the section 24G 'rectification' provisions of NEMA is a major bone of contention.

Punitive actions and stiff deterrents are undoubtedly necessary in the case of repeat or flagrant offences, or where disregard for the law has resulted in significant irreversible damage to the environment. However, there appears to be exceedingly little appreciation for the type of practical restrictions within which farmers operate, how their 'coping' strategies have evolved in response to environmental change (which, admittedly, may have been hastened by inappropriate land use practices), and what considerations motivate a farmer when confronted with a crisis that, in her or his mind, amounts to an emergency.

The nature of farming is such that, in numerous instances, agriculture is in a constant state of tension, even friction, with natural processes and ecosystem dynamics. Surely the desirable thing to do is to understand where and why this friction occurs, and to initiate steps to reduce it – in the long term, without needlessly compromising productivity, and at a scale that promotes sustainable use of natural resources and the resilience of the agro-ecosystems without which agricultural cannot persist.

EIA and, particularly, the s 24G provisions of NEMA are, on the basis of available evidence, manifestly unsuited to this task.

7. What works within the current, 'first' and 'second', generation of approaches to environmental management?

We have some experience of opportunities that the current NEMA EIA regulations hold for more streamlined and strategic approaches to agricultural land use regulation.

A distinction is drawn here between new agricultural projects and ongoing agri-environmental management – what is common to both, though, is the attempt to streamline planning and decision-making processes and, crucially, to link projects and actions to ecological management objectives and desired agricultural outcomes.

Networks

In terms of new projects, it seems that both informal and formal networks of farmers and government officials can greatly contribute to expedited planning and public participation processes.

Extension or technical staff who regularly engage with producers through the LandCare programme succeed in building relationships and eventually networks that can be mobilised in support of a planning process, or as a co-ordinated sounding board during public participation. In practice, an entire farming community can be called together to discuss projects in its area, to obtain input, and to alert its members (including organised structures

such as farmers' associations, irrigation boards or water users' associations) of proposed new projects in their area.

Having that type of presence on the ground, and insight into the realities and challenges of agriculture and, crucially, the trust of the producer community, is of irreplaceable value when it comes to expediting planning, environmental assessment and decision making. LandCare area-wide planning has been particularly effective in generating these types of networks and open lines of communication in the area of its operations in the Western Cape.

Multi-stakeholder forums

More formal structures, with terms of reference or constitutions and regular meetings, can serve as semi-institutionalised networks that promote communication, sharing of information and joint planning.

One such very effective example is the *Upper Breede Conservation Extension Group* (UBCEG) in the Cape Winelands District Municipality in the Western Cape. This group, which is convened by the provincial department of agriculture and CapeNature, hosts quarterly meetings that are attended by all the main statutory roleplayers in agricultural land-use planning and regulation. The latter include the Department of Environmental Affairs and Development Planning, the Western Cape Department of Agriculture, the Directorate: Land Use and Soil Management in the Department of Agriculture, Forestry and Fisheries, the Department of Water Affairs, the Cape Winelands District Municipality, CapeNature and the Breede-Overberg Catchment Management Agency.

Civil society interests are also represented on the forum through the Biodiversity and Wine Initiative and Breedekloof Wine and Tourism.

This structure functions outside any formal institutional arrangement or statutory mechanism, yet it represents a highly effective platform for co-operative governance and has undoubtedly contributed to improved relations between roleplayers in the realm of agri-environmental land-use regulation.

What is particularly positive, and certainly deserving of being replicated elsewhere, is UBCEG's ability to encourage key stakeholders to take an active interest in project planning and to provide swift, well-informed comment on environmental processes.

Maintenance plans

The 'maintenance' provisions (e.g. Activity 18 of GN R. 544 of 18 June 2010) in the revised NEMA EIA regulations certainly represent an important advance in relieving the regulatory burden on farmers while placing their activities – in this case, interactions with river channels and dynamic aquatic ecosystems – on a more managed and, potentially, strategically-informed trajectory. This is welcomed.

It would be even more desirable, though, and meaningful from an ecological perspective, to make project-specific maintenance plans subservient to strategic environmental management plans for entire rivers, or the most intensively utilised river reaches in a particular catchment.

Farm-specific maintenance plans will continue to perpetuate all the problems associated with *ad hoc* environmental management unless, that is, they are guided by strategic agroecosystem management objectives and guidelines.

Combined applications

Another device that can help expedite applications in an agricultural context is that of the combined application (Regulation 14 of GN R. 543, 18 June 2010) whereby, typically, a single applicant can apply for the authorisation of the same or similar activities at different locations. This could definitely be exploited more frequently by landowners to apply, once-off as it were, for repetitive activities in the same ecosystem that would have similar effects – such as the establishment of new lands, expansion of existing ones, or construction of channel protection works. Ideally, there should be a strategically-informed farm plan to guide development, provide land use guidelines, and include monitoring provisions to inform management decisions

Class applications

Class applications would typically entail several applicants jointly applying for authorisation of one or more activities.

This basically amounts to an expanded ‘combined’ application. Such an approach is particularly useful where a number of agricultural entities, such as farmers’ associations or irrigation boards, apply for authorisation of projects that are in the public or general agroecosystem benefit, e.g. such as soil conservation structures in degraded river systems. In effect, multiple applications for the same suite of activities in similar ecosystems, to address virtually identical problems of environmental management and protection, can be managed through a single, expanded basic assessment process.

Benefits, especially where a network or community of interested are involved, include giving practical effect to the principles and objectives of integrated environmental management, consistency in assessment methods and specialist review, expedited processes and, potentially, swifter decisions.

Integrated agricultural land management in support of agroecosystem resilience

There are many examples of existing projects and programmes that revolve around sustainability assurance in agricultural production and biodiversity mainstreaming in production landscapes.

The South African National Biodiversity Institute (SANBI) plays an important co-ordinating role with respect to the latter. See: Cadman M, Petersen C, Driver M, Sekhran N, Maze K and Munzhedzi S (2010) *Biodiversity for Development: South Africa’s landscape approach to conserving biodiversity and promoting ecosystem resilience*. South African National Biodiversity Institute, Pretoria. http://cmsdata.iucn.org/downloads/primer_11_2_mb.pdf

Virtually all of these initiatives offer practical, non-regulated alternatives to the current system of environmental impact management and, crucially, are geared towards achieving and being able to demonstrate actual environmental and economic benefit to the participants.

It would be exceedingly useful if the national EIAMS were to engage with these programmes in order to obtain insight into the practical challenges facing agriculture, and what avenues are at our disposal to achieve sustainability through means other than direct regulation and command-and-control.

Examples of such initiatives in the agricultural sector include the:

- Biodiversity and Wine Initiative (which is aligned with the Integrated Production of Wine system);
- Red meat pilot demonstration projects in SANBI’s Grasslands Programme in the Eastern Free State and KwaZulu Natal;
- Rooibos, ostrich and potato best practice initiatives in the Western Cape;
- LandCare Area-wide Planning (Western Cape); and
- Corridors initiatives such as the Greater Cederberg Biodiversity Corridor, the Agulhas Biodiversity Initiative, the Garden Route Initiative, the Gouritz Initiative, and the Baviaanskloof Mega-Reserve.

For more information on these programmes and projects, see:

SA National Biodiversity Institute: National programmes

http://www.sanbi.org/index.php?option=com_xmap&sitemap=12&Itemid=66

Biodiversity and Wine Initiative

http://www.wwf.org.za/what_we_do/outstanding_places/fynbos/biodiversity_wine_initiative/

GreenChoice WWF Living Farms Reference

http://www.wwf.org.za/what_we_do/outstanding_places/drivers_of_change/food_production/green_choice/

LandCare Western Cape

<http://www.elsenburg.com/srm/landcare.html>

8. A ‘third generation’ alternative to EIA in agriculture: Agri-EMFs

The appended paper by De Villiers and Hill (2008) provides a comprehensive overview of the history of environmental land use regulation with respect to cultivation in South Africa. The paper makes the important point that the shortcomings raised here about environmental impact assessment are certainly not unique to agriculture or to South Africa for that matter. However,

“It is in agricultural settings... with its large-scale use of land, where biodiversity loss and ecological degradation have been most extensive, and where regulatory and market failure have been most evident...” (De Villiers and Hill, 2008, p 334).

It also draws into question the effectiveness of reactive, activity-specific EIA-type procedures as a safeguard of environmentally sustainable agricultural development. An alternative approach is suggested as to how agricultural interactions with the natural environment can be mediated on the basis of strategic, ecosystem-based farm planning that incorporates and is given effect through:

- Fine-scale biodiversity plans (i.e. Critical Biodiversity Area maps);
- LandCare area-wide planning; and
- Environmental Management Frameworks (EMFs).

The resulting product, so-called ‘agri-EMFs’, would synthesise a number of key approaches and instruments that have been suggested by contributors to the National Environmental Impact Assessment and Management Strategy. Examples of such convergence between ‘agri-EMFs’ and proposals contained in the EIAMS sub-theme reports include an emphasis on:

- Objectives’-led environmental governance in support of sustainability assurance (e.g. Sub-theme ‘Procedures and organisation’ of the ‘Governance and administration’ theme);
- Screening to assess consistency of proposed projects with strategic planning frameworks, whether an environmental assessment is needed to inform a decision and, if so, what the scope and intensity of such an investigation would have to entail (e.g. Sub-theme 9, ‘Quality of tools’); and
- Promoting and capacitating outcomes-based co-operative governance that is guided by strategic planning within ecological constraints (e.g. Sub-theme 10, ‘Co-operative governance: EIM tools’).

Overall, the ‘agri-EMF’ proposal directly responds to ‘conventional’ EIA’s limitations, the manifest obstacles that are preventing its uptake in agriculture at a scale that matters, and the transaction costs and inefficiencies that are associated with the current system.

Instead, it reflects many of the key insights that have been independently captured in the national EIAMS and squarely fits with the ‘third generation’ strategies highlighted by contributors to the ‘Governance and administration’ theme

9. Request for opportunity engage with the EIA and Management Strategy

Given agriculture’s large footprint on the South African environment, and its overt reliance on healthily functioning, resilient ecosystems for most of the resources that underpin the productivity of the sector, it is viewed as highly desirable – even urgent – that the national EIA and Management Strategy engages with the agricultural sector.

As stated, problems of largescale land and ecosystem degradation and depletion of the natural resource base simply cannot be effectively addressed through an unwieldy, inefficient and fragmented system of *ad hoc* environmental regulation.

An entirely new change of perspective is required, that sets its sights on promoting agroecosystem resilience, and identifying the most effective and affordable methods for achieving it.

That in, our view, would be one of the biggest contributions that the national EIA and Management Strategy could make towards realising constitutional, legal and policy commitments to sustainable development in South Africa.

We would greatly welcome an opportunity to engage with the team that is developing the new EIAMS and look forward to hearing from yourselves in this regard.

Yours sincerely,

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