

APPEALS PROCEDURE IN TERMS OF CHAPTER 7 OF THE NEMA EIA REGULATIONS, 2010 (THE REGULATIONS) AS PER GN R. 543 OF 2010 TO BE FOLLOWED BY THE APPLICANT AND INTERESTED AND AFFECTED PARTIES UPON RECEIPT OF NOTIFICATION OF AN ENVIRONMENTAL AUTHORISATION (EA)

APPLICANT	INTERESTED AND AFFECTED PARTIES (IAPs)
1. Receive EA from the relevant Competent Authority (the Department of Environmental Affairs (DEA))	1. Receive EA from Applicant/Consultant
2. Within 12 days of date of the EA notify all IAPs of the EA and draw their attention to their right to appeal against the EA in terms of Chapter 7 of the Regulations.	2. N/A
3. If you want to appeal against the EA, submit a notice of intention to appeal within 20 days of the date of the EA, with the Minister of Water and Environmental Affairs (the Minister).	3. If you want to appeal against the EA, submit a notice of intention to appeal within 20 days of the date of the EA, with the Minister of Water and Environmental Affairs (the Minister).
4. After having submitted your notice of intention to appeal to the Minister, provide each registered IAP with a copy of the notice of intention to appeal within 10 days of lodging the notice	4. After having submitted your notice of intention to appeal to the Minister, provide the applicant with a copy of the notice of intention to appeal within 10 days of lodging the notice
5. The Applicant must also serve on each IAP: <ul style="list-style-type: none"> • a notice indicating where and for what period the appeal submission will be available for inspection. 	5. Appellant must also serve on the Applicant within 10 days of lodging the notice, <ul style="list-style-type: none"> • a notice indicating where and for what period the appeal submission will be available for inspection by the applicant.
6. The appeal must be submitted in writing to the Minister within 30 days after the lapsing of the period of 20 days provided for the lodging of the notice of intention to appeal.	6. The appeal must be submitted to the Minister within 30 days after the lapsing of the period of 20 days provided for the lodging of the notice of intention to appeal.
7. Any IAP who received a notice of intention to appeal may submit a responding statement to that appeal to the Minister within 30 days from the date that the appeal submission was lodged with the Minister.	7. An Applicant who received notice of intention to may submit a responding statement to the appeal to the Minister within 30 days from the date that the appeal submission was lodged with the Minister.

NOTES:

1. **An appeal against a decision must be lodged with:-**
 - a) the Minister of Water and Environmental Affairs if the decision was issued by the Director- General of the Department of Environmental Affairs (or another official) acting in his/ her capacity as the delegated Competent Authority;
 - b) the Minister of Justice and Constitutional Development if the applicant is the Department of Water Affairs and the decision was issued by the Director- General of the Department of Environmental Affairs (or another official) acting in his/ her capacity as the delegated Competent Authority;
2. **An appeal lodged with:-**
 - a) the Minister of Water and Environmental Affairs must be submitted to the Department of Environmental Affairs;
 - b) the Minister of Justice and Constitutional Development must be submitted to the Department of Environmental Affairs;
3. **An appeal must be:-**
 - a) submitted in writing;
 - b) accompanied by:
 - a statement setting out the grounds of appeal;
 - supporting documentation which is referred to in the appeal; and
 - a statement that the appellant has complied with regulation 62 (2) or (3) together with copies of the notices referred to in regulation 62.





environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Environmental Authorisation

In terms of regulation 36 of the Environmental Impact Assessment Regulations, 2010

Proposed establishment of the Ilanga CSP Facility and associated infrastructure at Upington,

Northern Cape Province

Siyanda District Municipality

Authorisation register number:	<i>12/12/20/2056</i>
NEAS reference number:	<i>DEA/EIA/0000094/2011</i>
Last amended:	<i>First issue</i>
Holder of authorisation:	<i>Ilanga CSP 1</i>
Location of activity:	<i>NORTHERN CAPE PROVINCE: Within the Khara Hais Local Municipality</i>

This authorisation does not negate the holder of the authorisation's responsibility to comply with any other statutory requirements that may be applicable to the undertaking of the activity.

Decision

The Department is satisfied, on the basis of information available to it and subject to compliance with the conditions of this environmental authorisation, that the applicant should be authorised to undertake the activities specified below.

Details regarding the basis on which the Department reached this decision are set out in Annexure 1.

Activities authorised

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act 107 of 1998) and the Environmental Impact Assessment Regulations, 2010 the Department hereby authorises -

ILANGA CSP 1

with the following contact details -

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SANDTON

2010

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to undertake the following activities (hereafter referred to as "the activities" indicated in Listing Notices 1, 2 and 3 (GN R 544, 545 & 546));

Notice number	Activity number	Activity description
GN R. 544	10(i)	<i>"The construction of facilities or infrastructure for the transmission and distribution of electricity outside urban areas or industrial complexes with a capacity of more than 33 kV but less than 275 kV"</i>
GN R. 544	13	<i>"The construction of facilities or infrastructure for the storage, or for the storage and handling of a dangerous good, where such storage occurs in containers with a combined capacity of 80 but not exceeding 500 m³"</i>
GN R. 544	22(ii)	<i>"The construction of a road outside urban areas where no reserve exists where the road is wider than 8 metres".</i>
GN R. 544	23(ii)	<i>"The transformation of undeveloped, vacant or derelict land to residential, retail, commercial, recreational, industrial or institutional use, outside an urban area and where the total area to be transformed is bigger than 1 ha but less than 20 ha except where such transformation takes place for linear activities".</i>
GN R. 545	1	<i>"The construction of facilities or infrastructure, including associated structures or infrastructure, for the generation of electricity where the electricity output is 20 megawatts or more".</i>
GN R. 545	15	<i>"Physical alteration of undeveloped, vacant or derelict land for residential, retail, commercial, recreational, industrial or institutional use where the total area to be transformed is 20 hectares or more; schedule will apply".</i>
GN R. 546	4(a) ii	<i>The construction of a road wider than 4 metres with a reserve less than 13,5 metres outside urban area.</i>
GN R. 546	10(ii)	<i>The construction of facilities or infrastructure for the storage, or storage and handling of a dangerous good, where such storage occurs in containers with a combined capacity of 30 but not exceeding 80 cubic metres outside urban areas</i>
GN R. 546	13 (c)	<i>The clearance of an area of 1 hectare or more of vegetation where 75% or more of the vegetative cover constitutes indigenous vegetation, except where such removal of vegetation is required for:</i> <i>(i) In an estuary;</i>

		(ii) <i>Outside urban areas.</i>
GN R. 546	16 (iii) (iv)	<i>The construction of buildings with a footprint exceeding 10 square metres in size; or infrastructure covering 10 square metres or more where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.</i>

- as described in the Environmental Impact Assessment Report (EIAR) dated July 2011 for the proposed construction of the 125MW Ilanga Solar Thermal Power Plant (STPP) and its associated infrastructure approximately 30 km east of Upington on an extent of 4.84 km² which falls within the jurisdiction of the Khara Hais Local Municipality in the Northern Cape Province, hereafter referred to as "the property".

The proposed development will comprise of the following primary elements:

- The solar field: this will comprise multiple loops of parabolic troughs which serve to receive and concentrate the solar radiation.
- The power block: comprising a conventional steam turbine generator and a substation into which the electricity can be evacuated.
- Water related infrastructure: consisting of an existing abstraction point near the farm Annashoek (i.e. associated with a still basin, a main pump set, a sand filter, and a coffer dam), a water supply pipeline, several water treatment and storage reservoirs, and evaporation ponds.
- Power evacuation: two 132kV power lines will be constructed which will connect into the existing Gordonia - Garona 132kV powerline to the north of the site.
- Associated infrastructure: a short internal access road, storerooms, parking facilities, security and administrative buildings, and temporary waste storage facilities.

Conditions of this Environmental Authorisation

Scope of authorisation

1. The preferred site (Site 1.2) located on the farm Zandem: 944 Portion C (28° 28' 48.11" S 21° 3' 51.46"E) and parabolic through technology are approved.

2. Authorisation of the activity is subject to the conditions contained in this authorisation, which form part of the environmental authorisation and are binding on the holder of the authorisation.
3. The holder of the authorisation is responsible for ensuring compliance with the conditions contained in this environmental authorisation. This includes any person acting on the holder's behalf, including but not limited to, an agent, servant, contractor, sub-contractor, employee, consultant or person rendering a service to the holder of the authorisation.
4. The activities authorised may only be carried out at the property as described above.
5. Any changes to, or deviations from, the project description set out in this authorisation must be approved, in writing, by the Department before such changes or deviations may be effected. In assessing whether to grant such approval or not, the Department may request such information as it deems necessary to evaluate the significance and impacts of such changes or deviations and it may be necessary for the holder of the authorisation to apply for further authorisation in terms of the regulations.
6. These activities must commence within a period of three (3) years from the date of issue of this authorisation. If commencement of the activity does not occur within that period, the authorisation lapses and a new application for environmental authorisation must be made in order for the activity to be undertaken.
7. Commencement with one activity listed in terms of this authorisation constitutes commencement of all authorised activities.
8. This authorisation does not negate the holder of the authorisation's responsibility to comply with any other statutory requirements that may be applicable to the undertaking of the activity.
9. Relevant legislation that must be complied with by the holder of this authorisation includes, *inter alia*:
 - The National Heritage Resources Act, 1999 (Act 26 of 1999) protecting the archaeological remains, artificial features and structures older than 60 years. Should any archaeological artefacts be exposed during excavation for the purpose of construction, construction in the vicinity of the finding must be stopped immediately. A registered Heritage Specialist must be called to the site for inspection. Under no circumstances shall any heritage material be destroyed or removed from the site and the relevant heritage resource agency must be informed about the finding. Heritage remains uncovered or disturbed during earthworks must not be disturbed further until the necessary approval has been obtained from the South African Heritage Resources Agency and/or any of their delegated provincial agencies.
 - Relevant provisions of the Occupational Health and Safety Act, 1993 (Act 85 of 1993).

- Relevant provisions of the National Water Act, 1998 (Act 36 of 1998)
 - Relevant provisions of the National Forests Act, 1998 (Act 84 of 1998).
 - Relevant provisions of the National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004).
 - Relevant provisions of the National Environmental Management: Protected Areas Act, 2003 (Act 57 of 2003) and its Regulations.
 - Should fill material be required for any purpose, the use of borrow pits must comply with the provisions of the Minerals and Petroleum Resources Development Act, 2002 (Act 28 of 2002) administered by the Department of Mineral Resources.
10. The holder of an environmental authorisation must notify the competent authority of any alienation, transfer and change of ownership rights in the property on which the activity is to take place.

Notification of authorisation and right to appeal

11. The holder of the authorisation must notify every registered interested and affected party, in writing and within 12 (twelve) calendar days of the date of this environmental authorisation, of the decision to authorise the activity.
12. The notification referred to must -
- 12.1. specify the date on which the authorisation was issued;
 - 12.2. inform the interested and affected party of the appeal procedure provided for in Chapter 7 of the Environmental Impact Assessment Regulations, 2010;
 - 12.3. advise the interested and affected party that a copy of the authorisation will be furnished on request; and
 - 12.4. give the reasons of the competent authority for the decision.
13. The holder of the authorisation must publish a notice -
- 13.1. informing interested and affected parties of the decision;
 - 13.2. informing interested and affected parties where the decision can be accessed; and
 - 13.3. drawing the attention of interested and affected parties to the fact that an appeal may be lodged against this decision in the newspaper(s) contemplated and used in terms of regulation 54(2)(c) and (d) and which newspaper was used for the placing of advertisements as part of the public participation process.

Management of the activity

14. The Environmental Management Programme (EMPr) submitted as part of the application for EA must be amended and include site-specific information and specifications resulting from the final walk-through surveys. This EMPr must be submitted to the Department for written approval prior to commencement of the activity. The recommendations and mitigation measures recorded in the EIR dated July 2011 and the conditions of this authorisation must be incorporated as part of the EMPr. Once approved, the EMPr must be implemented and adhered to.
15. A comprehensive habitat rehabilitation plan must be developed for the site. Restoration must be undertaken as soon as possible after completion of construction activities to reduce the area of habitat converted at any one time and to speed up the recovery to natural habitats. This plan must be incorporated as part of the Final EMPr.

Monitoring

16. The applicant must appoint a suitably experienced independent Environmental Control Officer (ECO) for the construction phase of the development that will have the responsibility to ensure that the mitigation/rehabilitation measures and recommendations referred to in this authorisation are implemented and to ensure compliance with the provisions of the EMPr.
17. The ECO shall be appointed before commencement of any authorised activities.
18. Once appointed, the name and contact details of the ECO must be submitted to the Director: Compliance Monitoring of the Department.
19. The ECO shall keep record of all activities on site, problems identified, transgressions noted and a task schedule of tasks undertaken by the ECO.
20. The ECO shall remain employed until all rehabilitation measures, as required for implementation due to construction damage, are completed and the site is ready for operation.
21. Records relating to monitoring and auditing must be kept on site and made available for inspection to any relevant and competent authority in respect of this development.

Recording and reporting to the Department

22. All documentation e.g. audit/monitoring/compliance reports and notifications, required to be submitted to the Department in terms of this authorisation, must be submitted to the *Director: Compliance Monitoring* at the Department.
23. The holder of the authorisation must submit an environmental audit report to the Department within 30 days of completion of the construction and rehabilitation activities.
24. The environmental audit report must indicate the date of the audit, the name of the auditor and the outcome of the audit in terms of compliance with the environmental authorisation conditions as well as the requirements of the EMPr.

Commencement of the activity

25. The authorised activities shall not commence within twenty (20) days of the date of signature of the authorisation.
26. The applicant must obtain the appropriate permits from the Department of Agriculture, Forestry and Fisheries (DAFF) for the removal of plants listed in the National Forest Act prior to commencement of the activity. A copy of the permit must be submitted to the *Director: Environmental Impact Evaluation* at the Department.
27. The applicant must obtain a Water Use Licence Authorisation (WULA) from the Department of Water Affairs (DWA) prior to the commencement of the project should the applicant impact on any wetland or water resource. The WULA must be submitted to the *Director: Environmental Impact Evaluation* at the Department.
28. The applicant must submit a revised layout plan for the entire solar thermal power plant for approval to the department and the layout should indicate the following:
 - Solar Thermal Power Plant positions;
 - Foundation footprint;
 - Permanent laydown area footprint;
 - Construction period laydown footprint;
 - Internal roads indicating width (construction period width and operation period width) and with numbered sections between the other site elements which they serve (to make commenting on sections possible);

- Wetlands, drainage lines, rivers, stream and water crossing of roads and cables indicating the type of bridging structures that will be used;
 - Heritage sites that will be affected by the facility and associated infrastructure;
 - Substation(s) and/or transformer(s) sites including their entire footprint;
 - Cable routes and trench dimensions (where they are not along internal roads);
 - Connection routes to the distribution/transmission network;
 - Cut and fill areas at the STPP site, along roads and at substation/transformer sites indicating the expected volume of each cut and fill;
 - Borrow pits;
 - Spoil heaps (temporary for topsoil and subsoil and permanently for excess material);
 - Buildings including accommodation; and
 - All 'no-go' areas
29. An appeal under section 43 of the National Environmental Management Act (NEMA), Act 107 of 1988 (as amended), does not suspend an environmental authorisation or exemption, or any provisions or conditions attached thereto, or any directive, unless the Minister, MEC or delegated organ of state directs otherwise.
30. Should you be notified by the Minister of a suspension of the authorisation pending appeal procedures, you may not commence with the activity until such time that the Minister allows you to commence with such an activity in writing.

Notification to authorities

31. Fourteen (14) days written notice must be given to the Department that the activity will commence. Commencement for the purposes of this condition includes site preparation. The notice must include a date on which it is anticipated that the activity will commence, as well as a reference number. This notification period may coincide with the period contemplated in 25 above.

Operation of the activity

32. Fourteen (14) days written notice must be given to the Department that the activity operational phase will commence.

Site closure and decommissioning

33. Should the activity ever cease or become redundant, the applicant shall undertake the required actions as prescribed by legislation at the time and comply with all relevant legal requirements administered by any relevant and competent authority at that time.

Specific conditions

34. Vegetation clearing must be kept to an absolute minimum. Mitigation measures must be implemented to reduce the risk of erosion and the invasion of alien species.
35. Total vegetation clearance must be avoided during the construction phase and must be restricted to the actual development footprint so as to save as many protected *B. albifruncia* as possible. Vegetation should be retained between panels and infrastructure to minimise the impact on protected trees.
36. No development is allowed within the critically endangered Lower Gariep Alluvial Vegetation type.
37. All areas of disturbed soil must be reclaimed using only indigenous grass and shrubs. Reclamation activities should be undertaken as early as possible on disturbed areas.
38. Streams, river, pans, wetlands, dams and their catchments must be protected from erosion and direct or indirect spillage of pollutants.
39. A final alignment of the water supply pipeline and location of the power line towers must be informed by surveys undertaken by an ecological and heritage specialist.
40. Construction must include appropriate design measures that allow surface and subsurface movement of water along drainage lines so as not to impede natural surface and subsurface flows. Drainage measures must promote the dissipation of storm water run-off.
41. Appropriate erosion mitigation must be implemented to prevent any potential erosion.
42. All temporary stockpiled material must be stockpiled in such a way that the spread of material are minimised.
43. Stock piles must not be higher than 2m in order to avoid compaction thereby maintaining the soil integrity and chemical composition.
44. Appropriate dust suppression techniques must be implemented on all exposed surfaces during periods of high wind. Such measures may include wet-suppression, chemical stabilisation use of wind fence covering surfaces with straw chippings and re-vegetation of open areas.



45. The applicant must reduce visual impacts during construction by minimising areas of surface disturbance, controlling erosion, using dust suppression techniques and restoring exposed soil as closely as possible to their original contour and vegetation.
46. A lighting engineer must be consulted to assist in the planning and placement of light fixtures in order to reduce visual impacts associated with glare and light trespass.
47. Construction activities must be restricted to daylight hours in order to negate or reduce visual impacts associated with lighting.
48. A traffic management plan must be prepared for the site access roads to ensure that no hazards would result from the increased truck traffic and that traffic flow would not be adversely impacted.
49. Signs must be placed along construction roads to identify speed limits, travel restrictions and other standard traffic control information. To minimize impacts on local commuters, consideration should be given to limiting construction vehicles travelling on public roadways during the morning and late afternoon commute time.
50. Internal access roads must be located away from drainage bottoms and avoid wetlands, if feasible.
51. Areas around fuel tanks must be bunded or contained in an appropriate manner as per the requirements of SABS 089:1999 Part 1.
52. Leakage of fuel must be avoided at all times and if spillage occurs, it must be remedied immediately.
53. Hazardous waste such as bitumen, oils, oily rags, paint tins, etc. must be disposed of at an approved hazardous waste landfill site.
54. During the construction phase of the development, an effective monitoring system must be put in place to detect any leakage or spillage of all hazardous substances during their transportation, handling, installation and storage. The applicant must ensure that precautionary measures to limit the possibility of oil and other toxic liquids from entering the soil or stormwater system are in place.
55. No dumping or temporary storage of any materials may take place outside designated and demarcated laydown areas and these must all be located within areas of low environmental sensitivity.
56. Hazardous and flammable substances must be stored and used in compliance with the applicable regulations and safety instructions. Furthermore, no chemicals must be stored nor any vehicle maintenance must occur within 350 m of the temporal zone of wetlands, a drainage line with or without an extensive floodplain, or hillside wetlands.

57. Temporary ablution facilities must be provided for staff at all times during the construction phase. The ablutions must be cleaned regularly with associated waste being disposed of at a registered/permited waste site and must be removed from the site when the construction phase is completed.
58. Potential fire hazards must be managed by ensuring that no open fires are permitted on site and that the construction personnel are made aware of the consequences of starting a fire on site to avoid damage to neighbouring farms.
59. The applicant must train safety representatives, managers and workers in workplace safety. The construction process must be compliant with all safety and health measures as prescribed by the relevant act.
60. An integrated waste management approach must be implemented that is based on waste minimisation and must incorporate reduction, recycling, re-use and disposal where appropriate. Any solid waste shall be disposed of at a landfill licensed in terms of section 20 (b) of the National Environment Management Waste Act, 2008 (Act No. 59 of 2008).

General

61. A copy of this authorisation and the approved EMP must be kept at the property where the activities will be undertaken. The authorisation and approved EMP must be produced to any authorised official of the Department who requests to see it and must be made available for inspection by any employee or agent of the holder of the authorisation who works or undertakes work at the property.
62. Where any of the applicant's contact details change, including the name of the responsible person where the applicant is a juristic person, the physical or postal address and/or telephonic details, the applicant must notify the Department as soon as the new details become known to the applicant.
63. The holder of the authorisation must notify the Department, in writing and within 48 (forty eight) hours, if any condition of this authorisation cannot be or is not adhered to. Any notification in terms of this condition must be accompanied by reasons for the non-compliance. Non-compliance with a condition of this authorisation may result in criminal prosecution or other actions provided for in the National Environmental Management Act, 1998 and the regulations.

64. National government, provincial government, local authorities or committees appointed in terms of the conditions of this authorisation or any other public authority shall not be held responsible for any damages or losses suffered by the applicant or his successor in title in any instance where construction or operation subsequent to construction be temporarily or permanently stopped for reasons of non-compliance by the applicant with the conditions of authorisation as set out in this document or any other subsequent document emanating from these conditions of authorisation.

Date of environmental authorisation: 26 October 2011



Mr Ishaam Abader

Deputy Director-General: Environmental Quality and Protection
Department of Environmental Affairs

Annexure 1: Reasons for Decision

1. Information considered in making the decision

In reaching its decision, the Department took, *inter alia*, the following into consideration -

- a) The information contained in the EIR dated July 2011;
- b) The comments received from the Department of Agriculture and Forestry and Fisheries (DAFF), the Department of Environment and Nature Conservation and interested and affected parties as included in the EIR dated July 2011;
- c) Mitigation measures as proposed in the EIR dated July 2011 and the EMP;
- d) The information contained in the specialist studies contained within Appendix E - K of the EIR dated July 2011.
- e) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act 107 of 1998).

2. Key factors considered in making the decision

All information presented to the Department was taken into account in the Department's consideration of the application. A summary of the issues which, in the Department's view, were of the most significance is set out below.

- a) Details provided of the qualifications of the EAP indicate that the EAP is competent to carry out the environmental impact assessment procedures.
- b) The need for the proposed project stems from the desire to evacuate additional electricity into the Eskom national grid which will serve to both strengthen the network and assist in the small scale alleviation of pressure of electricity generation from coal fired power stations, and to contribute to the National Government target for renewable energy.
- c) The EIR dated July 2011 included a description of the environment that may be affected by the activity and the manner in which the physical, biological, social, economic and cultural aspects of the environment may be affected by the proposed activity.
- d) The findings of all the specialist studies conducted and their recommended mitigation measures.

- e) The EIR identified all legislation and guidelines that have been considered in the preparation of the EIR dated July 2011.
- f) The methodology used in assessing the potential impacts identified in the EIR dated July 2011 and the specialist studies have been adequately indicated.
- g) A sufficient public participation process was undertaken and the applicant has satisfied the minimum requirements as prescribed in the EIA Regulations, 2010 for public involvement.

3. Findings

After consideration of the information and factors listed above, the Department made the following findings -

- a) The identification and assessment of impacts are detailed in the EIR dated July 2011 and sufficient assessment of the key identified issues and impacts have been completed.
- b) The procedure followed for impact assessment is adequate for the decision-making process.
- c) The proposed mitigation of impacts identified and assessed adequately curtails the identified impacts.
- d) All legal and procedural requirements have been met.
- e) The information contained in the EIR dated July 2011 is accurate and credible.
- f) EMP measures for the pre-construction, construction and rehabilitation phases of the development were proposed and included in the EIR and will be implemented to manage the identified environmental impacts during the construction process.

In view of the above, the Department is satisfied that, subject to compliance with the conditions contained in the environmental authorisation, the proposed activity will not conflict with the general objectives of integrated environmental management laid down in Chapter 5 of the National Environmental Management Act, 1998 and that any potentially detrimental environmental impacts resulting from the proposed activity can be mitigated to acceptable levels. The application is accordingly granted.