

Thirstlands of EAPASA: The failures of our environmental regulator

By Kevin Bloom • 18 July 2021



From left: Deputy Minister of Forestry and Fisheries and Environmental Affairs Makhotsa Soty. (Photo: Gallo Images / Foto24 / Deaan Vivier) | Singo Consulting' founder Dr Kenneth Singo. (Photo: singoconsulting.co.za) | Bezhoek Private Nature Reserve. (Photo: bezhoek.co.za)

As the legislated frontline in the battle against ecosystem collapse, the Environmental Assessment Practitioners' Association of South Africa is meant to hold a critical professional sector to account. But, as the case of Dr Kenneth Singo shows, the regulator is not doing its mandated job. If the country's priceless biodiversity is to survive, a whole lot needs to change – like, yesterday.

I.

If the tenor of the keynote address was any indication, 17 November 2020 was supposed to be a big day for the protection of South Africa's natural resources. As the date of the first annual general meeting of the Environmental Assessment Practitioners' Association of South Africa (EAPASA), the [address](#) was meant to mark a milestone, a high point in the quest to ensure that our most precious wilderness areas would remain pristine and unspoiled. There was no poetry in the speech – no talk of wetlands or grasslands or abundant marine reefs – but that was because the subject at hand was largely technical, a celebration of the “processes and procedures” that had been implemented to safeguard our ecological heritage.

In noting that it had been three years since the Department of Environment, Forestry and Fisheries appointed EAPASA “as the sole registration authority in terms of section 24H of the National Environmental Management Act”, Deputy Minister Makhotso Sotyú was focusing in her keynote on the long-overdue regulation of a critical professional sector. As everybody in the room knew, without credible and experienced environmental assessment practitioners, or EAPs, the country’s diverse ecosystems wouldn’t stand a chance against mining and heavy industry.

“It is my considered view,” said Sotyú, “that the professionalisation and regulation of the sector will improve the quality of the decisions we make on [environmental authorisation] applications, as both the regulator and consultants will have a highly competent cohort of assessment practitioners that are bound by the same set of rules.”

By speaking in the future tense, Sotyú was subtly acknowledging that there was still a lot of work to be done. But in highlighting EAPASA’s achievements since 2018, she was also acknowledging that the regulator was doing its core job — which, in a nutshell, was holding all registered EAPs to a code of conduct as required by law.

It was this mandate that Deon Johnston, an Afrikaans playwright and actor, probably best known for his role as Frans Nel in e.tv’s soapie *Scandal!*, accepted as a *fait accompli*. For years, Johnston had been living in the tiny hamlet of Presidentsrus on the banks of the Olifants River, a settlement that borders Bezuidenhoutshoek Farm, on which is situated the [Bezhoek Private Nature Reserve](#). Designated as “irreplaceable” in terms of the Mpumalanga Tourism and Parks Agency’s [biodiversity criteria](#) – and awaiting the national minister’s final approval for protected area status – the 4,500-hectare game farm had become something of a haven for Johnston.

So, in February 2021, when notices of mining permit applications placed by [Singo Consulting \(Pty\) Ltd](#) started appearing in the *Middelburg Observer*, Johnston and his close friend Sid Sidersky, a director of Bezuidenhoutshoek Farm, immediately registered as “interested and affected parties”. Determined to protect the reserve’s extensive grasslands, valleys and riverine forests from the ravages of the proposed mine, they began to look into the background of the EAP.

What they found was unexpected. An internet search revealed that Singo Consulting – or, more specifically, the company’s founder Dr Kenneth Singo – had been the subject of a [criminal charge laid by AfriForum](#) in August 2019. The allegation was that the EAP, in an environmental impact assessment prepared for [Manzolwandle Investments](#), had plagiarised the work of “other environmental consultants word for word”.

The reason for AfriForum’s interest in the matter, it turned out, was Manzolwandle Investments’ application to mine for coal over an 18,000-hectare tract of land on the border of the Kruger National Park near Komatipoort. But AfriForum wasn’t the only organisation with a vested interest – as an SABC news team would [discover](#), among those opposed to the mooted opencast coal mine were well-known human rights attorney Richard Spoor, the Marloth Park Ratepayers’ Association, the Kruger Lowveld Chamber of Business and Tourism and the directors of Ngwenya Lodge.

Aside from the plagiarism allegations, the news team’s agenda extended to the full list of documents that Singo Consulting had been obliged to submit in accordance

with the precepts of environmental legislation. Here, they discovered, “only some draft material” was available.

In the event, Manzolwandle Investments’ application for an environmental authorisation was [denied](#) on 17 November 2020, the very same day that Deputy Minister Sotyru addressed the EAPASA annual general meeting. But that wasn’t the concern of Johnstone and Sidersky. For them, the question was simple:

How had EAPASA so readily accepted Kenneth Singo as a registered EAP in late 2019, when, apart from the AfriForum criminal charge and the SABC news investigation, another serious allegation of plagiarism had been levelled against him that year?

II.

In item 4 of EAPASA’s “Code of Ethical Conduct and Practice”, which is enforced under [regulation 10 of section 24H of the National Environmental Management Act \(NEMA\)](#), there isn’t much room for manoeuvre.

“All EAPs,” the item [states](#), “must not conduct professional activities in a manner involving dishonesty, fraud, deceit, misrepresentation or bias.”

On 9 August 2019, the then registrar of EAPASA, Richard Hill, referred to the above legislation in response to a “request for an enquiry” sent three days earlier by Mariette Liefferink, CEO of the [Federation for a Sustainable Environment](#) (FSE). Liefferink had provided substantial evidence that Singo Consulting, working again on behalf of Manzolwandle Investments, had copied and pasted vast swathes of proprietary and location-specific text.

Here, although the mining right application was in the magisterial district of Barberton, Liefferink alleged that large sections of Singo Consulting’s work had been lifted from the environmental impact assessment of a wholly separate EAP, prepared on behalf of the LEFA Colliery in Sasolburg.

“Notwithstanding the fact that the EIAs are of completely different areas, geography, biodiversity, population profiles, etc,” wrote Liefferink, “the conclusions and remedial actions are identical.”

After noting that the matter was “not frivolous,” Liefferink pointed out that both Singo Consulting and the applicant, Manzolwandle Investments, could therefore be liable for “legal action”.

Hill’s response, ccd to the EAPASA secretariat and three senior members of the Department of Mineral Resources and Energy, was that Kenneth Singo was “not yet” registered as an EAP.

“EAPASA can only respond – under our legal mandate – to a complaint against an EAP who is registered,” he wrote in the email of 9 August 2019, “who will have signed our ‘Code of Ethical Conduct and Practice’ in accepting registration.”

The next correspondence in this specific email thread, as obtained by *Daily Maverick*, was sent more than 18 months later, on 24 March 2021, when Liefferink informed EAPASA that the FSE had “received a number of prospecting applications”

since the last enquiry. As the head of a “federation of community-based civil society organisations committed to the realisation of the constitutional right to an environment that is not harmful to health or wellbeing,” she wanted to know whether Singo had in the interim been registered as an EAP.

This time, the response came from Dr Patrick Sithole, who had taken over from Hill as the registrar. Sithole noted that Singo had indeed been registered – he provided a [link](#) to the relevant section of the website, which showed that the registration year was 2019 – and suggested that if Liefferink still had “some issues with him”, she should “raise a formal complaint using the attached form”.

The formal complaint was duly lodged, signed by a commissioner of oaths on 13 April 2021. In it, Liefferink laid out the history of Singo’s alleged plagiarism regarding the mining application in the Barberton area. She also provided detail on a prospecting application, for gold, diamonds, iron ore and manganese, that Singo had prepared for a company called [Alkemu Precision](#) – after the DMRE had approved the application, the FSE appealed the environmental authorisation.

Among the reasons for the appeal, Liefferink noted, was the fact that the prospecting application was in the region of the Boventse Oog (the source of the Mooi River) and the Klerkskraal Dam, which provide water to the “entire” Potchefstroom area.

“The prospecting application furthermore falls within a freshwater ecosystem priority area and two of the farms are listed in the Protected Areas Register,” she added.

As for Singo’s role, Liefferink’s complaint included the allegation that the EAP had neglected to mention, in the biodiversity assessment report, that “most of the site” had been categorised as either a critical biodiversity area or an ecologically sensitive area. On top of that, in the geological section of the EIA, Singo had provided an in-depth discussion of the Bushveld Igneous Complex, which was allegedly irrelevant since the application fell within a “dolomitic area”.

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It was with [Legare Mining’s](#) application for a prospecting right on the farm Rondavelskraal, however, that Liefferink – instead of working in hindsight – was attempting to nip a potential environmental catastrophe in the bud. Situated in the region of [Groot Marico](#), the tiny village in the North West surrounded by pristine African bushveld and made famous by Herman Charles Bosman, the farm had become the new frontline in the ongoing battle to bring Singo Consulting to account.

III.

On 7 April 2021, shortly after he’d learnt about the situation in Groot Marico and had made contact with Liefferink, Deon Johnston uploaded a video to YouTube under the title “Disingenuous Intent”. The video opened with Sid Sidersky in his 4×4 on the grasslands of the Bezhoek Reserve, pointing out on a map where Legare Mining – the same company that intended to prospect for chrome, nickel, cobalt and gold on Rondavelskraal – had applied to mine for coal on his own land. But the subject of the video wasn’t the mining company; it was the EAP that had prepared the applications.

“Our dealings with Singo have unfortunately come to nought,” Johnston said into the camera, addressing Michaela Roch r, an environmental scientist for the [Marico Biosphere Reserve](#). “We have not been able to speak to them. By the looks of it, your experience is very much the same.”

Roch r didn’t mince her words.

“One of the things that we are not sure Singo Consulting have taken into account is that the area where [Legare Mining] wants to prospect lies directly over three major rivers ... as we all know, prospecting might lead to mining. The Marico River forms part of the Greater Limpopo River [Basin], which is a transboundary [basin] between South Africa, Zimbabwe, Botswana and Mozambique. If this application goes ahead, it will influence not only the immediate area but it might have an influence on downstream users.”

When the focus then turned onto Liefferink, she made clear for the camera that she was acting in terms of section 31 of NEMA, specifically, that “disclosure is necessary to avert an imminent and serious threat to the environment”. Around six weeks after the video had been uploaded, on 21 May 2021, Liefferink would send an email to Singo Consulting alleging that the legislation had once again been breached.

The emphasis now was on encryption of documents, which the “interested and affected parties” (IAPs) in both the Bezhoek and Groot Marico matters had been forced to endure. Although Singo Consulting had replied to a query sent earlier that same day by Sidersky – “the motive behind the encryption of these documents is because people use them for fraudulent activities which can compromise our work”, the consultancy had explained – Liefferink wasn’t content to leave it there.

“The FSE is/was involved in a significant number of prospecting and mining applications,” she wrote, in the email that was cc’ed to EAPASA. “Singo Consulting’s encryption of documents is unusual and contrary to the norm. To exemplify, responsible mining companies and their EAPs use an integrated approach for public participation, recognising that stakeholders have a variety of technical and financial constraints.”

Either way, on the Groot Marico matter, when Liefferink finally got hold of the documents, she began to compile a list of “comments” for DMRE that would run to 14 pages. Submitted on 25 May 2021, the comments included the allegation that Singo’s hydrological study referred to a ferrochrome smelter when the application was for the prospecting of minerals – “we respectfully submit,” noted Liefferink, “that this adduces evidence of plagiarism, namely the copying and pasting of information from other irrelevant sources”.

Liefferink further alleged that there was no evidence of a compulsory site visit, that the required specialist studies had not been compiled and that the public participation process did not comply with the precepts of NEMA.

What she didn’t include – perhaps because she didn’t know it at the time – was the fact that Kenneth Singo had been the subject of a disciplinary hearing conducted by the South African Council for Natural Scientific Professions (SACNASP). As the [legislated regulatory body](#) for natural science practitioners in the country, it

appeared that SACNASP was treating the complaints against Singo with a lot more seriousness and urgency than EAPASA.

On 1 June 2021, RW Attorneys, acting on behalf of SACNASP, sent a letter to Denis Goffinet, chairman of the Marloth Park Ratepayers' Association. Goffinet had lodged a formal complaint against Singo regarding his alleged plagiarism on Manzolwandle Investments' application to mine for coal on the border of the Kruger National Park.

“The disciplinary tribunal found the respondent guilty of these transgressions and imposed an appropriate sanction,” the letter stated.

Internal correspondence obtained by *Daily Maverick* confirmed that Singo had been suspended from SACNASP for six months. A repeat offence, the correspondence stated, would result in Singo losing his accreditation as an EAP.

As Deputy Minister Sotyu had indicated in a keynote address of 17 November 2020, EAPASA had recently signed a memorandum of understanding with SACNASP. The MoU, concluded at the level of the EAPASA board and the SACNASP council, included the sharing of best practices on “professional conduct policy and regulation”.

And yet EAPASA registrar Sithole, when *Daily Maverick* contacted him for comment, said that his organisation “had not been informed” of the SACNASP decision.

“Although EAPASA and SACNASP have a signed MoU,” he informed us, “EAPASA will still follow its own internal processes.”

IV.

Singo Consulting is by no means an insignificant company. Established in 2008 and based in Emalahleni, its core business, according to the [website](#), is providing “geological, environmental and hydrological solutions” to the mining industry. The team, with Kenneth Singo as the principal consultant and Elelwani Singo as the chief operating officer, includes another 10 staff members, with clients that run the gamut from Transnet and the Steve Tshwete Municipality to the African Exploration Mining and Finance Corporation and Universal Coal.

At the time of writing, Kenneth Singo is listed on [BizPortal](#) as the company's sole director.

Still, despite his long history of alleged malpractice as outlined above, South Africa's environmental regulator has yet to make a pronouncement on the EAP's fate. In response to the fundamental question of how Singo had been registered *after* the AfriForum criminal charge, the SABC news investigation and the “request for an enquiry” lodged by Liefferink, Sithole had only the following to say:

“Individuals who register with EAPASA are required to follow the NEMA section 24H Registration Authority Regulations and the associated application process, as attached. All due diligence processes ... are followed to ensure a fair process. According to our records, no formal complaint from AfriForum was received by EAPASA.”

Is it EAPASA policy, we then asked, to vet and check every application for registration? If so, does the organisation have the capacity to perform this function?

“Yes,” Sithole responded, “EAPASA has the capacity to perform its functions in line with legislation and we follow a strict process of reviewing each and every individual application submitted through the formal process.”

As for the formal complaint lodged by Liefferink on 13 April 2021, Sithole did not tell us why, after three months, no decision had been made. Although *Daily Maverick* had been led to believe that a 90-day turnaround on complaints was mandatory, Sithole denied that this was the case.

Singo, for his part, did not respond to any of our questions.

All of which suggests that the broader situation, at best, is far from ideal. At worst, EAPASA’s unwillingness (or inability) to hold Singo to account is evidence of a deep structural breach of [section 24 of the Constitution](#), specifically, the right of every South African “to have the environment protected, for the benefit of present and future generations”.

From the cycad-rich grasslands of the Bezhoek Reserve to the riverine ecosystems of Groot Marico, almost all of the complaints that have so far been laid against Singo’s work appear to have two things in common – first, there are serious allegations of professional misconduct; second, the applications for prospecting or mining licences discount the ecological sensitivity of these regions.

Also, while the Singo matter is by far the most concerning case that *Our Burning Planet* has yet come across, it’s hardly unique. EAPs have been accused of malpractice in at least three of the stories we have covered over the last few months – the “Mordor at the Gates” series, where the EAP [clearly misrepresented](#) his qualifications; the “Big game parks vs big farming” [investigation](#), where it was alleged in court papers that the EAP lacked independence; and the “Sasol offshore drilling” [feature](#), where experts testified that the EAP had ignored the potential impact on marine protected areas.

The overriding problem, of course, is that until they are properly regulated, South Africa’s EAPs will remain at the mercy of the whims of their clients. Given that the majority of those clients are in the extractive sector, EAPASA’s current toothlessness is an environmental catastrophe in the making. **DM/OBP**