



the federation for a sustainable environment

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OBJECTION TO THE PROSPECTING RIGHT APPLICATION FOR COAL ON ALL PORTIONS OF THE FARM POMPOENKRAAL (SIC) 318 IT, SITUATED IN THE WAKKERSTROOM MAGISTERIAL DISTRICT UNDER THE MKHONDO LOCAL MUNICIPALITY, MPUMALANGA PROVINCE.

This objection to the prospecting right application is submitted on behalf of the Federation for a Sustainable Environment¹ (FSE).

PREFATORY

The application according to the BAR/EMPR is for “*all portions of the farm Pompoenkraal*”. The FSE hereby advises that there is no farm called “*Pompoenkraal*” within the Wakkerstroom Magisterial District.

The name “*Pompoenkraal*” is used throughout the BAR/EMPR.

It is assumed that the Environmental Assessment Practitioner incorrectly named the project area “*Farm Pompoenkraal*” instead of “*Farm Pampoenkraal*”.

LEGAL REQUIREMENTS

It should be noted that in terms of the June 2021 Amendments to the Environmental Impact Assessment Regulations of 2014 (EIA Regulations) written consent from the landowner or

¹ The FSE is 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 well-being, and to having the environment sustainably managed and protected for future generations. Their mission is specifically focussed on addressing the adverse impacts of mining and industrial activities on the lives and livelihoods of vulnerable and disadvantaged communities who live and work near South Africa’s mines and industries.

person in control of the land on which the mining or prospecting activity is to be undertaken must now be obtained.

The amendments to the EIA Regulations require that the landowner's consent is required prior to a right or permit even being granted under the MPRDA.

NEED AND DESIRABILITY

The definition of prospecting is to intentionally search for any mineral with the objective, if the mineral is found, to mine. The need and desirability of the prospecting application must therefore be considered in the context of the successor to prospecting, namely mining.

No person will incur the costs of prospecting unless the objective is to mine.

The Environmental Assessment Practitioner (EAP) motivated the need and desirability of the project as follows:

“Modern life is unimaginable without electricity. It lights houses, buildings and streets; provides domestic and industrial heat; and powers most equipment and machinery used in homes, offices and factories. Coal is the most abundant source of electricity worldwide, currently providing more than 36% of global electricity. Coal-fired power plants provide affordable, reliable and constant power that is available on demand to meet energy consumption needs. As much of the world lack access to modern, clean energy, coal is still essential to alleviating worldwide energy poverty.

“Socio-economic information of the Mkhondo Local Municipality provides an understanding of the need for economic development which is to further create employment opportunities. The people most affected by the proposed project is the community residing in the project area (Portion 05). Although there are economic activities taking place within the application area, most of the individuals residing within the project area remain unemployment (sic) and underprivileged.”

In terms of this statement, the EAP draws the conclusion that the prospecting application will result in coal mining, the supply and use of coal for coal-fired power plants and the production of dirty energy. It is furthermore suggested that the proposed project will provide employment and enrich individuals residing within the project area.

The EAP failed to consider the social costs of coal. Millions of people are routinely exposed to fuels from coal, which emit several noxious gases and particulates, which can be deadly. Acute Respiratory Illness, associated with exposure to particulates, is the second highest cause of mortality in children under the age of five.

Coal-fired power plants contribute to many health problems including asthma, lung and heart disease. Mercury emitted by coal-burning power plants adversely affects children and pregnant women most.

Climate change will affect human livelihoods. Pollution from coal affects the poorest people the most.

The EAP furthermore failed to consider the environmental costs associated with coal. It is a well-established fact that coal is acid producing. Acid Mine Drainage (AMD) is highly acidic and saline and contains a wide spectrum of metals in toxic concentrations. It is responsible for the most costly environmental and socio-economic impacts. Production of AMD may continue for many years after mines are closed. AMD is not only associated with surface and groundwater pollution, degradation of soil quality, for harming aquatic sediments and fauna, and for allowing heavy metals to seep into the environment but long-term exposure to AMD polluted drinking water may lead to increased rates of cancer, decreased cognitive function and appearance of skin lesions. Heavy metals in drinking water could compromise the neural development of the fetus which can result in mental retardation.

The EAP also failed to conduct a cost/benefit analysis, that is, the loss of potential jobs and the costs associated with ecological degradation, which limits economic opportunities. Prospecting and its successor - mining - in the project area have potentially serious consequences for the sustainability of the livestock farming enterprises, subsistence farming, timber plantations, water resources and sensitive wetlands, as well as eco-tourism activities and nature conservation land use.

The justification for this application and the EAP's reference to coal mining and coal-fired power plants is furthermore surprising in the light of the current COP 26 United Nations (UN) climate talks in which:

- Coal is being consigned to history at COP26, as countries, banks and organisations move away from the single biggest contributor to climate change.
- At least 23 countries have made new commitments to phase out coal power, including five of the world's top 20 coal power-using countries.
- Major international banks commit to effectively end all international public financing of new unabated coal power by the end of 2021.
- At least 25 countries and public finance institutions commit to ending international public support for the unabated fossil fuel energy sector by the end of 2022.
- The announcement of a historic climate finance agreement, which commits France, Germany the UK and the US to provide South Africa with \$8.5 billion² over the next three to five years, to assist South Africa to meet the lower end of its newly revised commitment to reduce carbon emissions.

The agreement includes the technical support to achieve an energy transition in a socially and economically just way that does not leave people reliant on the coal economy stranded.

The financing agreement would mean 15 gigawatts more renewable energy than contemplated in the Integrated Resources plan.

² The finance agreement will be in the form of multi-ad bilateral grants, concessional loans, guarantees and private investment.

The energy finance is conditional on phasing out coal.

- Eskom announced that “*as a major contributor to South Africa’s carbon footprint, Eskom will play a pivotal role in enabling a just energy transition from coal to low and no carbon sources of electricity generation*³.”
- South Africa’s new commitment to the UN is to reduce 350 megatonnes of carbon dioxide.

GAPS IN INFORMATION

While we are informed of the general project area, we are not informed of the specific areas where the holes will be drilled. The BAR/EMPR informs us that the areas to be drilled will be informed “*by the results of the previous phased approach.*” Interested and affected parties (IAPs) are therefore not in the position to meaningfully and intelligently comment on the potential impacts of the drilling holes.

There is no reference made whether the project area or the areas to be drilled fall within a strategic water source area although it is common knowledge that Wakkerstroom hosts the Mabola Protected Environment, which lies within the Ekangala/Drakensberg strategic water source area, a high-yielding catchment that feeds the Tugela, Pongola and Vaal rivers.

We are, however, informed that “*there are wetlands within and around the project area*” page 56 of the BAR/EMPR) and tributaries of the Ngwempisi River, which flow all year round .

If the project area buffers or falls within the Mabola Protected Environment, we respectfully request the DMRE to consider the objection lodged by the Centre of Environmental Rights, on behalf of *inter alia* the FSE, against the proposed prospecting right and environmental authorisation application (DMRE REF: MP 30/5/1/1/2/(16762) since the reasons for our objection will be similar. (Please refer to **ANNEXURE “A”**)

According to the EAP the NEM:Biodiversity Act, National Water Act and the NEM:Protected Areas Act do not have relevance to the proposed project. However, we are not supplied with information to substantiate the EAP’s statement. No specialist studies were undertaken for this project (page 94 of the BAR/EMPR).

The closure and rehabilitation plan is generic and insufficiently addresses the rehabilitation objectives. The closure and rehabilitation plan does not contain a record of interested and affected persons consulted regarding the closure objectives. Since they are the ultimate recipients of potential, ongoing or historical pollution and the current or future land users, the MPRD Regulations entail that IAPs must be involved in the agreements regarding future land use of affected areas and thus in the decisions regarding the establishment of objectives for

³ Mail & Guardian. November 5 to 11 2021. “New deal to boost clean energy.”

such future land use, as well as in discussing the alternatives for engineering interventions, where decisions regarding such options will affect the future land use.

FINANCIAL PROVISIONING

The financial provision was calculated utilising the methodology as prescribed by the Guideline Documents for the Evaluation of the Quantum of Closure Related Financial Provision Provided by a Mine issued by the DMRE.

The financial provisions ought to have been conducted in terms of the 2015 NEMA Regulations pertaining to the Financial Provision for Prospecting, Exploration, Mining or Production Operations.

SUBMITTED BY:

Mariette Liefferink

CEO: FEDERATION FOR A SUSTAINABLE ENVIRONMENT

6 NOVEMBER 2021.