



Centre for Environmental Rights

Advancing Environmental Rights in South Africa

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URGENT

Dear Commissioner Mbombo and Advocate Smit

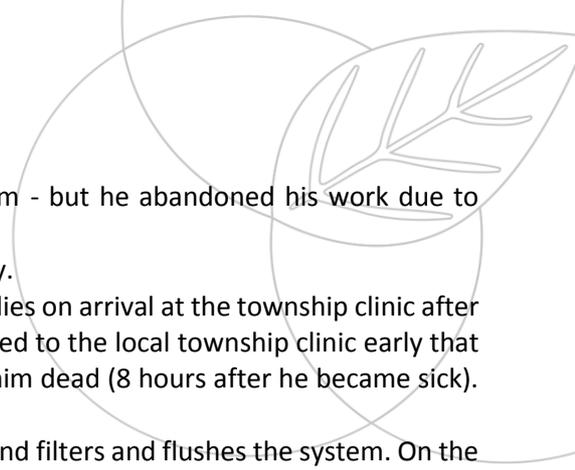
REQUEST FOR INVESTIGATION AND PROSECUTION OF POTENTIAL CRIMINAL OFFENCES LEADING TO THE DEATH OF THREE INFANTS FROM DRINKING WATER CONTAMINATION AT BLOEMHOF, NORTHWEST

Over the past two weeks, there have been multiple media reports of drinking water contamination in Bloemhof in the Lekwa Teemane municipality ("the municipality") in Northwest, resulting in hundreds of hospital admissions and the deaths of at least three babies from diarrhoea.

We draw your attention to the following, most of which is drawn from reports from the South African Press Association (see references at the end of this letter):

- In the week of 19 May 2014, more than a hundred children at Thuto Lore Secondary School in Boitumelong in Bloemhof report stomach cramps at school, and the principal instructs children not to drink the tap water. From Monday 26 May 2014, the school is closed as a result of this situation.
- On Saturday, 24 May 2014 the SAPS Community Centre in Bloemhof has to take more than 10 prisoners with diarrhoea in holding cells to clinics.
- Between Saturday, 24 May 2014 and Tuesday 27 May 2014, 200 people reported to clinics with symptoms typical of water contamination (stomach cramps, vomiting and diarrhoea).
- In the week of 26 May 2014, it is reported that Municipal Manager Andrew Makuapane blames a contractor for the water contamination, saying that "we know there was a sewage spillage and there was a contractor in

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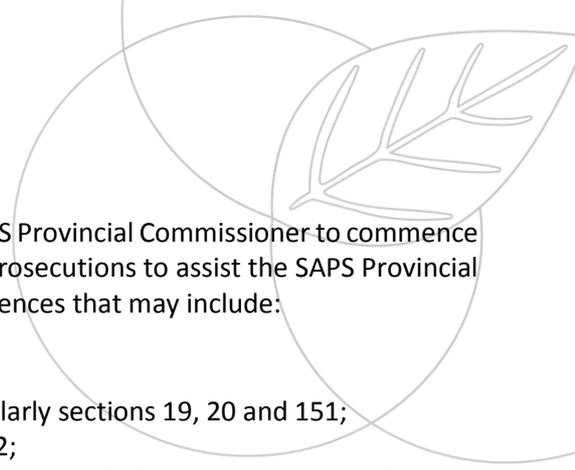
Extension Five in Boitumelong who was supposed to fix the problem - but he abandoned his work due to protest riots in the area."

- On Tuesday, 27 May 2014, a leaking pipe is closed by the municipality.
- On Wednesday, 28 May 2014, a baby of 9 months, Lehlonolo Sehau, dies on arrival at the township clinic after contracting severe diarrhoea. His mother, Ms Kehapilwe Sehau, walked to the local township clinic early that morning with her very sick baby, but the nursing sister pronounced him dead (8 hours after he became sick). By 5pm on that day, another 30 people had sought medical help.
- On Friday, 30 May 2014, the municipality drains the system, cleans sand filters and flushes the system. On the same day, another 5 babies are admitted to hospital for observation. The Northwest Health Department warns residents to continue to boil tap water before drinking.
- On Saturday, 31 May 2014, a Bloemhof pharmacy reports treating 65 people for stomach cramps, vomiting and diarrhoea.
- On Monday, 2 June 2014, the Northwest Health Department reports that another two babies (one 7 months old, and one 13 months old) had died of diarrhoea. It appears that the 13-month old was Onalenna Mogoregi, who started to vomit and have diarrhea on Monday, 26 May 2014. According to a media report, his mother Maserame Mogoregi took him to the clinic on that day, but was told that the clinic had run out of medicine. She took him home and kept giving him mageu and Powerade. On Wednesday, 28 May 2014 Ms Mogoregi took her son to the chemist, but he did not improve. On Thursday, 29 May 2014 she took him back to the clinic and he was put on a drip, and then moved to Bloemhof Hospital. On Friday, 30 May 2014 at 6am Onalenna was rushed to Klerksdorp Hospital, but died on the way to the hospital. Ms Mogoregi is reported as saying "I had been giving him the boiled water and the mixture as people were saying the water is bad. But (the government) told us too late."
- On the same day, the Northwest Premier announces the suspension of Lekwa Teemane Municipal Manager Andrew Makuapane. According to the Premier's spokesperson, a "forensic investigation was underway and a preliminary report was expected". The next day, the Member of Executive Council for Social Development, Women, Children and Persons with Disability Collen Maine is quoted as saying that Makuapane was suspended on charges of dereliction of duty and negligence". MEC Maine is also quoted as saying that he believed Makuapane failed to get an existing contractor to fix holes in sewerage pipes, which resulted in spillage. According to MEC Maine, the Municipal Manager should have called the contractor and made sure he was doing his job." It appears from this information that at least a month had passed between the date on which the maintenance work the contractor was engaged to do had been deserted, and the date on which people became ill and at least three infants died from drinking contaminated water.
- On Tuesday, 3 June 2014, the Northwest Health Department says 11 babies with diarrhoea had been admitted to Bloemhof Hospital since the previous week, and another 10 had been transferred to larger hospitals in Klerksdorp and Christiana.

The National Institute of Communicable Diseases stated the following in a statement on 2 June 2014:

"An outbreak of diarrhoeal disease in Bloemhof Municipality, North West Province, was reported during the week of 26 May 2014. Healthcare facilities in the area noticed an increase in the number of patients presenting with diarrhoea on Sunday 25 May 2014. On Monday 26 May 2014, numerous schools closed after more than 100 school children were ill with diarrhoea. Over 300 cases of diarrhoea were seen at healthcare facilities by Friday 30 May 2014, with 7 persons (mostly young children) requiring admission to hospital; the majority of cases were mild.

"A total of three deaths have been reported since the outbreak began - all were young children <2 years of age with diarrhoea complicated by dehydration who presented late to healthcare facilities. Laboratory testing of stool samples has excluded cholera as the cause of the outbreak. Final results of stool sample testing for other bacteria, viruses and parasites that commonly cause outbreaks of diarrhoea are pending. Water samples have also been submitted for laboratory testing, and results are awaited. There have been recent problems with safe water quality and supply in the area, with reports of sewage spillage and possible water supply contamination."



On the basis of the information set out above, we respectfully request the SAPS Provincial Commissioner to commence an urgent investigation, and for the Northwest Provincial Director of Public Prosecutions to assist the SAPS Provincial Commissioner in finalising a criminal docket for prosecution, into criminal offences that may include:

1. culpable homicide, in relation to the death of at least three infants;
2. contraventions of provisions of the National Water Act, 1998, particularly sections 19, 20 and 151;
3. contraventions of the Water Services Act, 1997 particularly section 82;
4. contraventions of the National Environmental Management Act, 1998, particularly sections 28, 30 and 49A(e) and (f).

We further respectfully request that the investigation considers the potential criminal liability of the Municipal Manager, the contractor allegedly engaged to fix the broken sewage pipe, any municipal employees whose responsibility it was to oversee the work of the contractor, and any party who had a legal duty to notify residents of proper measures to be taken to avoid becoming ill.

In the event that no prosecution will follow after that initial investigation, we respectfully request that a formal inquest be held into the deaths of the three infants to determine whether the deaths were brought about by any act or omission prima facie involving or amounting to an offence on the part of any person.

We would appreciate if you could acknowledge receipt of this letter, and notify us of your decision in response to our requests.

Yours faithfully

CENTRE FOR ENVIRONMENTAL RIGHTS

per: 

Melissa Fourie

Executive Director

Direct email: mfourie@cer.org.za

Media reports and statements:

- www.timeslive.co.za/local/2014/05/29/water-contamination-in-north-west-claims-a-life
- www.news24.com/SouthAfrica/News/Police-anticipating-trouble-in-Bloemhof-20140530
- www.news24.com/SouthAfrica/News/Bloemhof-water-system-cleaned-sanitised-20140530
- www.timeslive.co.za/local/2014/06/02/bloemhof-tests-for-cholera-negative
- www.iol.co.za/news/politics/manager-suspended-after-water-contamination-1.1697228#.U43ZJfmSwXE
- <http://www.timeslive.co.za/thetimes/2014/06/03/baby-deaths-placed-at-municipal-boss-s-door>
- <http://www.dwa.gov.za/Communications/PressReleases/2014/DWA%20STATEMENT%20ON%20POLLUTION%20OF%20THE%20VAAL%20RIVER%20IN%20THE%20BLOEMHOF%20AREA.pdf>
- <http://www.dwa.gov.za/Communications/PressReleases/2014/DWAS%20MEDIA%20STATEMENT%20ON%20THE%20SPILLAGES%20IN%20BLOEMHOF.pdf>
- <http://www.nicd.ac.za/?page=alerts&id=5&rid=343>
- <http://citizen.co.za/186715/one-dead-water-contamination-bloemhof/>
- <http://www.timeslive.co.za/local/2014/06/02/bloemhof-death-toll-rises---two-more-babies-die-from-diarrhoea>
- <http://citizen.co.za/188668/death-toll-three-bloemhof/>
- <http://www.iol.co.za/news/south-africa/north-west/filthy-water-death-devastates-mom-1.1697757>