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STATE ATTORNEY  
DX 298 PRETORIA

IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA

CASE NO: 65662/16

In the matter between :-

EARTHLIFE AFRICA JOHANNESBURG

Applicant

and

MINISTER OF ENVIRONMENTAL AFFAIRS

First Respondent

CHIEF DIRECTOR: INTEGRATED ENVIRONMENTAL  
AUTHORISATIONS, DEPARTMENT OF ENVIRONMENTAL  
AFFAIRS

Second Respondent

THE DIRECTOR: APPEALS AND LEGAL REVIEW  
DEPARTMENT OF ENVIRONMENTAL AFFAIRS

Third Respondent

THABAMETSI POWER PROJECT (PTY) LIMITED

Fourth Respondent

THABAMETSI POWER COMPANY (PTY) LTD

Fifth Respondent

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FIRST to THIRD RESPONDENTS'  
SUPPLEMENTARY AFFIDAVIT

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THE STATE ATTORNEY  
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TO: THE REGISTRAR OF THE  
ABOVE HONOURABLE COURT  
PRETORIA

AND  
TO: APPLICANT'S ATTORNEY  
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AND  
TO:

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*BY EMAIL*

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Case number: 65662/16

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**EARTHLIFE AFRICA JOHANNESBURG**

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and

**THE MINISTER OF ENVIRONMENTAL AFFAIRS**

First respondent

**CHIEF DIRECTOR: INTEGRATED ENVIRONMENTAL  
AUTHORISATIONS, DEPARTMENT OF  
ENVIRONMENTAL AFFAIRS**

Second respondent

**THE DIRECTOR: APPEALS AND LEGAL REVIEW,  
DEPARTMENT OF ENVIRONMENTAL AFFAIRS**

Third respondent

**THABAMETSI POWER PROJECT (PTY) LTD**

Fourth respondent

**THABAMETSI POWER COMPANY (PTY) LTD**

Fifth respondent

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**FIRST TO THIRD RESPONDENTS'  
SUPPLEMENTARY AFFIDAVIT**

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I, the undersigned,

**ZIYAAD HASSAM**

do hereby state under oath as follows:

1. I am the Director of Appeals and Legal Review for the Department of Environmental Affairs. I have been cited as the third respondent in this matter

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and am duly authorised to depose to this affidavit on behalf of the first and second respondents.

2. Unless the context indicates otherwise, the facts contained in this affidavit are within my personal knowledge. They are, to the best of my knowledge and belief, both true and correct. Where I make legal submissions, I do so on the advice of the first to third respondents' legal representatives.
3. In what follows, I refer to the applicant as "**Earthlife**", the first respondent as "**the Minister**", the second respondent as the "**Chief Director**", the fifth respondent as "**Thabametsi**" and the first to third respondents collectively as "**the Department**".

## INTRODUCTION

4. The purpose of this affidavit is to respond to the supplementary affidavit filed by Earthlife on 30 January 2017.
5. In that affidavit, Earthlife seeks to introduce, and to draw inferences from, the climate change impact assessment report on the Thabametsi power station, which was published on Friday 27 January 2017 ("**the report**"). The report was prepared by Savannah Environmental (Pty) Ltd, a firm appointed by Thabametsi.
6. Earthlife's supplementary affidavit is inadmissible, in that:
  - 6.1. The production of the report has nothing to do with, and can have no bearing on, the decisions under review.
  - 6.2. The report was released well after the Chief Director's decision to grant the environmental authorisation to Thabametsi and the Minister's

decision to dismiss Earthlife's subsequent appeal. It could not have influenced the decision-makers at the time that the impugned decisions were made. As such, the report is irrelevant to the determination of the review and is inadmissible in these proceedings.

- 7. In any event, the first to third respondents do not accept the inferences that Earthlife seeks to draw from the report. This point will be addressed in the Department's written and oral argument, should the need arise.
- 8. The report will be dealt with in accordance with the appropriate procedures. The Department will carefully assess the report. If the report requires action, it will take the steps that are necessary in terms of the applicable legislation, including the commissioning of further reports or the implementation of measures to mitigate the environmental impact of the Thabametsi power station.

2. Ek sertifiseer dat die verklaarder erken dat hy/ sy verstandig en onafhanklik is en dat hy/ sy die inhoud van die verklaring en die begrip Die verklaarder erken dat die inhoud van die verklaring waar is, so help my God. Ek bevestig ook dat die inhoud van hierdie verklaring waar is. Die verklaarder se handtekening moet in my teenwoordigheid op die verklaring aangebring.

(1) Do you know and understand the contents of the declaration?  
Answer: **Yes**

(2) Do you have any objection to taking the prescribed oath?  
Answer: **NO**

(3) Do you consider the prescribed oath to be binding on your conscience?  
Answer: **Yes**

2. I certify that the deponent has acknowledged that he/she knows and understands the contents of this declaration. I certify that the deponent utters the following words: "I swear that the contents of the declaration are true, so help me God." I truly affirm that the contents of the declaration are true. The signature of the deponent must be affixed to the declaration in my presence.

**Mrs. Thwala**  
Vrederegtster/Justice of the Peace  
Kommissaris van Ede/Commissioner of Oaths

Signed and sworn to before me at **PRETORIA** on this the **7<sup>th</sup>** day of **February** 2017, the deponent having acknowledged in my presence that he/she knows and understands the contents of this affidavit, the provisions of Government Gazette R1478 of 14 July 1980, as amended by Government Gazette R774 of 20 April 1982, concerning the taking of the oath, having been complied with.

**SPAO**  
Thaboo Selhime  
Pretoria  
**M.S. Thwala**

**ZIYAAD HASSAM**