

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Case no: 65662/16

In the matter between:

EARTHLIFE AFRICA JOHANNESBURG

Applicant

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

FIFTH RESPONDENT'S SUPPLEMENTARY ANSWERING AFFIDAVIT

I, the undersigned:

KAZUAKI SHIBUYA

do hereby state under oath as follows:

- 1 I am a director of the fifth respondent ("**Thabametsi**"). I am duly authorised to depose to this affidavit on behalf the fifth respondent, as appears from the resolution attached as "**SAA1**".



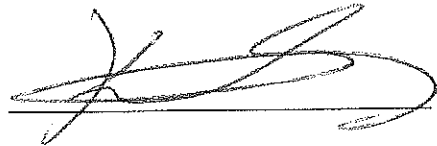
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- 2 This affidavit has been filed in response to the supplementary affidavit served by Earthlife Africa Johannesburg ("**Earthlife**"), the applicant in this matter, on Monday, 30 January 2017 ("**the supplementary affidavit**").
- 3 Thabametsi does not consent to the admission of the belated supplementary affidavit for the following reasons:
 - 3.1 the supplementary affidavit is entirely irrelevant to the issues and disputes under review in this application; and
 - 3.2 there is simply no legal basis to suggest that a document – in this case, the extracts of the climate change impact report selectively annexed to the applicant's supplementary affidavit ("**Report**" – prepared and published some 10 months after the impugned decision was taken), could be relevant in assessing the lawfulness of the Minister's impugned decision.
- 4 Further legal arguments in this regard will be made at the hearing of the application.
- 5 Nevertheless, in the event that the supplementary affidavit is admitted, Thabametsi stands by the contents of the Report. It disputes the inferences sought to be drawn by Earthlife in its supplementary affidavit. In particular, it disputes that it has either overstated its case or misrepresented the true facts in its answering affidavit.

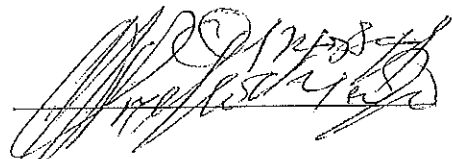


- 6 In amplification of the above, in the event that the contents of the report are admitted then Thabametsi submits that it should be considered in its entirety and not as isolated appendices singled out by Earthlife. As such, the entire Report is annexed hereto as "SAA2".
- 7 Further argument in this regard will be addressed at the hearing of the matter, should it be necessary.



DEPONENT

I HEREBY CERTIFY THAT THE DEPONENT HAS ACKNOWLEDGED THAT HE/SHE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT, WHICH WAS SIGNED AND AFFIRMED TO IT BEFORE ME AT Gallo Manor ON THIS THE 01 DAY OF ~~DECEMBER~~ ^{JAN. FEBRUARY} ~~2017~~, THE REGULATIONS CONTAINED IN GOVERNMENT NOTICE NO 3619 OF 21 JULY 1972 AND NO 1648 OF 19 AUGUST 1977 HAVING BEEN COMPLIED WITH.



COMMISSIONER OF OATHS
SOUTH AFRICAN POLICE SERVICE
CLIENT SERVICES CENTRE
GALLO MANOR
2017-02-01
KLIENTE DIENS SENTRUM
GALLO MANOR
SLUID AFRIKAANSE POLISIEDIENS

