



# Centre for Environmental Rights

## Advancing Environmental Rights in South Africa

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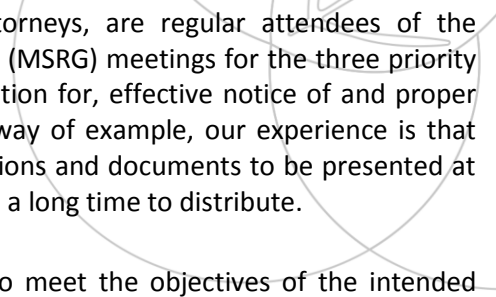
Our ref: CER/MF/RH  
22 August 2014

Dear Ms Ncgaba and colleagues at the Department of Environmental Affairs

### **PRIORITY AREAS: MANAGEMENT OF MULTI-STAKEHOLDER REFERENCE GROUP MEETINGS AND IMPLEMENTATION TASK TEAM MEETINGS**

1. As you know, the Centre for Environmental Rights (Centre) is a non-profit organisation and law clinic that works to advance environmental rights as guaranteed in section 24 of the Constitution. We represent various non-government and community organisations (CBOs) interested in and concerned with the implementation of Air Quality Management Plans (AQMPs) in the priority areas declared under section 18 of the National Environmental Management: Air Quality Act, 2004 (AQA): the Vaal Triangle Airshed Priority Area (VTAPA), the Highveld Priority Area (HPA) and the Waterberg Bojanala Priority Area (WBPA). These organisations include: groundWork, Earthlife Africa Johannesburg, the Vaal Environmental Justice Alliance, and the following community groups: Highveld Environmental Justice Network; Environmental Defence; Earthnogenesis; Greater Delmas Civic Movement; Greater Middleburg Residents' Association; Guqa Environmental Community Service; Highveld Environmental Network; Middelburg Environmental Justice Network; Middelburg Youth Against Climate Change; Outrageous Courage Youth; Schoongesicht Community Movement; Southern Africa Green Revolutionary Council and Wonderfontein Resettlement Forum.

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2. The organisations we represent, and more recently the Centre's attorneys, are regular attendees of the Implementation Task Team (ITT) and Multi-Stakeholder Reference Group (MSRG) meetings for the three priority areas. We and our clients are increasingly concerned about the preparation for, effective notice of and proper record-keeping of the proceedings of the MSRG and ITT meetings. By way of example, our experience is that stakeholders only receive agendas shortly before the meeting; presentations and documents to be presented at the meeting are not provided in advance; minutes are not in order or take a long time to distribute.
  3. We believe that these flaws are impeding the ability of stakeholders to meet the objectives of the intended process, and for the goals of the AQMPs to be met. We also believe that the lack of access to key documents is hampering effective participation and implementation of the AQMPs.
  4. On behalf of ourselves and the organisations we represent, we therefore respectfully request that the Department and the National Air Quality Officer urgently assist us with implementing the following measures that we believe will aid the effectiveness of the proceedings and the implementation of the AQMPs. We will also be tabling all of these proposals at the various MSRG and ITT meetings, but since some of our requests can only be implemented by the Department, we respectfully request your assistance in relation thereto:

#### ITT and MSRG meetings

- 4.1. A draft agenda for each ITT or MSRG meeting must be circulated at least 30 days in advance, attaching the Terms of Reference for the particular forum, with an opportunity for all stakeholders to propose agenda items.
- 4.2. The final agenda for each ITT or MSRG meeting, presentations or documents to be presented at the meeting, and amended draft minutes of the previous meeting (see 4.5 below), must be circulated at least 7 days in advance of the meeting.
- 4.3. To the extent that this is not currently implemented, the meeting agendas should also have as standing items:
  - 4.3.1. Progress reports against specific objectives and activities within the timeframes in the AQMPs, and progress towards achieving the AQMP goals;
  - 4.3.2. all applications for Atmospheric Emission Licences (AELs), all applications to amend or renew AELs, variations of AELs, and all appeals against AELs in the particular priority area.
- 4.4. Within 7 days after each meeting, the following must be circulated:
  - 4.4.1. draft minutes with action items, with an opportunity to comment on those within a further 7 days;
  - 4.4.2. copies of presentations made and documents presented; and
  - 4.4.3. the attendance register must be made available.
- 4.5. The next draft minutes, incorporating comments and highlighting any disputes on minutes that arose from comments, should be made available 14 days after the meeting (and again circulated with the final agenda as per 4.2 above).
- 4.6. The date for next meeting must be finalised and announced at the previous meeting.
- 4.7. In the Waterberg Bojanala PA, community organisations report that residents in the area are often unable to attend meetings that are held in towns far from where they reside - in some instances meetings are 200 kilometers away, and therefore inaccessible. We would like to appeal that the DEA support the attendance

of CBOs and the public to these meetings. The Air Quality Framework Act recognises that the successful development and implementation of an AQMP is also dependent on multi-stakeholder involvement throughout the process.<sup>1</sup> It is important to ensure that all interested and affected parties attend these meetings.

#### Information storage and access

- 4.8. All documents, agendas, minutes, presentations, attendance registers and any other relevant documents from ITT and MSRG meetings must be stored centrally, online and made easily accessible. The current SAAQIS website is not user-friendly, and not updated on a regular basis. We request that the Department urgently creates a special location on its own website for each Priority Area where documents like the AQMP, reports against the AQMP, and all the documents from the ITT and MSRG meetings can be uploaded and easily accessed.
- 4.9. We have raised with the Department on a number of occasions the ongoing struggles of communities and NGOs to access AELs. Access to these AELs is crucial for proper stakeholder participation in the priority areas, and we therefore request that all AELs for listed activities in the priority areas:
- 4.9.1. be made available and stored as suggested in paragraph 4.8 above; and
  - 4.9.2. be made available by the licence holders on their websites.
5. Much work remains to be done to ensure that the ambient air quality in all the PAs complies with the national ambient air quality standards (NAAQS), as envisaged by the various AQMPs. By way of example, Goal 1 in the HPA AQMP calls for the optimisation of organisational capacity in government to efficiently and effectively maintain, monitor and enforce compliance with ambient air quality standards.<sup>3</sup> It also calls for capacity development in the AQMP, looking at the necessary structures, systems, skills, incentives, inter-relationships and strategy.<sup>4</sup> The MRSRG and ITT are examples of such structures, and their effective and transparent management is paramount.
6. We are confident that, with a few improvements, these key priority area meetings can become the fully collaborative, structured and effective meetings that they are intended to be. Kindly assist us with implementing these requests.

Yours faithfully

**CENTRE FOR ENVIRONMENTAL RIGHTS**

per: 

**Melissa Fourie**  
**Executive Director**

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<sup>1</sup> National Air Quality Framework, 29 November 2013, GG 37078 p77.

<sup>3</sup> Highveld Priority Area-Air Quality Management Plan 2012 pxvi.

<sup>4</sup> Highveld Priority Area-Air Quality Management Plan 2012 pxvi.