



Centre for Environmental Rights

Advancing Environmental Rights in South Africa

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Dear Sirs and Mesdames

REQUEST FOR MEETING TO DISCUSS WAY FORWARD ON ESKOM'S NON-COMPLIANCE WITH EMISSION STANDARDS

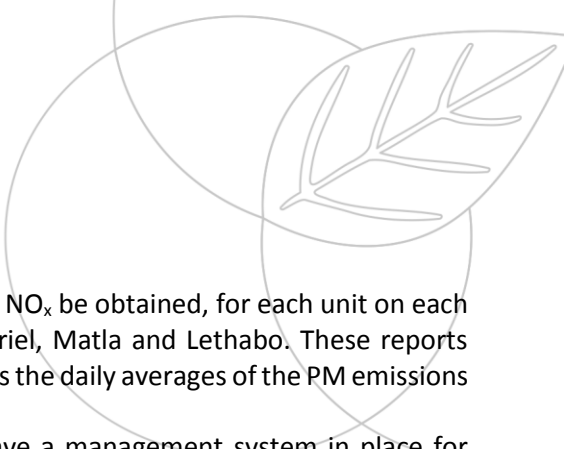
1. We address you on behalf of our clients groundWork, Earthlife Africa Johannesburg, the Highveld Environmental Justice Network (HEJN) and the Vaal Environmental Justice Alliance. We refer to our email correspondence of 29 September 2015, and various follow-up correspondence in which we alerted the Department to likely non-compliance at Eskom's Kendal, Tutuka and Lethabo stations with regard to emission standards in the relevant atmospheric emission licences (AELs) and asked that this be investigated, with a view to taking enforcement action, if appropriate.¹ The purpose of this letter is to follow up this request, with additional information which we would like to present to you in a meeting.
2. You will recall that Eskom sought – and largely obtained – widespread postponements of compliance with minimum emission standards (MES).² It has again sought to postpone compliance with 2015 SO₂ emission standards for Medupi and Matimba, even though such postponements were already refused by the National Air Quality Officer, and despite the legal requirement that all applications for postponement of compliance have to be made at least one year prior to the commencement of the relevant MES.³
3. We have subsequently obtained additional documents from Eskom⁴ in order to ascertain whether it is complying with emission standards in its AELs. In light of this, Professor Eugene Cairncross has prepared a report (“the report”), which assesses Eskom's compliance with their AELs over the period 1 April 2015 to 31 March 2016, and classifies their pollutant and CO₂ emissions intensities. A copy of this report is attached hereto.
4. The report highlights various non-compliances with emissions standards, and points out that:
 - 4.1. the estimated monthly average **PM₁₀** concentrations indicate that 7 (**Duvha, Grootvlei, Kendal, Komati, Kriel, Matla, Lethabo**) of 12 power stations were “**very likely or likely**” **non-compliant with their PM10 licensed limit values in 2015/16;**
 - 4.2. the **Kendal** May to September 2015 monthly reports show specific instances, **37** in total, **of violations of licensed PM₁₀ limit values.**
 - 4.3. **Komati and Kriel are likely to also be in non-compliance** with their **NO_x** limits in 2015/2016;
 - 4.4. the **Duhva** audit report noted that the AEL **PM10 limit of 100 mg/Nm³ was regularly exceeded during 2014/2015;**
 - 4.5. **Tutuka, Kriel, Grootvlei, Matla, Lethabo, Kendal and Komati** are all exceeding their **planned 2015/2016 PM10 emission intensities.** Furthermore, in terms of PM₁₀ emission intensities, the **highest 3 emitters (Tutuka, Griel and Grootvlei)** emit 10 times more PM₁₀ than the 3 lowest emitters (Hendrina, Matimba and Majuba), per GWhSO;
 - 4.6. in terms of SO₂ emissions intensities, **Matimba and Hendrina are the 2 highest SO₂ polluting plants,** emitting 70% more SO₂ than the 2 least polluting plants (Matla and Majuba); and
 - 4.7. the **NO_x emissions intensities of the 2 highest emitters (Kriel and Komati)** were about 2.6 times higher than the 2 lowest emitters (Kendal and Matimba).

¹ The letter available here, summarises the relevant emission standards, per station: http://cer.org.za/wp-content/uploads/2016/07/CER-Letter-to-Eskom-re-emission-reduction-plans-and-decom-plans-for-all-15-power-stations_25-April-2016.pdf

²<http://cer.org.za/virtual-library/letters/eskom/eskoms-applications-to-delay-compliance-with-aqa-minimum-emissions-standards>

³ <http://cer.org.za/news/eskom-flouts-air-pollution-laws-and-world-bank-loan-conditions>

⁴ Following various PAIA requests to Eskom, the following documents were made available: (i) the Annual Reports (from 1 April 2015 to 31 March 2016) for all 14 Eskom power stations; (ii) the AELs issued on 31 March 2015 for the first cycle of AELs under the MES; (iii) the Compliance Audit Reports for the Camden, Hendrina, Duhva and Komati power stations; and (iv) 13 reports (Grootvlei's missing) on flue gas monitoring instrument calibration (for gas measurement) and/ or correlation (for PM₁₀ measurement).

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5. In light of the above findings, Cairncross recommends the following:
- 5.1. that reports of the daily average concentrations of PM₁₀, SO₂ and NO_x be obtained, for each unit on each plant, for 2015 – 2016, for Duhva, Grootvlei, Kendal, Komati, Kriel, Matla and Lethabo. These reports should be in a readily assimilated graphical format which illustrates the daily averages of the PM emissions over the full year against the emission limits for each unit;
 - 5.2. that it be ascertained whether the relevant local authorities have a management system in place for adequately monitoring compliance with the AELs;
 - 5.3. that the reporting requirements of the MES be elaborated on, clarified and standardised through the promulgation of an official guideline – which includes templates of the Annual Reports and Monthly Reports. In this regard, paragraph 19 of the List of Activities, 2013 requires Annual Reports to be in the format of the internet-based National Atmospheric Emissions Inventory System (NAEIS). Paragraph 17 of the List of Activities indicates that annual reports should be in the form specified by the National Air Quality Officer. The NAEIS and MES have significantly different reporting requirements, as well as differing air quality objectives and functions. The reporting functions and requirements of the MES should not be subordinated to those of the NAEIS. The reporting formats should, as far as possible, be reconcilable with each other;
 - 5.4. that all AELs be amended to clarify reporting requirements and to correct omissions contained within current AELs with respect to reporting requirements; and
 - 5.5. that all annual reports be amended to provide for the inclusion of the daily average pollutant concentrations, as monthly aggregate emissions for each of the regulated pollutants cannot be used to accurately determine whether there is compliance with AEL limit values.
6. Ambient air quality standards remain out of compliance in the Vaal Triangle Airshed Priority Area, which was declared more than 11 years ago, as well as in the Highveld Priority Area (HPA), despite its declaration almost a decade ago. Eskom, which has twelve (including Kusile) power stations in the HPA, is the largest emitter in the HPA, and ensuring that it complies at least with its emission standards (which are generally lower than the MES, as a result of the postponements) should make a meaningful contribution to lowering the excessive air pollution in the HPA.
7. In the circumstances, we are instructed to request a meeting with you to explain this report and its implications. Please propose provisional dates for this purpose.
8. We would appreciate your response by 9 June 2017.

Yours sincerely

CENTRE FOR ENVIRONMENTAL RIGHTS

per: 

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