



Centre for Environmental Rights

Advancing Environmental Rights in South Africa

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Our ref: CER/MF/RH/SK
Date: 29 October 2014

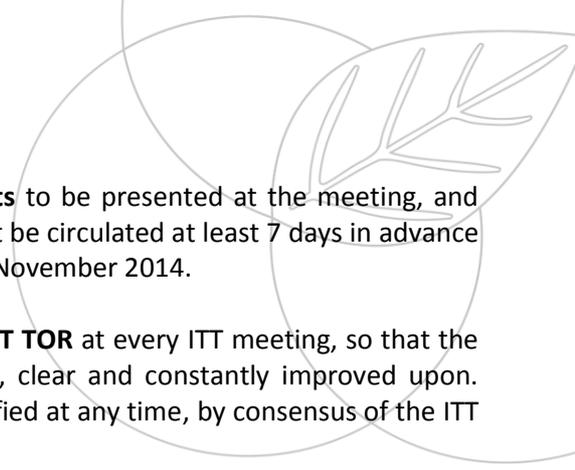
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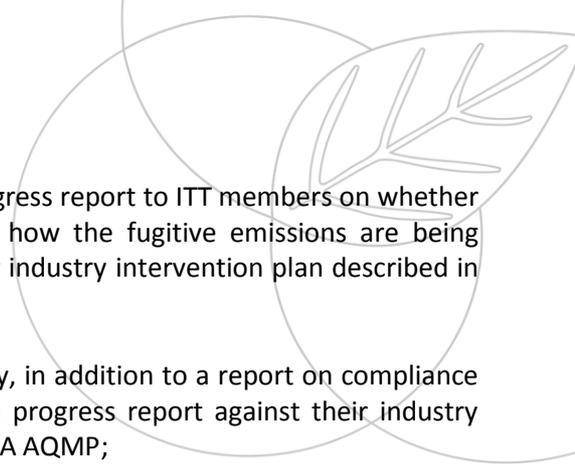
Dear Mr Mahlangu

NKANGALA IMPLEMENTATION TASK TEAM (ITT) MEETING ON 13 NOVEMBER 2014

1. As you know, the Centre for Environmental Rights (CER) represents a number of non-government and community organisations who work to ensure the proper implementation of the National Environmental Management: Air Quality Act, 2004 (AQA), and in particular the objectives of the Air Quality Management Plan (AQMP) for the Highveld Priority Area (HPA). These include: groundWork, Earthlife Africa Johannesburg, 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; Mpumalanga Youth Against Climate Change; Outrageous Courage Youth; Schoongesicht Community Movement; Southern Africa Green Revolutionary Council and Wonderfontein Resettlement Forum.
2. We write to you today in your capacity as chairperson of the Nkangala District Municipality (NDM) Implementation Task Team (ITT). On behalf of our clients, we want to make specific requests for the upcoming meeting on 13 November 2014, which are aimed at realising the goals of the HPA AQMP. Some of these requests have already also been made to the chair of the Multi-Stakeholder Reference Group Meeting, and will be made to other ITT chairs.
3. We therefore request that you assist us with the implementation of the following requests:
 - 3.1. A **draft agenda** for each ITT meeting must be circulated at least 30 days in advance, attaching the Terms of Reference (TOR) for the particular forum, with an opportunity for all stakeholders to propose agenda items. As at date hereof, we have not received the agenda for the meeting scheduled for 13 November 2014 (and therefore trust that our requests in 3.4 below can be incorporated into that agenda).

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- 3.2. The **final agenda** for each ITT meeting, **presentations or documents** to be presented at the meeting, and **amended draft minutes of the previous meeting** (see 5 below), must be circulated at least 7 days in advance of the meeting (for the 13 November meeting, that date would be 6 November 2014).
- 3.3. Stakeholders must be provided with an opportunity to review the **ITT TOR** at every ITT meeting, so that the roles and responsibilities for all the stakeholders are well defined, clear and constantly improved upon. Paragraph 7.12 of the ITT TOR provides that these TOR may be modified at any time, by consensus of the ITT members.
- 3.4. We request that the following be **standing items** on each ITT meeting agenda:
- 3.4.1. the air quality officer (AQO) or other official must provide a **brief review of the HPA AQMP** as it relates to the NDM, with particular references to progress against specific objectives and activities within the timeframes in the HPA AQMP as applicable to NDM. In particular, this review must include information about compliance inspections undertaken, enforcement action taken, and whether there are any vacancies for staff at NDM in the department responsible for implementation of the HPA AQMP;
- 3.4.2. the AQO or other official must give an **overview and a report back** on:
- 3.4.2.1. the status of the air quality for NDM. This should include an air quality data presentation for at least the previous 6 months, discussing exceedances and investigations into exceedances undertaken, and this should be compared to the previous 6 months or other agreed period;
- 3.4.2.2. all applications for Atmospheric Emission Licences (AELs), all applications to vary or renew AELs, all appeals against AELs, and any exemption or postponement applications from minimum emission standards in the NDM;
- 3.4.2.3. all new projects for which environmental authorisation is sought in the NDM; and
- 3.4.2.4. any compliance monitoring and enforcement action undertaken in the NDM.
- 3.4.3. **at least three facilities must present** on their compliance with obligations in terms of their AELs and their obligations in terms of the AQMP. The industries to present at the next ITT meeting should be identified and agreed upon at the end of every meeting. For the purposes of the upcoming meeting on 13 November 2014, we would like to request that the following industries be requested to present at the ITT meeting:
- 3.4.3.1. **Columbus Steel:** In the case of this facility, in addition to a report on compliance against their AEL, we would also like to receive a progress report against their industry intervention plan described in Appendix 6 of the HPA AQMP;
- 3.4.3.2. **Highveld Steel & Vanadium:** In the case of this facility, the National Environmental Compliance & Enforcement Report (NECER) for 2012/13 and 2013/14 recorded various non-compliances against Highveld Steel including: air emission exceedances, lack of adequate monitoring; the undertaking of unauthorised Atmospheric Prevention of Pollution Act (APPA) scheduled processes, and exceedances in relation to production and use of raw materials. The 2013/14 NECER recorded that there have been periodic and regular breakdowns at the iron plants resulting in uncontrolled emissions to the atmosphere and noting the need for improved maintenance procedures. In addition to a report on compliance against their AEL and the extent to which identified violations have been rectified, we would also like to receive a progress report against their industry intervention plan described in Appendix 6 of the HPA AQMP;
- 3.4.3.3. **Samancor Middelburg:** In the case of this facility, the NECER 2012/13 reported non-compliances with conditions of the APPA permits and fugitive emissions from the material



stockpiles. Samancor should provide a detailed progress report to ITT members on whether these non-compliances have been remedied and how the fugitive emissions are being managed, as well as a progress report against their industry intervention plan described in Appendix 6 of the HPA AQMP; and

3.4.3.4. **Middelburg Ferrochrome:** In the case of this facility, in addition to a report on compliance against their AEL, we would also like to receive a progress report against their industry intervention plan described in Appendix 6 of the HPA AQMP;

(please note that, in accordance with paragraph 3.2 above, these industries should make available their presentations at least 7 days in advance)

3.4.4. the AQO or other official must provide an update on industries that have submitted – and those that have failed to submit - **industry intervention plans** as required in Appendix 6 of the HPA AQMP.

4. **Within 7 days after each meeting**, we request that the following be circulated:

- 4.1. draft minutes with action items, with an opportunity to comment on those within a further 7 days;
- 4.2. copies of presentations made and documents presented; and
- 4.3. the attendance register.

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 3.2 above).

6. The **date for next meeting** must be finalised and announced at the previous meeting.

7. We make these requests with the sole aim of promoting the realisation of the objectives in the HPA AQMP in NDM. From our engagement with you, we know and appreciate that you share this objective.

8. Please let us know if you need any more information, or if there is anything else we can do or provide to assist with the implementation of these requests.

Yours sincerely

CENTRE FOR ENVIRONMENTAL RIGHTS

per: 

Melissa Fourie

Executive Director

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