

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Case number: 21559/18

In the matter between:

EARTHLIFE AFRICA NPC First Applicant

**THE TRUSTEES FOR THE TIME BEING
OF THE GROUNDWORK TRUST** Second 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 COMPANY (PTY) LTD Fourth Respondent

FOUNDING AFFIDAVIT IN THE APPLICATION TO COMPEL

I the undersigned

NICOLE LOSER

do hereby make oath and state:-

- 1 I am a duly admitted attorney of the Western Cape High Court, and practising as such at the Centre for Environmental Rights ("CER"), a non-profit company and

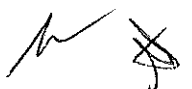


a Law Clinic registered with the Law Society of the Cape of Good Hope, and the applicants' attorneys of record in these proceedings.

- 2 I am duly authorised to depose to this application on behalf of the applicants, as evidenced by the resolutions attached marked "NL1" and "NL2" respectively.
- 3 The facts contained in this affidavit are true and correct and are within my personal knowledge except where it is apparent from the context that they are not.

PARTIES

- 4 The first applicant is **EARTHLIFE AFRICA**. Earthlife Africa is a registered non-profit company with registration number 2017/449921/08, with its registered address at 87 De Korte Street, 5th Floor, Heerengracht Building, Braamfontein, Johannesburg.
- 5 The second applicant is the **GROUNDWORK TRUST** ("groundWork"), as represented by its trustees. It is a non-profit environmental justice service and developmental organisation, with its principal place of business at 6 Raven Street, Pietermaritzburg.
- 6 The first respondent is the **MINISTER OF ENVIRONMENTAL AFFAIRS** ("the Minister"), cited in her official capacity as the appeal authority in terms of section 43(1) of the National Environmental Management Act, 1998 ("**NEMA**").



- 7 The second respondent is the **CHIEF DIRECTOR: ENVIRONMENTAL AUTHORISATIONS, DEPARTMENT OF ENVIRONMENTAL AFFAIRS** (“**Chief Director**”), cited in his official capacity as the competent authority who granted the integrated environmental authorisation with reference number 14/12/16/3/3/3/40 on 25 February 2015.
- 8 The third respondent is **THE DIRECTOR: APPEALS AND LEGAL REVIEW OF THE DEPARTMENT OF ENVIRONMENTAL AFFAIRS** (“**the Appeals Director**”), cited in his official capacity as the authority responsible for administering appeals and making recommendations to the Minister.
- 9 The first to third respondents are referred to collectively as “**the government respondents**”.
- 10 The fourth respondent is **THABAMETSI POWER COMPANY (PTY) LIMITED** (“**Thabametsi**”), a limited liability company, duly registered in accordance with the laws of South Africa, with its registered address at 1st Floor BLD Harrowdene Office P, Western Services Road, Woodmead Sandton, Gauteng, 2191.

NATURE OF THIS APPLICATION

- 11 On 27 March 2018, the applicants instituted a review application in accordance with Rule 53, in which they seek an order, *inter alia*:

11.1 reviewing and setting aside the decision of the Chief Director to grant Thabametsi an environmental authorisation for the establishment of a 1

200 megawatt independent coal-fired power station near Lephalale in Limpopo; and

11.2 reviewing and setting aside the decision of the Minister dismissing Earthlife Africa's appeal against the Chief Director's decision.

12 I attach the notice of motion and returns of service in the main application as "NL3" and "NL4" respectively.

13 In terms of Rule 53(1)(b), the government respondents were required, by no later than 19 April 2018, to despatch to the Registrar the complete record of proceedings, together with such reasons as they are by law required or may desire to give or make.

14 Despite repeated requests, the government respondents failed to deliver the Rule 53 record. The applicant therefore served a notice in terms of Rule 30A on the government respondents, calling on them to comply with their obligations under Rule 53(1)(b). To date, they have failed to do so.

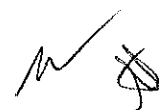
15 The applicants accordingly bring this application to compel compliance with the Rule.

FACTUAL BACKGROUND

16 As explained above, the applicants instituted the review application on 27 March 2018. In their notice of motion, the applicants called upon the government respondents to despatch to the Registrar of this Court, within 15 days, the record

of the impugned decisions, together with such reasons as they are by law required or desire to provide, and to notify the applicant that they had done so.

- 17 The record and reasons were accordingly due on or before 19 April 2018 – more than six months ago.
- 18 On 26 April 2018, I wrote to the government respondents seeking clarity as to which person within the office of the State Attorney was dealing with the matter, and advising them that the Rule 53 record was overdue. I attach a copy of this correspondence marked “NL5”.
- 19 On 30 April 2018, in an email attached marked “NL6”, a representative of the Department of Environmental Affairs (the “Department”) provided the details of the relevant official at the State Attorney, Mr Eben Snyman.
- 20 On 2 May 2018, I requested a progress update from Mr Snyman regarding the filing of the Rule 53 record, reminding him that it was overdue. I attach a copy of this correspondence marked “NL7”.
- 21 On 3 May 2018, I advised Thabametsi’s attorneys that the State Attorney had ignored our requests regarding the outstanding Rule 53 record. Thabametsi’s attorneys responded the same day, confirming that the State Attorney had ignored them too. I attach copies of this correspondence marked “NL8” and “NL9” respectively.



- 22 More than a month later, on 7 June 2018, I sent a follow-up email to the State Attorney, copying Thabametsi's attorneys. I asked Mr Snyman to advise me as to when the "*now, substantially overdue*" Rule 53 record could be expected. I attach this email marked "**NL10**". I received no response to this email.
- 23 On 22 June 2018, I sent yet another email to the State Attorney regarding the overdue Rule 53 record, asking specifically for an indication of when the record could be expected. I attach a copy of this email marked "**NL11**". Again, this email was simply ignored.
- 24 On 31 July 2018, I phoned Mr Snyman, advising him of the CER's instructions to proceed with a notice in terms of Rule 30A to compel the substantially overdue Rule 53 record if the delay persisted.
- 25 On 8 August 2018, I wrote to the State Attorney and to Thabametsi's attorneys noting, *inter alia*, the applicants' objection to an amendment of Thabametsi's environmental authorisation. In the conclusion to the letter, I noted that CER had been instructed by the applicants to file a Rule 30A notice. A copy of this letter is attached marked "**NL12**".
- 26 On 14 August 2018, the applicants served a Rule 30A notice, which I attach marked "**NL13**". The Rule 30A notice called on the government respondents to despatch the record within 10 days – that is, by 28 August 2018.
- 27 By 31 August 2018, the record had still not been delivered. Accordingly, I wrote to the State Attorney recording that the deadline had been missed, noting that the government respondents were in breach of the Uniform Rules of Court, and



reserving the applicants' rights to approach the Court in terms of Rule 30A(2) and seek an appropriate costs order. A copy of this correspondence is attached marked "NL14".

- 28 On 20 September 2018, Mr Snyman informed me telephonically that the Rule 53 record would be made available "*shortly*", and requested that, in the interests of saving time and costs, the applicants wait until 28 September 2018 before preparing an application in terms of rule 30A(2). I recorded the telephone discussion in an email of the same day, which I attach marked "NL15".
- 29 Mr Snyman responded to this email on 25 September 2018, stating, "*Thank you – noted.*" I attach a copy of his response marked "NL16".
- 30 Despite the State Attorney's undertaking to deliver the record before 28 September 2018, it has not been delivered.

NON-COMPLIANCE WITH RULE 53(1)(b)

- 31 Thus, despite these numerous requests, the government respondents have failed and/or refused to deliver the record, or to furnish the applicant with reasons, as required by Rule 53(1)(b). They have not provided any explanation for such failure.
- 32 The government respondents have accordingly breached their obligations under Rule 53(1)(b). In doing so, they have caused unreasonable and considerable delays in this matter.



- 33 The importance of the Rule 53 record in our law is trite. It ensures that review proceedings are not launched in the dark, and that the applicants and the court may fully and properly assess the lawfulness of the decision-making process.
- 34 The government respondents cannot be permitted to delay and frustrate these proceedings further through their failure to comply with the requirements of Rule 53.

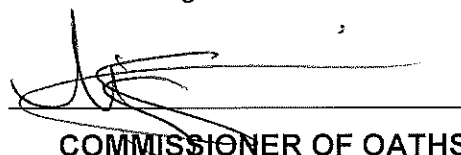
CONCLUSION

- 35 In view of the delay of nearly 6 months caused by the government respondents' unexplained and unreasonable failure to provide the record as required by Rule 53, the costs of this application should be awarded on an attorney-client scale.
- 36 In the circumstances, the applicants seek an order in terms of the notice of motion to which this affidavit is attached.



NICOLE LOSER


Thus signed and sworn to before me at CAPE TOWN on this 27th day of OCTOBER 2018 by the deponent who has acknowledged that she knows and understands the contents of this affidavit, that she has no objection to taking the prescribed oath and that the prescribed oath is binding on her conscience.



COMMISSIONER OF OATHS

NAME: TAMLIN HIGGINS

COMMISSIONER OF OATHS
 NAME: TAMLIN HIGGINS
 DESIGNATION: ATTORNEY OF THE HIGH COURT
 CONTACT: 39 TOKAL ROAD
 ADDRESS: CAPE TOWN



CAPACITY: ATTORNEY OF THE HIGH COURT
ADDRESS: 39 TOKAI ROAD
AREA: CAPE TOWN





Office 521, 5th Floor South Point
87 Dekorte Street
Braamfontein
2017
Tel: +27 11 339- 3662
Fax: +27 11 339- 3270
www.earthlife.org.za

RESOLUTION OF THE BOARD OF DIRECTORS OF EARTHLIFE AFRICA NPC ("ELA") ENTERED INTO AT JOHANNESBURG ON THE 01 DAY OF 03 2018

It was resolved that:

In light of the Minister of Environmental Affairs' decision of 30 January 2018, to uphold the environmental authorisation issued to Thabametsi Power Company (Pty) Limited ("Thabametsi") for the proposed Thabametsi coal-fired power station (1200MW, to be built near Lephalale, Limpopo), and dismiss the climate change ground of appeal in the appeal instituted by ELA on 11 May 2015, ELA will now bring an application to review and set aside the Minister of Environmental Affairs' decision of 30 January 2018, as well as the environmental authorisation issued to Thabametsi on 25 February 2015.

IT IS FURTHER RESOLVED THAT the Centre for Environmental Rights ("CER") be appointed to represent ELA; and Melissa Fourie, Executive Director of the CER, Robyn Hugo and Nicole Loser, attorneys of the CER, be authorised to depose to any affidavit and take such steps as may be required in respect of the aforesaid proceedings.

IT IS FURTHER RESOLVED THAT Phillipine Lekalakala, in her capacity as Director of ELA, and other staff members delegated by her, are hereby, authorised to make the application on behalf of ELA and to take all necessary steps to fulfil this resolution on behalf of ELA.

IT IS FURTHER RESOLVED THAT any steps taken to date by ELA in respect of the aforementioned proceedings be and are hereby ratified.


Abdul-Basier Dramat


Ramatsobane Dorah Marema


Innocent Simphiwe Nojyeza


Judith Elizabeth Taylor


Ndlovu Colla Mokoena



RESOLUTION OF THE TRUSTEES OF GROUNDWORK TRUST ("groundWork")

IT IS RESOLVED THAT:

1. groundWork, on its own behalf; and/or in the interests of protecting the environment; and/or as member of, or in the interests of, a group or class of persons; and/or in the public interest; and/or as an association acting in the interests of its members, institute legal proceedings:

1.1. to review and set aside: the decision of the Minister of Environmental Affairs of 30 January 2018, to uphold the environmental authorisation issued to Thabametsi Power Company (Pty) Limited ("Thabametsi") for the proposed Thabametsi coal-fired power station (1200MW, to be built near Lephalale, Limpopo), and dismiss the climate change ground of appeal in the appeal instituted on 11 May 2015; and the decision to issue the environmental authorisation to Thabametsi on 25 February 2015; and/or

1.2. to seek an order and/or launch such other court proceedings as may be required to ensure that Thabametsi does not commence with the construction of the proposed power station pending the final determination of the legal proceedings described above; and the fulfilment of all other legal requirements, including obtaining all authorisations as may be required; and

1.3. to seek an appropriate costs order against the respondents should groundWork be successful in any of the legal proceedings described above, and to enforce such costs order; and

1.4. to seek any further appropriate relief in relation to the above.

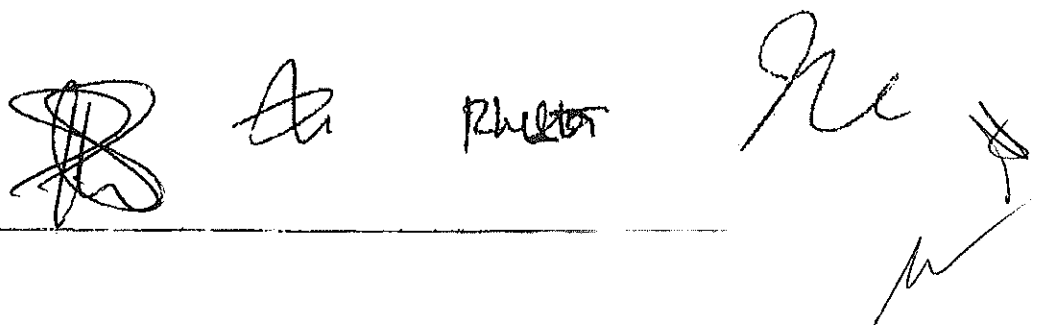
2. Authorised Persons:

2.1. Sven Eaton Patrick Peek, in his capacity as Director of groundWork, is hereby authorised to depose to any affidavit and sign any other documents which may be required in respect of the aforesaid legal proceedings and to take all other necessary steps to fulfil this resolution on behalf of groundWork.

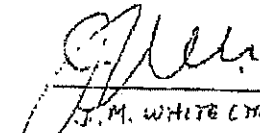
2.2. Robby Makwetlang Mokgalaka, in his capacity as coal campaign manager, is also hereby authorised to depose to any affidavit and sign any other documents which may be required in respect of the aforesaid legal proceedings on behalf of groundWork.

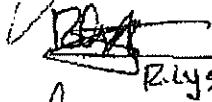
IT IS FURTHER RESOLVED THAT

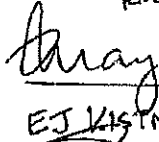
3. The Centre for Environmental Rights ("CER") be appointed to represent groundWork; and Melissa Fourie, Executive Director of the CER, Robyn Hugo and Nicole Loser, attorneys of the CER, be authorised to depose to any affidavit and take such steps as may be required in respect of the aforesaid proceedings.


The block contains five handwritten signatures in black ink. From left to right: a large, stylized signature; a signature that appears to be 'A'; a signature that appears to be 'Rhubert'; a signature that appears to be 'M'; and a signature that appears to be 'N'. There is also a small mark at the bottom right corner.

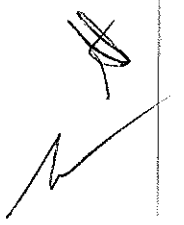
4. Any steps taken to date by groundWork in respect of the aforementioned proceedings be and are hereby ratified.

 DATED AT Pietermaritzburg ON THE ___ DAY OF March 2018.
J.M. WHITE (TRUSTEE)

 DATED AT Durban ON THE 20th DAY OF March 2018.
R. Lyden Trustee

 DATED AT DURBAN ON THE 20TH DAY OF MARCH 2018.
EJ KISTNASAMY

 DATED AT CAPE TOWN ON THE 23rd DAY OF MARCH 2018.
M.P. Kuvuti



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

Case number:

In the matter between:

EARTHLIFE AFRICA NPC	First Applicant
THE TRUSTEES FOR THE TIME BEING OF GROUNDWORK TRUST	Second 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 COMPANY (PTY) LIMITED	Fourth Respondent

NOTICE OF MOTION

KINDLY TAKE NOTICE that the Applicants intend applying to this Honourable Court for an order in the following terms:

1 It is directed that:

- 1.1 The decision of the Second Respondent, dated 25 February 2015, amended on 17 March 2015, granting the Fourth Respondent the environmental authorisation with reference number 14/12/16/3/3/3/40 for



the establishment of a 1200 megawatt coal-fired power station near Lephalale, Limpopo (the "**Thabametsi project**") is reviewed and set aside and is declared unlawful and invalid.

- 1.2 The decision of the First Respondent, dated 30 January 2018, dismissing the First Applicant's appeal against the Second Respondent's decision referred to in Prayer 1.1 is reviewed and set aside and is declared unlawful and invalid.
- 1.3 The Fourth Respondent's application for environmental authorisation is remitted back to the Second Respondent for reconsideration.
- 1.4 The Second Respondent is to decide on the Fourth Respondent's application for environmental authorisation:
 - 1.4.1 after affording all interested and affected parties the opportunity to submit comments on the EOH Peer Review assessment;
 - 1.4.2 having regard to the climate change impact assessment, the paleontological impact assessment, public comment on these assessment reports, including the EOH Peer Review, and any further information that he/she may require to reach a decision;
 - 1.4.3 having regard to the site-specific harms and benefits of the establishment of the Thabametsi project; and
 - 1.4.4 without regarding the Integrated Resource Plan for Electricity 2010 – 2030 promulgated in 2011 ("**IRP 2010**"), any other policy



document, or any determination made by the Minister of Energy in terms of section 34 of the Electricity Regulation Act, 2006 as determinative of the decision.

2 *In the alternative* to prayer 1 above, it is directed that:

2.1 The decision of the First Respondent, dated 30 January 2018, dismissing the First Applicant's fourth ground of appeal against the Second Respondent's decision granting the environmental authorisation with reference number 14/12/16/3/3/3/40, is reviewed and set aside and is declared unlawful and invalid.

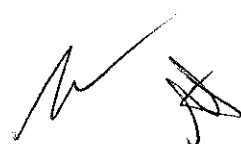
2.2 The First Applicant's fourth ground of appeal is remitted back to the First Respondent for reconsideration.

2.3 The First Respondent is to determine the fourth ground of appeal:

2.3.1 after affording all interested and affected parties the opportunity to submit comments on the EOH Peer Review assessment;

2.3.2 having regard to the climate change impact assessment, the paleontological impact assessment, public comment on these assessment reports, including the EOH Peer Review, and any further information that she may require to reach a decision;

2.3.3 having regard to the site-specific harms and benefits of the establishment of the Thabametsi project; and



2.3.4 without regarding the IRP 2010, any other policy document, or any determination made by the Minister of Energy in terms of section 34 of the Electricity Regulation Act, 2006 as determinative of the decision.

- 3 It is declared that, properly interpreted, the National Environmental Management Act 107 of 1998 and the Constitution of the Republic of South Africa, 1996, require competent authorities who are considering applications for environmental authorisations to consider site-specific climate change impacts associated with proposed projects, and do not permit competent authorities to regard the IRP 2010, any other policy document, or any determination made by the Minister of Energy in terms of section 34 of the Electricity Regulation Act, 2006 as determinative of their decision.
- 4 The costs of this application are to be paid by the Respondents.
- 5 Further and/or alternative relief.

Two handwritten signatures in black ink, one larger and more stylized, the other smaller and more compact, located in the bottom right corner of the page.

TAKE NOTICE FURTHER that the founding affidavit of **PHILLIPINE LEKALAKALA** (together with its annexes) and the supporting affidavit of **ROBBY MAKWETLANG MOKGALAKA** will be used in support of this application.

TAKE NOTICE FURTHER that the Applicants have appointed the office of their attorneys, as set out below, as the address at which they will accept notice and service of all documents in these proceedings.

TAKE NOTICE FURTHER that:

- (a) in terms of Rule 53(1)(a) of the Uniform Rules of Court, the Respondents are called upon to show cause why the decisions referred to in Prayers 1.1, 1.2, and 2.1 above should not be reviewed and corrected or set aside by the above Honourable Court;
- (b) in terms of Rule 53(1)(b), the Respondents are called upon, within fifteen days of receipt of this notice of motion, to despatch and file with the Registrar, the record of all documents and electronic records (including correspondence, contracts, memoranda, advices, recommendations, evaluations and the like) that relate to the making of the decisions referred to in Prayers 1.1, 1.2, and 2.1 above, and to notify the Applicants that they have done so.
- (c) in terms of Rule 53(4), the Applicants may, within 10 days of receipt of the record from the Registrar, amend, add to, or vary the terms of the notice of motion and/or supplement their founding affidavit, by delivery of a notice and accompanying affidavit.



TAKE NOTICE FURTHER that if the Respondents intend opposing this application, they are required to:

- (a) within 15 days from the date of receipt of this notice of motion or any amendment thereto as contemplated in Rule 53(4), deliver a notice to the Applicants' attorneys that they intend to oppose this application;
- (b) appoint an address within 15 kilometres of the office of the Registrar at which the Respondents will accept notice and service of all documents in this application; and
- (c) within 30 days after the expiry of the time period set out in Rule 53(4), deliver their answering affidavit, if any.

TAKE NOTICE FURTHER that, if no notice of intention to oppose is delivered, this application will be set down on the unopposed basis and proceed on a date to be determined by the Registrar of the above Honourable Court.

DATED at JOHANNESBURG on this 26th day of March 2018.

pp 

CENTRE FOR ENVIRONMENTAL RIGHTS

Applicants' Attorneys

1 Scott Road

Observatory

CAPE TOWN

Tel: 021 447 1647

Fax: 086 730 9098

Email: nloser@cer.org.za

Ref: CER54.4

C/O DU PLESSIS & KRUYSHAAR

Office No. 2

Sovereign Drive 118



Route 21 Corporate Park
Irene, Pretoria
Tel: 086 100 0779
Fax: 086 548 0837
Email: kruyshaar@dupkruys.co.za
Ref: Rentia Kruyshaar/CER

TO:

**THE REGISTRAR OF THE ABOVE HONOURABLE COURT
THE GAUTENG DIVISION, PRETORIA**

AND TO:

THE MINISTER OF ENVIRONMENTAL AFFAIRS
First Respondent
Environment House
73 Steve Biko
Arcadia
PRETORIA

AND TO:

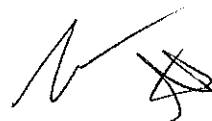
**CHIEF DIRECTOR
INTEGRATED ENVIRONMENTAL, AUTHORISATIONS,
DEPARTMENT OF ENVIRONMENTAL AFFAIRS**
Second Respondent
Environment House
473 Steve Biko
Arcadia
PRETORIA

AND TO:

**THE DIRECTOR: APPEALS AND LEGAL REVIEW,
DEPARTMENT OF ENVIRONMENTAL AFFAIRS**
Third Respondent
Environment House
473 Steve Biko
Arcadia
PRETORIA

AND TO:

BAKER & MCKENZIE
Attorneys for the Fourth Respondent



1 Commerce Square
39 Rivonia Road
Sandhurst, 2196
Tel: 011 911 4300
Email: john.bell@bakermckenzie.com
Ref: J Bell/DR
C/O Adams & Adams
Lynwood Bridge
4 Daventry Street
Lynwood Manor, Pretoria
Tel: 012 432 6277
Ref: A Jordaan

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**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION)**

"NL4" *zyoooo*
25

Case No. 21559/2018

In the matter between:
EARTHLIFE AFRICA NPC AND 1 OTHER

and
THE MINISTER OF ENVIRONMENTAL AFFAIRS

Applicant

1st Respondant

RETURN: SERVICE OF NOTICE OF MOTION

IT IS HEREBY CERTIFIED:

That on the 27 March 2018 at 14h00 at ENVIRONMENT HOUSE, 73 STEVE BIKO STREET, ARCADIA, PRETORIA, 0001 being the principal place of business of THE MINISTER OF ENVIRONMENTAL AFFAIRS, a copy of the Notice of Motion FOUNDING AFFIDAVIT: PHILLIPINE LEKALAKALA AND ANNEXURES PL1 - PL28 was served upon Mrs. M.F.Nene(Legal Clerk) of THE MINISTER OF ENVIRONMENTAL AFFAIRS, after the original document was displayed and the nature and contents thereof explained to her. The said person also a responsible employee of the abovementioned business. Mrs. M.F.Nene a person apparently not less than sixteen years of age and in the employ of THE MINISTER OF ENVIRONMENTAL AFFAIRS accepted service. Rule 4(1)(a)(v) .

SHERIFF CHARGES/EXPENSES: (You may require that this account be taxed and vouched before payment)

Description	Tariff	QTY	Amount	Description	Tariff	QTY	Amount
Cellular call	10.00	1	10.00				
Cellular costs	5.50	4	22.00				
Coll. & delivery - pigeonhole	4.84	1	4.84				
Service	63.00	1	63.00				
Registration & Return	43.50	1	43.50				
Travelling	5.00	6	30.00				
Urgent Service	1 000.00	1	1000.00				

TO: THE REGISTRAR OF THE HIGH COURT, Pretoria


Zero rated items	0.00
Sub-total	1 173.34
VAT	164.27
Total	1 337.61

Account No.: ODUPLES200

TO: DU PLESSIS & KRUYSHAAR (280)
POSBUS 32282
WAVERLEY

0135

Your Reference: RK0102



MR F J Batt - Deputy - Sheriff
(Properly appointed in terms of Section 2 of the Sheriff's Act No. 90/1986)
Signed at Pretoria on 28-03-18
My Reference: 2018/01/04388.00 / ANT

Sheriff Pretoria North East - A. J. Visser
P. O. Box 8894 Pretoria 0001
Tel: +27-12-329 6024/5 Bank: ABSA - 334 645
Fax: +27-12-329 6022 Acc No: 712 024 720
VAT No./BTW Nr. 4600116653

[Handwritten signature]

**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION)**

2 years
26

Case No. 21559/2018

In the matter between:

EARTHLIFE AFRICA NPC AND 1 OTHER

Applicant

and

CHIEF DIRECTOR INTEGRATED ENVIRONMENTAL AUTHORISATIONS DEPARTMENT OF ENVIRONMENTAL AFFAIRS

2nd Respondant

RETURN: SERVICE OF NOTICE OF MOTION

IT IS HEREBY CERTIFIED:

That on the 27 March 2018 at 14h00 at ENVIRONMENT HOUSE, 73 STEVE BIKO STREET, ARCADIA, PRETORIA, 0001 being the principal place of business of CHIEF DIRECTOR INTEGRATED ENVIRONMENTAL AUTHORISATIONS DEPARTMENT OF ENVIRONMENTAL AFFAIRS, a copy of the Notice of Motion FOUNDING AFFIDAVIT: PHILLIPINE LEKALAKALA AND ANNEXURES PL1 - PL28 was served upon Mrs. M.F.Nene(Legal Clerk) of CHIEF DIRECTOR INTEGRATED ENVIRONMENTAL AUTHORISATIONS DEPARTMENT OF ENVIRONMENTAL AFFAIRS, after the original document was displayed and the nature and contents thereof explained to her. The said person also a responsible employee of the abovementioned business. Mrs. M.F.Nene a person apparently not less than sixteen years of age and in the employ of CHIEF DIRECTOR INTEGRATED ENVIRONMENTAL AUTHORISATIONS DEPARTMENT OF ENVIRONMENTAL AFFAIRS accepted service. Rule 4(1)(a)(v).

SHERIFF CHARGES/EXPENSES: (You may require that this account be taxed and vouched before payment)


Description	Tariff	QTY	Amount	Description	Tariff	QTY	Amount
Registration & Return	43.50	1	43.50				
Additional document	8.00	1	8.00				

TO: THE REGISTRAR OF THE HIGH COURT, Pretoria

Zero rated items	0.00
Sub-total	51.50
VAT	7.21
Total	58.71

Account No.: 0DUPLES200
TO: DU PLESSIS & KRUYSHAAR (280)
 POSBUS 32282
 WAVERLEY

 0135
Your Reference: RK0102



MR F J Bait - Deputy - Sheriff
 (Properly appointed in terms of Section 2 of the Sheriff's Act No. 90/1986)
 Signed at Pretoria on 28-03-18
 My Reference: 2018/02/04388.00 / ANT

Sheriff Pretoria North East - A. J. Visser
 P. O. Box 8894 Pretoria 0001
 Tel: +27-12-329 6024/5 Bank: ABSA - 334 645
 Fax: +27-12-329 6022 Acc No: 712 024 720
 VAT No./BTW Nr. 4600116652

[Handwritten signature]

**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION)**

Case No. 21559/2018

2 Years
27

In the matter between:

EARTHLIFE AFRICA NPC AND 1 OTHER

Applicant

and

THE DIRECTOR APPEALS AND LEGAL REVIEW
DEPARTMENT OF ENVIRONMENTAL AFFAIRS

3rd Respondant

RETURN: SERVICE OF NOTICE OF MOTION

IT IS HEREBY CERTIFIED:

That on the 27 March 2018 at 14h00 at ENVIRONMENT HOUSE, 73 STEVE BIKO STREET, ARCADIA, PRETORIA, 0001 being the principal place of business of THE DIRECTOR APPEALS AND LEGAL REVIEW DEPARTMENT OF ENVIRONMENTAL AFFAIRS, a copy of the Notice of Motion FOUNDING AFFIDAVIT: PHILLIPINE LEKALAKALA AND ANNEXURES PL1 - PL28 was served upon Mrs. M.F.Nene (Legal Clerk) of THE DIRECTOR APPEALS AND LEGAL REVIEW DEPARTMENT OF ENVIRONMENTAL AFFAIRS, after the original document was displayed and the nature and contents thereof explained to her. The said person also a responsible employee of the abovementioned business. Mrs. M.F.Nene a person apparently not less than sixteen years of age and in the employ of THE DIRECTOR APPEALS AND LEGAL REVIEW DEPARTMENT OF ENVIRONMENTAL AFFAIRS accepted service. Rule 4(1)(a)(v).

SHERIFF CHARGES/EXPENSES: (You may require that this account be taxed and vouched before payment)

Description	Tariff	QTY	Amount	Description	Tariff	QTY	Amount
Registration & Return	43.50	1	43.50				
Additional document	8.00	1	8.00				

TO: THE REGISTRAR OF THE HIGH COURT, Pretoria

Zero rated items	0.00
Sub-total	51.50
VAT	7.21
Total	58.71

Account No.: 0DUPLES200
TO: DU PLESSIS & KRUYSHAAR (280)
POSBUS 32282
WAVERLEY

0135

Your Reference: RK0102



MR F J Bant - Deputy - Sheriff

(Properly appointed in terms of Section 2 of the Sheriff's Act No. 90/1986)

Signed at Pretoria on 28-03-18

My Reference: 2018/03/04388.00 / ANT

Sheriff Pretoria North East - A. J. Visser
P. O. Box 8894 Pretoria 0001
Tel: +27-12-329 6024/5 Bank: ABSA - 334 645
Fax: +27-12-329 6022 Acc No: 712 024 720
VAT No./BTW Nr. 4600116652

[Handwritten signature]



In the case between:

EARTHLIFE AFRICA NPC & THE TRUSTEES FOR THE TIME BEING OF GROUNDWORK TRUST and THABAMETSI POWER COMPANY PTY LTD (4TH)	APPLICANT RESPONDENT
Address as specified: P/A ADAMS & ADAMS, LYNNWOOD BRIDGE, 4 DAVENTRY STREET, LYNNWOOD MANOR	
NOTICE OF MOTION	

RETURN OF SERVICE

On 27th day of March 2018 at 14:32 at P/A ADAMS & ADAMS, LYNNWOOD BRIDGE, 4 DAVENTRY STREET, LYNNWOOD MANOR being the BUSINESS address of ADAMS & ADAMS ATTORNEYS I duly served a copy of the NOTICE OF MOTION & AFFIDAVIT WITH ANNEXURE upon MS L SHASHA (RECEPTIONIST) after the original was shown and the nature and contents thereof explained. The said person who is apparently older than sixteen years of age and apparently in charge at the given address accepted copies of the document on behalf of the 4TH RESPONDENT. [Rule 4(1)(a)(ii)].

(Signed) DEPUTY SHERIFF: N E RAMARU
From: Sheriff
C.F. NEL
POSBUS/PO BOX 714
DOCEX 147, PRETORIA
PRETORIA. 0001
Tel: 012 342 7240
Fax: 012 342 7239
Email: maggys@shfeast.co.za

Account info for bank deposits/transfers:
ABSA BANK (VERMEULEN STREET)
Name: C.F. NEL (BESIGHEID)
No. 4050053322

To: GAUTENG HIGH COURT DIVISION
PRETORIA

DU PLESSIS & KRUYSHAAR (DOCEX)~
DOCEX 289 PRETORIA
PRETORIA
0135
Your VAT No: Account No: 4767
Your reference: RK0102

DESCRIPTION OF FEES	FEES
Service	63.00
Travelling	55.00
Urgent Today Office Hours	165.00
Post and Petties (uplift)	4.50
Email Return of Service	10.00
Registration	10.00
Return & Copy	33.50
Sub-total Fees	341.00
Plus VAT	47.74
TOTAL OWING	388.74
Invoice No: 20157	My VAT No: 4790168993
Invoice issued on 28-Mar-2018.	
You may require this account to be taxed and vouched within 90 days of date of issue.	

This return in electronic format is issued without prejudice of rights and with reservation. It is for notification only, not for judicial purposes. It is unverified and subject to editing. The information contained herein may be legally privileged. If you received it in error please inform the sender.

Nicole Loser

From: Nicole Loser
Sent: Thursday, April 26, 2018 9:14 AM
To: 'Marcia Davids'
Cc: Linda Garlipp; Mokete Rakgogo; Ziyaad Hassam; Vanessa Bendeman; Kashmira Pegu
Subject: RE: EARTHLIFE AFRICA & GROUNDWORK V THE MINISTER ENVIRONMENTAL AFFAIRS & OTHERS

Hi Marcia

Has this matter been handed over to the state attorney, and can you advise who is dealing with it?

The record in terms of rule 53 of the Uniform Rules of Court was due on 19 April 2018, and has not yet been served.

Kind regards

Nicole Loser
 Attorney
 Centre for Environmental Rights NPC
 A non-profit company with registration number 2009/020736/08
 PBO No. 930032226, NPO No. 075-863, VAT No. 4770260653
 and a Law Clinic registered with the Law Society of the Cape of Good Hope and the Law Society of the Northern Provinces
 2nd Floor, Springtime Studios, 1 Scott Road, Observatory 7925, Cape Town, South Africa
 Tel 021 447 1647 Fax 086 730 9098
 Cell +27827880873
nloser@cer.org.za
www.cer.org.za
www.facebook.com/CentreEnvironmentalRights



Centre for
 Environmental Rights

Advancing Environmental Rights in South Africa

From: Marcia Davids [mailto:MNDavids@environment.gov.za]
Sent: Tuesday, March 27, 2018 11:41 AM
To: Nicole Loser <nloser@cer.org.za>
Cc: Linda Garlipp <LGarlipp@environment.gov.za>; Mokete Rakgogo <MRakgogo@environment.gov.za>; Ziyaad Hassam <ZHassam@environment.gov.za>; Vanessa Bendeman <VBendeman@environment.gov.za>; Linda Garlipp <LGarlipp@environment.gov.za>; Kashmira Pegu <KPegu@environment.gov.za>
Subject: RE: EARTHLIFE AFRICA & GROUNDWORK V THE MINISTER ENVIRONMENTAL AFFAIRS & OTHERS

Dear Nicole;

We acknowledge the receipt of your email and its attachments.

We have forwarded same to Directorate: Litigation.

"NL6"

30

From: Rishaal Krishnanund [mailto:RKrishnanund@environment.gov.za]
Sent: Monday, April 30, 2018 8:32 AM
To: Nicole Loser <nloser@cer.org.za>
Cc: Linda Garlipp <LGarlipp@environment.gov.za>; Mokete Rakgogo <MRakgogo@environment.gov.za>; Vanessa Bendeman <VBendeman@environment.gov.za>; Snyman Eben <EbSnyman@justice.gov.za>; jolandierust@law.co.za; Marcia Davids <MNDavids@environment.gov.za>; Kashmira Pegu <KPegu@environment.gov.za>; Mark Pearce <MPearce@environment.gov.za>; Fhumudzani Ratshili <FRatshili@environment.gov.za>; Nnini Letwaba <NLetwaba@environment.gov.za>
Subject: RE: EARTHLIFE AFRICA & GROUNDWORK V THE MINISTER ENVIRONMENTAL AFFAIRS & OTHERS

Dear Ms Nicole Loser

The abovementioned matter and the email below refer.

Please be advised that the state attorney Pretoria has been instructed in the matter and the details of the state attorney attending to the matter are as follows:

Eben Snyman
Senior Assistant State Attorney
State Attorney: Pretoria
Tel: 012 309 1628
Cell: 082 940 1159
Fax: 0865070293

We trust the above is in order.

Kind regards,



environmental affairs
Department of
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Rishaal Krishnanund
Department of Environmental Affairs
Litigation
Legal Admin Officer
Tel: 012 399 9398

Nicole Loser

From: Nicole Loser
Sent: Wednesday, May 2, 2018 7:37 AM
To: 'Snyman Eben'
Cc: Robyn Hugo
Subject: FW: EARTHLIFE AFRICA & GROUNDWORK V THE MINISTER ENVIRONMENTAL AFFAIRS & OTHERS

Hi Eben

I see you're handling this matter as well. What is the progress on the filing of the rule 53 record, which is now overdue?

Kind regards
Nicole



Nicole Loser

From: Nicole Loser
Sent: Thursday, May 3, 2018 10:26 AM
To: 'Bell, John'
Cc: Paget, Andrew
Subject: RE: Earthlife Africa / Thabametsi

Hi John

We have followed up with DEA and the State Attorney on the rule 53 record but have not yet received a response. Eben Snyman (who you will know from the first Thabametsi case) has been allocated to this matter.

Kind regards

Nicole Loser
Attorney
Centre for Environmental Rights NPC
A non-profit company with registration number 2009/020736/08
PBO No. 930032226, NPO No. 075-863, VAT No. 4770260653
and a Law Clinic registered with the Law Society of the Cape of Good Hope and the Law Society of the Northern Provinces
2nd Floor, Springtime Studios, 1 Scott Road, Observatory 7925, Cape Town, South Africa
Tel 021 447 1647 Fax 086 730 9098
Cell +27827880873
nloser@cer.org.za
www.cer.org.za
www.facebook.com/CentreEnvironmentalRights



Centre for
Environmental Rights
Advancing Environmental Rights in South Africa

From: Bell, John [mailto:John.Bell@bakermckenzie.com]
Sent: Friday, April 20, 2018 4:30 PM
To: Nicole Loser <nloser@cer.org.za>
Cc: Paget, Andrew <Andrew.Paget@bakermckenzie.com>
Subject: RE: Earthlife Africa / Thabametsi

Thanks Nicole

I will appreciate it.

Have a good weekend.

John Bell
Partner
Baker & McKenzie
1 Commerce Square, 39 Rivonia Road, Sandhurst
Johannesburg, 2196, ZA
Tel: +27 11 911 4366
Switchboard: +27 11 911 4300
Fax: +27 11 783 4177

Nicole Loser

From: Bell, John <John.Bell@bakermckenzie.com>
Sent: Thursday, May 3, 2018 11:50 AM
To: Nicole Loser
cc: Paget, Andrew
Subject: Re: Earthlife Africa / Thabametsi
Attachments: image002.png; image003.jpg; image004.jpg

Thank you Nicole.

He has also not responded to my email.

Kind regards,

John Bell
 Partner
 Baker McKenzie

Sent from my iPhone

On 03 May 2018, at 10:25, Nicole Loser <nloser@cer.org.za<mailto:nloser@cer.org.za>> wrote:

Hi John

We have followed up with DEA and the State Attorney on the rule 53 record but have not yet received a response. Eben Snyman (who you will know from the first Thabametsi case) has been allocated to this matter.

Kind regards

Nicole Loser
 Attorney

Centre for Environmental Rights NPC

A non-profit company with registration number 2009/020736/08 PBO No. 930032226, NPO No. 075-863, VAT No. 4770260653 and a Law Clinic registered with the Law Society of the Cape of Good Hope and the Law Society of the Northern Provinces 2nd Floor, Springtime Studios, 1 Scott Road, Observatory 7925, Cape Town, South Africa Tel 021 447 1647 Fax 086 730 9098 Cell +27827880873 nloser@cer.org.za<mailto:nloser@cer.org.za>
www.cer.org.za<https://urldefense.proofpoint.com/v2/url?u=http-3A__www.cer.org.za_d=DwMFAg&c=ptMoEJ5oTofwe4L9tBtGCQ&r=yhdOm5H1E0R0QbjkyxeCCKFoxHQZUZQqFQVdJqBnRu0&m=M2dNPVSLFZXVNSxYmuayDto-21-fs-MdQj4nh-DPCoY&s=EQjUiokk9IhHZFCyOXIHcyAecKv5qCjF2HKgzoWK8IY&e=>
www.facebook.com/CentreEnvironmentalRights<https://urldefense.proofpoint.com/v2/url?u=http-3A__www.facebook.com_CentreEnvironmentalRights&d=DwMFAg&c=ptMoEJ5oTofwe4L9tBtGCQ&r=yhdOm5H1E0R0QbjkyxeCCKFoxHQZUZQqFQVdJqBnRu0&m=M2dNPVSLFZXVNSxYmuayDto-21-fs-MdQj4nh-DPCoY&s=SocyniPip-FzOIKmxYi1Rodflp08Y0HYHmEFvPe5RfE&e=>

<image002.png>

From: Bell, John [mailto:John.Bell@bakermckenzie.com]

"NL10"

34

From: Nicole Loser
Sent: Thursday, June 7, 2018 12:44 PM
To: 'Snyman Eben' <EbSnyman@justice.gov.za>
Cc: Robyn Hugo <rhugo@cer.org.za>; 'Bell, John' <John.Bell@bakermckenzie.com>
Subject: RE: EARTHLIFE AFRICA & GROUNDWORK V THE MINISTER ENVIRONMENTAL AFFAIRS & OTHERS

Good day Eben

I'm following up on this matter. Please advise when we can expect the, now substantially overdue, rule 53 record?

Kind regards

Nicole Loser
Attorney
Centre for Environmental Rights NPC
A non-profit company with registration number 2009/020736/08

1



34

Nicole Loser

From: Nicole Loser
Sent: Friday, June 22, 2018 2:41 PM
To: 'Snyman Eben'
Cc: Robyn Hugo; 'Bell, John'; Ruchir Naidoo; Michelle Koyama
Subject: RE: EARTHLIFE AFRICA & GROUNDWORK V THE MINISTER ENVIRONMENTAL AFFAIRS & OTHERS

Dear Eben

Please note that we continue to await the overdue rule 53 record in relation to this matter. Please advise, without delay, when we can expect to receive the record.

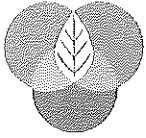
Kind regards

Nicole Loser
Attorney
Centre for Environmental Rights NPC
A non-profit company with registration number 2009/020736/08
PBO No. 930032226, NPO No. 075-863, VAT No. 4770260653
and a Law Clinic registered with the Law Society of the Cape of Good Hope and the Law Society of the Northern Provinces
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www.cer.org.za
www.facebook.com/CentreEnvironmentalRights



Centre for
Environmental Rights

Advancing Environmental Rights in South Africa



Centre for Environmental Rights "NL12"

Advancing Environmental Rights in South Africa

36

Eben Snyman

Senior Assistant State Attorney

State Attorney Pretoria

By email: EbSnyman@justice.gov.za

John Bell

Baker McKenzie Attorneys

By email: john.bell@bakermckenzie.com

Our ref: CER 54.4. RH/NL
8 August 2018

Dear Sirs

EARTHLIFE AFRICA NPC & TRUSTEES FOR THE TIME BEING OF THE GROUNDWORK TRUST / THE MINISTER OF ENVIRONMENTAL AFFAIRS AND 3 OTHERS - CASE NO 21559/18 (THABAMETSI)

1. We refer to the above review application lodged in the Pretoria High Court on 27 March 2018.
2. We note the amendment dated 30 July 2018 of the environmental authorisation issued to Thabametsi Power Company (Pty) Ltd.
3. On 7 May 2018 our clients objected to the amendment application, stating, *inter alia*, that:

"We place on record that the environmental authorisation (DEA reference number 14/12/16/3/3/3/14) issued to Thabametsi on 25 February 2015 (and amended in March 2015 and again in August 2016), which is the subject of this amendment application, is also subject to review proceedings in the High Court (case number 21559/18). Our clients instituted the review in March 2018, seeking an order to, inter alia, review and set aside the decision to grant the environmental authorisation and the Minister's appeal decision of 30 January 2018.

The Department of Environmental Affairs ("the Department") cannot disregard the judicial review in considering this application and, at the very least, a decision to amend the environmental authorisation should be put on hold pending a ruling by the High Court on this matter.

Our clients' rights are fully reserved and our comments on this amendment application in no way derogate from or undermine our clients' rights in terms of the High Court review and any future legal proceedings."

4. A copy of the 7 May 2018 objection (without annexures¹) is attached.
5. We stand by the above submissions and place on record that our clients continue to object to the amendment. Our clients regard this further amendment to be invalid due to the invalidity of the underlying environmental authorisation, which will be determined in the pending High Court review application.

¹ The annexure can be made available on request.

Cape Town: 2nd Floor, Springtime Studios, 1 Scott Road, Observatory, 7925, South Africa
Johannesburg: 9th Floor, Southpoint CNR, 87 De Korte Street, Braamfontein, 2001, South Africa
Tel 021 447 1647 (Cape Town) | Tel 010 442 6830 (Johannesburg)
Fax 086 730 9098
www.cer.org.za

6. We further record that a decision by either or both of our clients not to lodge a fresh appeal against the amendment can in no way derogate from or undermine their rights in terms of the High Court review and any future legal proceedings.
7. In terms of the current status of the review application, we record that we continue – despite regular follow-up telephone calls and emails to the State Attorney - to await the record in terms of rule 53(1)(b) of the Uniform Rules, which was due 19 April 2018. We have been instructed to file a notice in terms of rule 30A of the Uniform Rules, which notice will be served and filed in due course.
8. Our client's rights are fully reserved.

Yours faithfully

CENTRE FOR ENVIRONMENTAL RIGHTS



per:

Nicole Loser
Attorney

Direct email: nloser@cer.org.za





IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NO: 21559/18

In the matter between:

EARTHLIFE AFRICA NPC

First Applicant

THE TRUSTEES FOR THE TIME-BEING
OF GROUNDWORK TRUST

Second 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

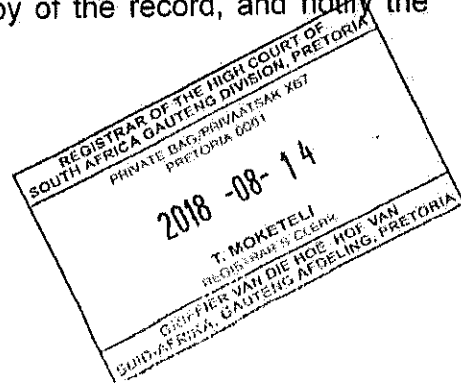
Third Respondent

THABAMETSI POWER COMPANY (PTY) LIMITED

Fourth Respondent

NOTICE IN TERMS OF RULE 30A

KINDLY TAKE NOTICE that in terms of the Applicants' Notice of Motion and Rule 53(1)(b) of the Uniform Rules of Court, the First to Third Respondents were required within fifteen (15) days of receipt of said Notice of Motion, to despatch the Registrar of this Honourable Court a full copy of the record, and notify the Applicants.



TAKE FURTHER NOTICE that the Notice of Motion was served on the Respondents on 27 March 2018 and accordingly the record was required to be despatched by 19 April 2018.

THEREFORE KINDLY TAKE NOTICE THAT should the First, Second and Third Respondents fail to despatch the record within ten (10) days of the date of this Notice and notify the Applicants accordingly, the Applicants shall apply for an order that such record be served within five (5) days of such order and/or ancillary relief.

SIGNED and DATED at Pretoria on this 13th day of August 2018.


CENTRE FOR ENVIRONMENTAL RIGHTS
 Applicants' Attorneys
 1 Scott Road
 Observatory
 Cape Town
 Tel: 021 447 1647
 Email: nloser@cer.org.za
 Ref: CER 54.4
C/O DU PLESSIS & KRUYSHAAR
 Office No.2
 Sovereign Drive 118
 Route 21
 Corporate Park Irene
 Pretoria
 Tel: 086 100 0779
 Fax: 086 548 0837
 Email: kruyshaar@dupkruys.co.za
 Ref: Rentia Kruyshaar/CER

TO: THE REGISTRAR OF HIGH COURT OF SOUTH AFRICA
 GAUTENG DIVISION, PRETORIA

AND TO: THE STATE ATTORNEY



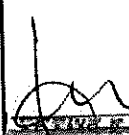
Attorney for the First, Second and Third Respondents

SALU Building
316 Thabo Sehume Street
Pretoria
Email: EbSnyman@justice.gov.za
Ref: 1712/18/Z46

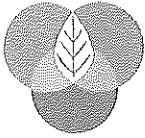
STATE ATTORNEY
RECEPTION
2018 -08- 14
PRIVATE BAG/PRIVAATSAK X91 PRETORIA 0001 (1)
STAATSPROKUREUR

11H36 N.P.

AND TO: BAKER & MCKENZIE
Attorneys for the Fourth Respondent
1 Commerce Square
39 Rivonia Road
Sandhurst
Johannesburg
2196
South Africa
Phone: +27 11 911 4300
Email: john.bell@bakermckenzie.com
Ref: J Bell/DR
C/O ADAMS & ADAMS
Lynwood Bridge
4 Daventry Street
Lynwood Manor
Pretoria
Tel: +27 12 432 6277
Ref: A. Jordaan

Received without Prejudice Ontvang sonder benadeling van regte
2018 -08- 14
 10:56
C/O ADAMS & ADAMS TIME





Centre for Environmental Rights

Advancing Environmental Rights in South Africa

"NL14"

41

Eben Snyman

Senior Assistant State Attorney

State Attorney Pretoria

By email: EbSnyman@justice.gov.za

Copied to:

John Bell

Baker McKenzie Attorneys

By email: john.bell@bakermckenzie.com

Our ref: CER 54.4. RH/NL

31 August 2018

Dear Eben

EARTHLIFE AFRICA NPC & TRUSTEES FOR THE TIME BEING OF THE GROUNDWORK TRUST / THE MINISTER OF ENVIRONMENTAL AFFAIRS AND 3 OTHERS - CASE NO 21559/18 (THABAMETSI)

1. We refer to the above review application and to our clients' notice in terms of rule 30A of the Uniform Rules.
2. We record that the deadline in accordance with the rule 30A notice, for the required dispatching of the already outstanding and delayed record in terms of rule 53 of the Uniform Rules, expired on 28 August 2018.
3. We record further that we have not yet received the record. As such, your clients remain in breach of the Uniform Rules.
4. Our clients' rights to approach the High Court in terms of rule 30A(2), and to seek the resultant costs, are fully reserved.

Yours faithfully

CENTRE FOR ENVIRONMENTAL RIGHTS

per:

Nicole Loser

Attorney

Direct email: nloser@cer.org.za

Cape Town: 2nd Floor, Springtime Studios, 1 Scott Road, Observatory, 7925, South Africa
Johannesburg: 9th Floor, Southpoint CNR, 87 De Korte Street, Braamfontein, 2001, South Africa
Tel 021 447 1647 (Cape Town) | Tel 010 442 6830 (Johannesburg)
Fax 086 730 9098
www.cer.org.za

Centre for Environmental Rights NPC is a non-profit company with registration number 2009/020736/08, NPO Ref 075-853, PBO No. 930032226 and a Law Clinic registered with the Law Society of the Cape of Good Hope and the Law Society of the Northern Provinces | Directors: Bonita Meyerfeld, Prof Eugene Kenneth Carmcross, Gregory Daniels, Mohamed Salim Fakir, Melissa Fourie (Executive), Prof Tracy-Lynn Humby (Chair), Stephen Mark Law, Karabo Matalawa Moelane | Attorneys: Aadla Agjee, Melissa Fourie, Thobeka Amanda Gumede, Catherine Horsfield, Robyn Elizabeth Hugo, Makone Lomako Kapa, Mirsala Koyama, Timothy Henslie Lloyd, Nicole Loser, Suzanne Karen Powell, Christine Karin Reddell | Office Manager: Li-Fen Chen | Candidate Attorneys: Ruzhir Ndlovu, Zahra Omar |

Nicole Loser

From: Nicole Loser
Sent: Thursday, September 20, 2018 12:22 PM
To: 'Snyman Eben'
Cc: 'Bell, John'; Robyn Hugo
Subject: RE: EARTHLIFE AFRICA & GROUNDWORK TRUST / THE MINISTER OF ENVIRONMENTAL AFFAIRS & 3 OTHERS - CASE NO 21559/18 (THABAMETSI)

Hi Eben

Thank you for taking my call earlier. I advised that we have been instructed to proceed with an application to compel the filing of the rule 53 record in relation to the above matter, in light of the delays.

You advised that the record should be dispatched soon and that it simply needs to be paginated and indexed. In the interests of saving time and costs, and as you mentioned that the record will be made available shortly, we will wait until the end of next week (28 September 2018) before proceeding with the drafting and preparation for the application in terms of rule 30A(2).

Kind regards

Nicole Loser
 Attorney
 Centre for Environmental Rights NPC
 A non-profit company with registration number 2009/020736/08
 PBO No. 930032226, NPO No. 075-863, VAT No. 4770260653
 and a Law Clinic registered with the Law Society of the Cape of Good Hope and the Law Society of the Northern Provinces
 2nd Floor, Springtime Studios, 1 Scott Road, Observatory 7925, Cape Town, South Africa
 Tel 021 447 1647 Fax 086 730 9098
 Cell +27827880873
nloser@cer.org.za
www.cer.org.za
www.facebook.com/CentreEnvironmentalRights



Centre for
 Environmental Rights
 Advancing Environmental Rights in South Africa

From: Nicole Loser
Sent: Friday, August 31, 2018 9:33 AM
To: 'Snyman Eben' <EbSnyman@justice.gov.za>
Cc: 'Bell, John' <John.Bell@bakermckenzie.com>; Robyn Hugo <rhugo@cer.org.za>
Subject: EARTHLIFE AFRICA & GROUNDWORK TRUST / THE MINISTER OF ENVIRONMENTAL AFFAIRS & 3 OTHERS - CASE NO 21559/18 (THABAMETSI)

Good day Eben

Please see the attached letter for your attention.

Nicole Loser

From: Snyman Eben <EbSnyman@justice.gov.za>
Sent: Tuesday, September 25, 2018 10:14 AM
To: Nicole Loser
Subject: RE: EARTHLIFE AFRICA & GROUNDWORK TRUST / THE MINISTER OF ENVIRONMENTAL AFFAIRS & 3 OTHERS - CASE NO 21559/18 (THABAMETSI)

Nicole,

Thank you – noted.

Regards

*Eben Snyman
Senior Assistant State Attorney
State Attorney: Pretoria
Tel: 012 309 1628
Cell: 082 940 1159
Fax: 0865070293*

