



Centre for Environmental Rights

Advancing Environmental Rights in South Africa

The Honourable President Cyril Ramaphosa
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14 May 2019

Dear President Ramaphosa

PRIORITISATION OF ENVIRONMENT, WATER, AND CLIMATE IN NEW CABINET, WITH WATER DEPARTMENT KEPT SEPARATE

1. The [Centre for Environmental Rights](http://www.cer.org.za) is a non-profit, public interest organisation of activist lawyers who help communities and civil society organisations in South Africa realise our Constitutional right to a healthy environment by advocating and litigating for environmental justice.
2. Through our work, the CER has firsthand experience of the rapid and widespread deterioration of environmental governance in South Africa: deterioration largely due to a lack of institutional leadership, maladministration and corruption, and the misalignment of policies aimed at environmental protection. Unless urgent and meaningful action is taken to prioritise the reform of all relevant departments and ensure the sustainable use of our finite natural resources, ecological collapse is almost certain, resulting in a threat to our water and food sources.
3. Moreover, scientific evidence show that climate change is no longer a future prospect: the effects of climate change are real and are being felt in countries around the world, as extreme weather phenomena become more frequent and intense. The latest examples in southern Africa include [the devastation caused by Cyclone Idai to our neighbouring countries Mozambique and Zimbabwe in March 2019, the flooding in KwaZulu-Natal in late April 2019, and the intense drought in the Western Cape in 2016-2018.](#)
4. One of the most important decisions you will make over the coming weeks is composing your new cabinet. We understand that important decisions will have to be made in relation to the size and composition of the cabinet, as well as the establishment of key portfolios within the Presidency.
5. Drawing on the history of the distribution of governance functions related to natural resources within cabinet since 1994, we ask you to consider the following proposals and considerations relevant to environmental governance. In particular, we call on you to recognise:
 - a. the need for urgent attention to be given to environmental governance, with particular concern for the state of water governance; and
 - b. the unprecedented threat that climate change poses to our country's future prosperity.

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Climate change in the Presidency

6. In October 2018, the United Nations Intergovernmental Panel on Climate Change released a landmark scientific report warning that there are only a dozen years left for action if global warming is to be kept to a maximum of 1.5°C above pre-industrial levels. Beyond 1.5°C, even half a degree will significantly worsen the risks of drought, floods, extreme heat, and poverty for hundreds of millions of people. Even an increase of 1.5°C, which now looks increasingly ambitious, will have dramatically detrimental impacts for South Africa and its people, putting at risk water and food security, biodiversity, human health and economic development.
7. In South Africa, which is particularly vulnerable to the impacts of climate change due to water scarcity, poverty and inequality – the impacts of climate change are already evident, and recorded in the Department of Environmental Affairs' draft Climate Change Adaptation Strategy published this month. Moreover, conservative predictions are of many millions of climate refugees in sub-Saharan Africa moving away from the most affected areas to find new livelihoods.
8. Mainstreaming of climate change – getting appropriate prioritisation of climate considerations across all sectors of government and appropriate action taken – is crucial for making sure that South Africa can take adequate action to respond to the unprecedented challenge that is climate change. As a first step, there needs to be more transparency in publishing greenhouse gas emission data, and stricter, enforceable commitments from corporate emitters and government on steps taken to reduce emissions.
9. Currently, climate change is formally housed in the Department of Environmental Affairs, which has limited power to compel the necessary action by other key government departments, a problem evident from the still unfinalised Climate Change Bill. We therefore call on the President to establish a **Climate Change portfolio inside the Presidency** itself, from where climate action can be coordinated across the many departments affected.
10. Creating such a portfolio would send a strong signal to all sectors of South African society, including big corporate emitters, that our government understands the scope of the climate and ecological breakdown and the enormous risk this poses to all South Africans, and is committed to responding in a way that propels South Africa into a more prosperous, cleaner, and cheaper low-carbon future.

Department of Water & Sanitation

11. The Department of Water & Sanitation has reached a state of regulatory dysfunction. It is only a matter of time before what are currently localised crises of infrastructure decay, towns without water, and the complete failure of the regulation of water use, reach national proportions – watch, in particular, for breakouts of communicable diseases like cholera and typhoid in those areas where the problem is compounded by dysfunction of local authorities.
12. Moreover, this Department was gutted by corruption under former Water & Sanitation Minister Nomvula Mokonyane, and a serious clean-up job is required to shut down all illegal and corrupt activities associated with funds for water infrastructure, in particular.
13. Expecting one Minister to lead this large department, with its massive national responsibility and eroded internal capacity, in addition to another department, is a high risk venture.
14. In the past, the merger of national departments – already a massive change management challenge - has been poorly implemented, leading to prolonged regulatory paralysis. One of the reasons for the current dysfunction of the Department of Water & Sanitation was the poorly managed merger of Water Affairs (previously with Forestry) and Sanitation (previously housed within Human Settlements) in 2014. That department was paralysed for more than 3 years while coming to grips with its new mandate, and while attempts were underway to revise all of its legislation to incorporate sanitation. Doing this again to a department in such a state of dysfunction will be like breaking the dam wall to a water apocalypse.



15. This department not only needs an extraordinarily strong and competent leader, but also restoration of a cohort of competent top management that will get this department broadly back on track in implementing its mandate. The Department has hundreds of unfilled vacancies, and way too many acting officials and senior managers. We call on the President, and whomever he appoints as Minister, to fill these positions in the first 3 months to create fresh new leadership for this crucial department.

Department of Environmental Affairs

16. Criticism and challenge of its approach to air quality and air pollution aside, the Department of Environmental Affairs is generally a well-managed department that mostly tries to fulfil its statutory and regulatory mandate. Given the importance of this department for preserving the natural resources we need for tourism, now responsible for 4.4% of employment in South Africa (bigger than utilities and mining), worse things could happen than again to merge this department with the Department of Environmental Affairs & Tourism, as we had in the 1990s and 2000s.

17. Another attempt to merge the Departments of Water and Environment Affairs is likely to run up against the same challenge that derailed it in 2009, namely that the Department of Environmental Affairs has the statutory mandate to regulate the activities of the Department of Water & Sanitation, creating a conflict of interest. While this is not insurmountable, this problem will frustrate and delay implementation of such a merger.

18. Given the central role this department plays in our climate resilience and holding the environment (soil, air, water, biodiversity) in public trust for the people, we call on the President to give this portfolio the powerful and uncompromised leader it deserves – a person who has a more nuanced understanding of what true development and prosperity means for South Africa and the pivotal role of a healthy environment, than past Environment Ministers. Doing so will signal your grasp of the critical link between preserving our natural resources in order to enable all other economic activities and the realisation of human rights, for all our people.

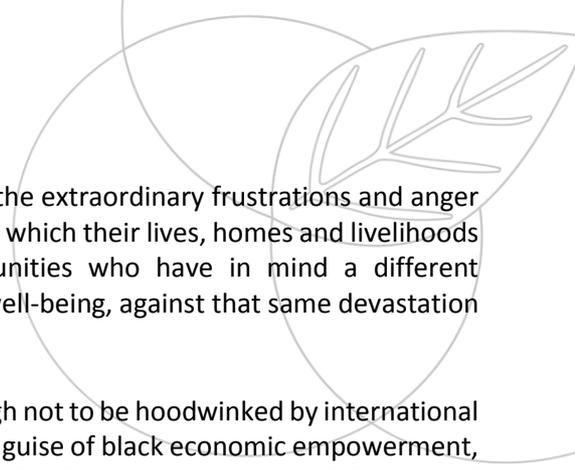
Department of Energy

19. The Minister of Energy is currently making decisions that have far-reaching implications for South Africa's ability to ensure a just transition from fossil fuels to clean energy, and our resilience to the market upheaval and natural storms and droughts coming our way. Whomever is appointed in this position needs to be someone with a vision for a just transition away from fossil fuels to clean, cheap, renewable energy for all South Africans. The appointment requires someone with the guts to stand up to the vested interests that are holding us back, and are throttling our ability to improve the quality of life of everyone in South Africa, including the most vulnerable in our society.

20. An alternative option to a climate portfolio in the Presidency is to transform the Energy portfolio into one of **Energy and Climate**. This would send a strong signal that the ANC and Cabinet acknowledge the massive risk our country faces, and how decisions about energy are directly linked to South Africa's future in a changed climate.

Department of Mineral Resources

21. Over the past 20 years the Department of Mineral Resources has been an entirely negative force when it comes to curbing the negative environmental and social impacts of mining, and the Ministers leading it – for different reasons – actively hostile to the best interests of South Africa's people. Leading South Africa's Mineral Resources department in 2019 requires a very different approach from ones adopted in the past – that person needs to ensure regulatory certainty, but also effective and committed regulation (something the Department has not had for many decades); the person also needs to be able to navigate a far more complex and nuanced environment than the "drill here, drill now" approach we have seen to date.



22. Crucially, the new Minister has to find a way to account for and address the extraordinary frustrations and anger of both mining-affected communities across the country about the way in which their lives, homes and livelihoods have been shattered by effectively unregulated mining, and communities who have in mind a different development path, and are holding out, at great risk to their safety and well-being, against that same devastation they see in other parts of South Africa.

23. In the coal mining industry, the new Minister also needs to be smart enough not to be hoodwinked by international mining companies now offloading the dregs of a dying industry under the guise of black economic empowerment, and instead prevent these companies from walking away scot-free from the absolute devastation of the natural and social environment they have profited from for the last 60 years.

Only through strong, effective and courageous leadership can we achieve the realisation of our Constitutional rights, which includes action to secure a safe climate and environment for all South Africans. We believe that these suggestions for your cabinet would go some way towards reaching that goal.

Please contact us should you have any queries about the proposals set out above.

Yours faithfully

CENTRE FOR ENVIRONMENTAL RIGHTS

per: 

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Executive Director

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