



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NO: 61561/17

In the matter between:

THE TRUSTEES FOR THE TIME BEING
OF THE GROUNDWORK TRUST

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

ACWA POWER KHANYISA THERMAL
POWER STATION RF (PTY) LTD

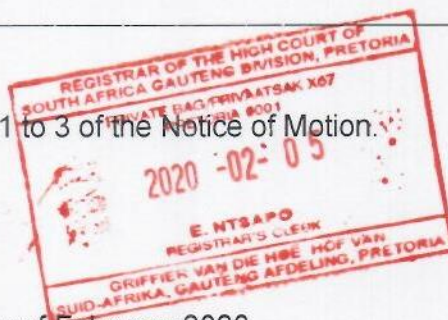
Fourth Respondent

FILING NOTICE

Document Filed: Amended pages 1 to 3 of the Notice of Motion.

On the Roll: Not yet allocated

Dated at Pretoria on this 3rd day of February 2020.




CENTRE FOR ENVIRONMENTAL RIGHTS

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**TO: THE REGISTRAR OF THE ABOVE HONOURABLE COURT
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AND TO: THE STATE ATTORNEY
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**ACWA POWER KHANYISA THERMAL
POWER STATION RF (PTY) LTD**

Fourth Respondent

NOTICE OF MOTION

KINDLY TAKE NOTICE that the Applicant will make application on a date to be determined by the registrar for an order in the following terms:

- 1 It is declared that the environmental authorisation with reference number 12/12/20/2067 expired on or about 31 October 2018 and has no force and effect.

- 2 In the alternative to paragraph 1 above:
 - 2.1 The decision taken by the then Deputy Director General: Legal Authorisations, Compliance and Enforcement on 31 October 2013 to grant the environmental authorisation with reference number 12/12/20/2067, as amended, is reviewed and set aside.

- 2.2 The matter is remitted back to the Second Respondent, the Chief Director: Integrated Environmental Authorisations ("**Chief Director**"), for reconsideration.
- 2.3 The Chief Director is directed to take into account the need for a thorough climate change impact assessment, in light of this Court's judgment in *Earthlife Africa Johannesburg v Minister of Environmental Affairs and Others* [2017] ZAGPPHC 58; [2017] 2 All SA 519 (GP).
- 2.4 To the extent necessary, the 180-day time limit prescribed in section 7(1) of the Promotion of Administrative Justice Act 3 of 2000 ("**PAJA**") for bringing this review application is extended, in terms of section 9 of PAJA, to the date of this application and any delay in bringing this application is condoned.
- 3 In the alternative to paragraphs 2.1 to 2.4 above:
- 3.1 The decision taken by the Minister of Environmental Affairs ("**Minister**"), dated 20 June 2017, refusing the Applicant's application to extend the period for filing its notice of intention to appeal under regulation 60(4) of the 2010 Environmental Impact Assessment Regulations, GNR 543 in *Government Gazette* No 33306 of 18 June 2010 ("**2010 EIA Regulations**"), is reviewed and set aside.
- 3.2 The Minister's decision is substituted as follows:
- 3.2.1 In terms of regulation 60(4) of the 2010 EIA Regulations, the Applicant is granted an extension to file its notice of intention to appeal against

the environmental authorisation granted to the Fourth Respondent on 31 October 2013 with reference number 12/12/20/2067 (as amended).

3.2.2 The Applicant is directed to file its notice of intention to appeal together with its appeal submissions within 20 days of this order, in terms of regulation 60(1) and 61(1) of the 2010 EIA Regulations.

3.2.3 The Applicant's appeal is to proceed in terms of the procedures and timelines specified in Chapter 7 of the 2010 EIA Regulations.

4 The costs of this application are to be paid, jointly and severally, by any respondents opposing this relief, in accordance with section 32(3) of the National Environmental Management Act 107 of 1998.

5 Further and / or alternative relief.

TAKE NOTICE FURTHER that the affidavit of **SVEN EATON PATRICK PEEK**, the attached annexures, along with the confirmatory affidavits of **THOMAS MNGUNI, EUGENE KENNETH CAIRNCROSS** and **NICOLE LOSER**, will be used in support of this application.

TAKE NOTE FURTHER that the Applicant appoints the address of its attorneys, as set out below, as the address at which it will accept service of all process in these proceedings.

TAKE NOTICE FURTHER that: