

To: The Honourable Minister Barbara Creecy
Minister of Environment, Forestry and Fisheries
By e-mail

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YOUR REF:
CER 10

OUR REF:
KC/wn/00046779

DATE:
5 October 2020

Dear Minister

RE: NOTICE OF APPEAL AGAINST THE DECISION TO GRANT POSTPONEMENT OF COMPLIANCE TIMEFRAMES IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT AIR QUALITY ACT 39 OF 2004 MINIMUM EMISSION STANDARDS TO ARCELORMITTAL SOUTH AFRICA (PTY) LTD VANDERBIJLPARK

1. We refer to the above matter and the notice of appeal and submitted by the Centre for Environmental Rights, dated 15 September 2020.
2. Please be advised that we act on behalf of ArcelorMittal South Africa (Pty) Ltd (AMSA) in this matter.
3. Regulations 4(1) and (2) of the Appeal Regulations as per GNR 993 of 8 December 2014 are clear as to both the period within which the appeal is to be submitted as well as the manner in which the appeal is to be submitted.

4. By their own admission, the appellants' attorneys of record had been provided with notification of the decision, at the very latest, on 21 July 2020 (19.4 of the appeal submission). Further, any purported outstanding reasons for the decision subsequently requested under the Promotion of Administrative Justice Act 3 of 2000, have no bearing on the timelines as set out in the Appeal Regulations. The appellant's appeal is accordingly out of time.
5. We note that the appellants have requested condonation for the late submission of the appeal in terms of section 47C of the National Environmental Management Act 107 of 1998 (NEMA). We are of the firm view that unless and until such condonation has been granted, no valid appeal is pending against the decision.
6. Be that as it may, we are instructed to submit a responding statement in terms of Regulation 5 of the Appeal Regulations on behalf of AMSA, in the event that the application for condonation submitted by the appellants might be granted.
7. The appellants have taken more than six weeks to submit their lengthy appeal and the application for condonation. As a result, AMSA would need an indulgence to fully respond to the appeal and condonation application.
8. Under the circumstances, we will submit a responding statement on behalf of our client by no later than 30 October 2020 and we concomitantly kindly request condonation or extension, as the case may be, on behalf of our client for nominally exceeding the 20 day period in this regard, as provided for under section 47C of the NEMA.

Regards



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