

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Case No: 56907/21

In the matter between:

AFRICAN CLIMATE ALLIANCE First Applicant

**VUKANI ENVIRONMENTAL JUSTICE
MOVEMENT IN ACTION** Second Applicant

**THE TRUSTEES FOR THE TIME BEING
OF GROUNDWORK TRUST** Third Applicant

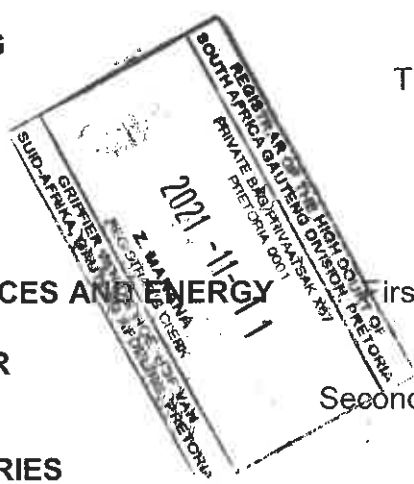
and

THE MINISTER OF MINERAL RESOURCES AND ENERGY First Respondent

**THE NATIONAL ENERGY REGULATOR
OF SOUTH AFRICA** Second Respondent

**THE MINISTER OF FORESTRY, FISHERIES
AND THE ENVIRONMENT** Third Respondent

**THE PRESIDENT OF THE REPUBLIC OF
SOUTH AFRICA** Fourth Respondent



NOTICE OF MOTION

KINDLY TAKE NOTICE the applicants intend to apply on a date to be determined by the Registrar for an order in the following terms:

- 1 The following decisions (“**the impugned decisions**”) are declared to be inconsistent with the Constitution of the Republic of South Africa, 1996 (“**Constitution**”), unlawful and invalid:

- 1.1 The determination published by the Minister of Mineral Resources and Energy (“**Minister**”) on 25 September 2020 as GN 1015 in Government Gazette No 43734, to the extent that this includes provision for 1500 MW of new coal-fired power.
 - 1.2 The concurrence published by the National Energy Regulator of South Africa (“**NERSA**”) on or about 10 September 2020, to the extent that this supported the Minister’s determination in respect of 1500 MW of new coal-fired power.
 - 1.3 The Integrated Resource Plan 2019, published on 18 October 2019 as GN 1360/2019 in *Government Gazette* 42784, to the extent that it makes provision for 1500 MW of new coal-fired power.
- 2 The impugned decisions are set aside to the extent that they make provision for 1500 MW of new coal-fired power.
 - 3 To the extent necessary, the applicants’ delay in bringing the review application in terms of the Promotion of Administrative Justice Act 3 of 2000 (“**PAJA**”), alternatively the constitutional principle of legality, is condoned and / or the 180-day time period under PAJA is extended so as to terminate one day after the institution of this application.
 - 4 The costs of this application are to be paid, jointly and severally, by all respondents that oppose it.
 - 5 Further and / or alternative relief.

TAKE NOTICE FURTHER that the founding affidavit of **SARAH ROBYN FARRELL**, together with annexures and supporting affidavits, will be used in support of this application.

TAKE NOTE FURTHER that the applicants appoint the address of their attorneys, as set out below, as the address at which they will accept service of all process in these proceedings.

TAKE NOTICE FURTHER that:

- (a) In terms of Rule 53(1)(a) of the Uniform Rules of Court, the Minister and NERSA are called upon to show cause why the impugned decisions should not be reviewed, declared invalid and set aside;
- (b) In terms of Rule 53(1)(b), the Minister and NERSA are called upon, within fifteen days of receipt of this notice of motion, to despatch to the Registrar the record of all documents and all electronic records that relate to the making of the impugned decisions, together with such reasons as they are by law required or may require to give or make, and to notify the applicant's attorneys that this has been done.
- (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 its notice of motion and supplement the founding affidavit, by delivery of a notice and accompanying affidavit.

TAKE NOTICE FURTHER that any respondents who wish to oppose the relief sought are required:

- (a) within 15 days of receipt of this notice of motion or any amendment thereto as contemplated in Rule 53(4), to deliver a notice to the applicant's attorneys that such respondents intend to oppose this application;
- (b) to appoint an address within 15 kilometres of the office of the Registrar at which the respondents will accept notice and service of all process in such proceedings; and
- (c) within 30 days of the expiry of the time period referred to in Uniform Rule of Court 53(4), deliver such affidavits as they may desire in answer to the allegations made by the applicant.

Kindly place the matter on the roll accordingly.

DATED at PRETORIA on this the 10th day of November 2021.



CENTRE FOR ENVIRONMENTAL RIGHTS

Applicants' Attorneys

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C/O

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**TO: THE REGISTRAR OF THE ABOVE COURT,
PRETORIA**

AND TO: THE MINISTER OF MINERAL RESOURCES & ENERGY

First Respondent
192 Visagie Street
Corner Paul Kruger & Visagie Street
PRETORIA

AND TO: THE NATIONAL ENERGY REGULATOR OF SOUTH AFRICA

Second Respondent
526 Madiba Street
Arcadia
PRETORIA

**AND TO: THE MINISTER OF FORESTRY, FISHERIES
AND THE ENVIRONMENT**

Third Respondent
Environment House
473 Steve Biko
Arcadia

PRETORIA

AND TO: **THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA**

Fourth Respondent

The Presidency Office

Union Building

Government Ave

Arcadia

PRETORIA