



groundWork

Environmental justice action

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Ref: 14/7/6/2/4/6/48

Minister Barbara Creecy

Department of Environment, Forestry and Fisheries

By email: MSipilica@environment.gov.za; fshaik@environment.gov.za

Dear Honourable Minister

SUBJECT: REQUEST TO THE MINISTER TO REVOKE THE DECISION REGARDING THE SECTION 30 (A) (1) DIRECTIVE ISSUED BY DEFF FOR THE KARPOWERSHIP GAS TO POWER PROJECT (REFERENCE NUMBER: 14/7/6/2/4/6/48)

1. groundWork wish to request that the Minister revoke the Section 30 (A) (1) Directive issued by the Department of Environment, Forestry and Fisheries (DEFF) to Karpowership SA (Pty) Ltd (REFERENCE NUMBER: 14/7/6/2/4/6/48) in July 2020. The directive is attached for your ease of reference.
2. groundWork requests the revocation of the directive for the following reasons:
 - 2.1. That the decision did not adequately address the purpose of s30A – which is to or direct the undertaking of a specified activity, without obtaining an environmental authorisation **in order to prevent or contain an emergency situation or to prevent, contain or mitigate the effects of the emergency situation**. While we do need electricity capacity in South Africa, s30A is not an appropriate legal process in this instance as it can only be relied on in order to prevent the effects of an emergency situation, which is not the case with this gas project. We submit that this directive is an abuse of process.
 - 2.2. That the issuance of the above directive to bypass consultation, impact assessment and authorization processes is unlawful and does not act in the public interest and is undermining people's Constitutional rights to an environment not harmful to health or wellbeing and rights of access to information.
 - 2.3. There is no evidence provided on how the project would "prevent, contain or mitigate" the effects of the Covid-19 pandemic despite this (s30A) being relied on as the justification to direct the commencement of the activities.

Trustees: Faried Esack, Joy Kistnasamy, Judy Bell, Patrick Kulati, Richard Lyster, Mawande Mazibuko





- 2.4. That the least hazardous, least cost and best practicable environmental option to minimize harm to the environment and people has not been considered. If anything, new gas capacity will contribute to the climate crisis, through further greenhouse gas emissions. Instead of saving lives, this project could leave people worse off and more susceptible to the impacts of COVID-19. Following proper environmental authorization process for the procurement of new energy capacity would take into consideration the best available technology/techniques (BAT) to protect both people and the environment in terms of safety, low carbon economy that is both nature and people safe.
- 2.5. That section 30A is not an appropriate legislative tool to authorize electricity generation projects, particularly capacity based on fossil fuels, which comes with high negative impacts for the public. The parties involved in the decision-making, in any event, through not following proper authorization processes, failed to consider the following technologies that are safer, cleaner, low carbon, and low cost options that are readily available to address the need for a safe power supply:
 - 1.3.1. Solar PV with battery storage both localized in areas of need and to feed into the grid
 - 1.3.2. Wind turbines already in existence that are ready to start up and feed into the grid
 - 1.3.3. Battery storage units in healthcare facilities as emergency backup supply
- 2.6. That the risk associated with hazardous materials such as fossil fuel sources, particularly given the highly flammable nature of the gas has not been considered. Emissions of contaminants, exposure to workers and the high risk of an environmental disasters.
- 2.7. That the need for safe supply, storage, use and transportation of hazardous substances has not been and is prevented from being adequately assessed with the issuance of the Directive in question. Furthermore, the proponent has not obtained a waste management licence for the listed activities in the National Environmental Management: Waste Act (No. 59 of 2008).
- 2.8. That while we note that a water use licence and air emission licence are expressly required in the directive, the fact that the proponent has been ordered to commence construction immediately, renders other licences a foregone conclusion and a mere tick-box exercise.
- 2.9. That the impacts on workers, communities, environmental and ecosystem effects have not been adequately evaluated with risk and disaster management plans and procedures in place. This should include the cumulative impacts of other industries in the area. The risk of leaks and explosions is high given the climate volatility, sea storms, temperature surges and surrounding industries that may exacerbate the effects of any incident. People and industry in the potentially impacted areas need to be notified of, consulted with and participate in the development emergency procedures and the disaster management plans
- 2.10. That alleged and so-called lifesaving initiatives (which we submit this is not) should not compromise people and the environment. That environmental threats



must be minimized to ensure a high standard of human and environmental health.

2.11. That this decision is considered in the context of the climate crisis we face and the need to move from fossil fuels to renewable resources to generate energy. That the decision is in fact promoting the use and expansion of the fossil fuels industry as opposed to lowering greenhouse gas emissions that are the major contributor to climate change and moving into the low carbon economy. As the Minister has acknowledged that the extreme weather events and prolonged droughts are real threats to our country reiterating President Rhamaposa's promise to the nation in his SONA address to undertake a decisive shift in our energy trajectory at a time when humankind faces the greatest threat, to its sustainable future, namely Climate Change.

2.12. That the Minister exercises the precautionary principle to prevent potentially adverse impacts and honour the commitment of common moral and global responsibility to fight the causes and consequences of Climate Change and to not shrink from the task that is confronted.

3. The pandemic and State of Disaster should not be used to fast track fossil fuel development while excluding and restricting people's ability to participate and forgoing the legislated and much-needed impact assessment process. It is unlawful, and abuse of process, as this is clearly not what section 30A was intended for, and it is violating people's Constitutional rights and their role in maintaining a healthy and vibrant democracy.
4. We trust that the Minister will take these important issues into consideration and act in the interest of people and the environment. We request that the Minister revoke the Section 30(A)(1) directive, which the Minister is entitled to do under section 42(2B) NEMA, to the extent that the directive was issued as a consequence of delegation by the Minister to the competent authority.

Yours sincerely

groundWork

Avena Jacklin

Climate and Energy Justice Campaign Manager