

**IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG**

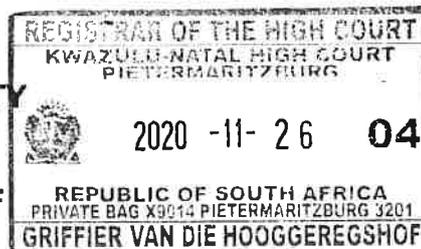
Case No: 8407/20P

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

Applicant

and

MSUNDUZI LOCAL MUNICIPALITY



First Respondent

**HEAD OF THE DEPARTMENT OF
ECONOMIC DEVELOPMENT,**

TOURISM AND ENVIRONMENTAL AFFAIRS,

KWAZULU-NATAL PROVINCIAL GOVERNMENT

Second Respondent

MEMBER OF THE EXECUTIVE COUNCIL

FOR ECONOMIC DEVELOPMENT,

TOURISM AND ENVIRONMENTAL AFFAIRS,

KWAZULU-NATAL PROVINCIAL GOVERNMENT

Third Respondent

INDEX BUNDLE 1

| | Document | Page Number |
|---|---|--------------------|
| 1 | Certificate of Urgency | 1-2 |
| 2 | Notice of Motion | 3-9 |
| 3 | Founding Affidavit | 10-79 |
| 4 | 'JBS1' - Replacement Permit issued to the City of Pietermaritzburg under Permit No. 16/2/7U203D3/21/P64 | 80-100 |

1

**IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG**

Case No.: 8407/20P

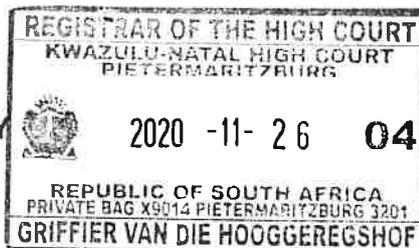
In the matter between:

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

Applicant

and

MSUNDUZI LOCAL MUNICIPALITY



First Respondent

HEAD OF THE DEPARTMENT OF

ECONOMIC DEVELOPMENT,

TOURISM AND ENVIRONMENTAL AFFAIRS,

KWAZULU-NATAL PROVINCIAL GOVERNMENT

Second Respondent

MEMBER OF THE EXECUTIVE COUNCIL

FOR ECONOMIC DEVELOPMENT,

TOURISM AND ENVIRONMENTAL AFFAIRS,

KWAZULU-NATAL PROVINCIAL GOVERNMENT

Third Respondent

CERTIFICATE OF URGENCY

I, Thandazani Griffiths Madonsela SC, hereby certify that I am a senior advocate of the above Honourable Court, practising at Durban and I have read the papers in this application and it is my respectful view that this matter is of sufficient urgency to enable this Honourable Court to hear this matter as a matter of urgency.

DATED at PIETERMARITZBURG on this 24th day of NOVEMBER 2020.



T.G. Madonse

TG MADONSELA SC

**IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG**

Case No.: 8407/20P

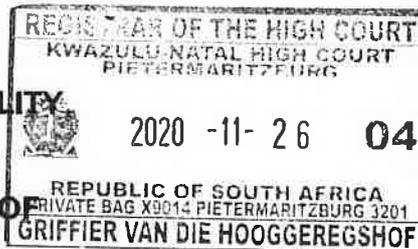
In the matter between:

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

Applicant

and

MSUNDUZI LOCAL MUNICIPALITY



First Respondent

**HEAD OF THE DEPARTMENT OF
ECONOMIC DEVELOPMENT,
TOURISM AND ENVIRONMENTAL AFFAIRS,
KWAZULU-NATAL PROVINCIAL GOVERNMENT**

Second Respondent

**MEMBER OF THE EXECUTIVE COUNCIL
FOR ECONOMIC DEVELOPMENT,
TOURISM AND ENVIRONMENTAL AFFAIRS,
KWAZULU-NATAL PROVINCIAL GOVERNMENT**

Third Respondent

NOTICE OF MOTION

KINDLY TAKE NOTICE THAT the Applicant intends to make application in this Court on 11th day of December 2020 and at 9h30 a.m. or so soon thereafter as Counsel may be heard for an order in the following terms:

1. That a Rule Nisi do hereby be issued calling upon the Respondents to show cause on the _____ day of _____ 2020 at 9h00 a.m. or so soon thereafter as Counsel may be heard why the following orders should not be made:
 - 1.1. Declaring that the First Respondent is in breach of Paragraph 4.1.7 of the Revised Compliance Notice (as amended) issued by the Second Respondent on 18 February 2020;
 - 1.2. Declaring that the First Respondent is in breach of the Variation Waste Management Licence issued by the Second Respondent on 3 July 2017, in respect of the operation of the New England Road Landfill Site on Lot 1853 of the Farm Darvill No. 15036, New England Road, Pietermaritzburg;
 - 1.3. Declaring that the First Respondent is in breach of:
 - 1.3.1. Section 20(b) of the National Environmental Management: Waste Act 59 of 2008;
 - 1.3.2. Section 31L(4) of the National Environmental Management Act 107 of 1998;
 - 1.3.3. Section 28(1) and (3) of the National Environmental Management Act 107 of 1998;

- 1.3.4. Section 19(1) of the National Water Act 36 of 1998;
- 1.3.5. Section 24 of the Constitution of the Republic of South Africa, 1996; and/or
- 1.3.6. Its obligations in terms of international law.

2. STRUCTURAL INTERDICTION

- 2.1. Within one (1) month of the date of the order, the First Respondent is directed to file an Action Plan and reports under oath, with this Court.
- 2.2. The Action Plan shall:
 - 2.2.1. Be detailed and comprehensive;
 - 2.2.2. Address all non-compliances identified by the Second Respondent in Paragraph 3.1 of the Revised Compliance Notice;
 - 2.2.3. Be designed to comply with paragraph 4.1.7 of the Revised Compliance Notice;
 - 2.2.4. Explain the steps that the First Respondent will take in order to comply with the Revised Compliance Notice and the Variation Waste Management Licence; and

- 2.2.5. Set measurable, periodic deadlines for progress.
- 2.3. All the parties to this application, and any other interested parties, will be entitled to comment of the Action Plan within one (1) month of the date on which that Plan is filed with this Court.
- 2.4. The First Respondent will file to this Court, and serve on the other parties to this application, monthly reports indicating their progress with regard to the implementation of the Action Plan, after its approval by the Second and Third Respondents.
- 2.5. All the parties to this application, and any other interested parties, will be entitled to comment on these monthly reports within thirty (30) days after the date on which they are filed.
- 2.6. This Court may, at any stage and on its own accord, after having heard submissions by the parties, make any further direction or orders it deems fit.
- 2.7. Thereafter, this matter is to be enrolled on a date to be fixed by the Registrar in consultation with the presiding judge for consideration and determination of the aforesaid reports, commentary and replies.
- 2.8. Furthermore, the First Respondent is directed to discharge its duty of care and remediation of environmental damage, as required by section 28(1) and (3) of the National Environmental Management Act 107 of 1998.

2.9. Within six (6) months of the date of the order, the First Respondent is directed to file a report, under oath, with this Court, on the progress on the First Respondent's discharge of the duty of care and remediation referred to above.

3. The First Respondent is directed to pay the costs of this application.

4. Further and/or alternative relief.

THAT if the Respondents intend to oppose this application, they/it be and is/are hereby directed to deliver any opposing or answering affidavit/s on or before this ____ day of _____ 2021.

THAT the Applicant is directed to deliver any replying affidavit on or before _____ day of _____ 2021.

TAKE NOTICE FURTHER that the Applicant has appointed the address of the undermentioned attorneys as an address at which it will accept notice and service of all processes in these proceedings.

TAKE NOTICE FURTHER that the affidavit of **JONAS BEN SIBANYONI**, together with annexures thereto, will be used in support hereof.

Kindly place the matter on the roll accordingly.

DATED at PIETERMARITZBURG this 24th day of NOVEMBER 2020



NDLOVU DE VILLIERS ATTORNEYS
APPLICANT'S ATTORNEYS
BLOCK A VICTORIA HOUSE
VICTORIA COUNTRY CLUB ESTATE
170 PETER BROWN DRIVE
PIETERMARITZBURG
3201
Tel: (033) 001 7521
Email: ndlovu@ndvlaw.co.za
Ref: S05-001

**TO: THE REGISTRAR OF THE HONOURABLE COURT
PIETERMARITZBURG**

**AND TO: MSUNDUZI LOCAL MUNICIPALITY
FIRST RESPONDENT
CITY HALL,
333 CHIEF ALBERT LUTHULI STREET,
PIETERMARITZBURG,
3201**

**AND TO: HEAD OF DEPARTMENT OF ECONOMIC DEVELOPMENT, TOURISM
AND ENVIRONMENTAL AFFAIRS
SECOND RESPONDENT
270 JABU NDLOVU STREET
PIETERMARITZBURG
3201**

AND TO: **MEMBER OF EXECUTIVE COUNCIL FOR DEPARTMENT OF
ECONOMIC DEVELOPMENT, TOURISM AND ENVIRONMENTAL
AFFAIRS**
THIRD RESPONDENT
217 BURGER STREET,
PIETERMARITZBURG
3201

**IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG**

Case No.: 8407/2019

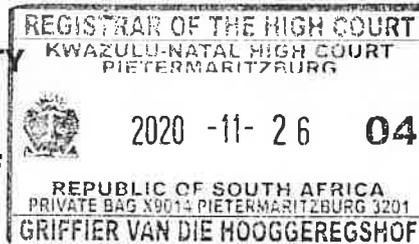
In the matter between:

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

Applicant

and

MSUNDUZI LOCAL MUNICIPALITY



First Respondent

**HEAD OF THE DEPARTMENT OF
ECONOMIC DEVELOPMENT,
TOURISM AND ENVIRONMENTAL AFFAIRS,
KWAZULU-NATAL PROVINCIAL GOVERNMENT**

Second Respondent

**MEMBER OF THE EXECUTIVE COUNCIL
FOR ECONOMIC DEVELOPMENT,
TOURISM AND ENVIRONMENTAL AFFAIRS,
KWAZULU-NATAL PROVINCIAL GOVERNMENT**

Third Respondent

FOUNDING AFFIDAVIT

I, the undersigned,

JONAS BEN SIBANYONI

do hereby state under oath as follows:


S.B

1. I am an adult male and a part-time Commissioner of the Applicant, namely the **SOUTH AFRICAN HUMAN RIGHTS COMMISSION**, appointed as such in terms of section 193 of the Constitution of the Republic of South Africa, 1996 (hereinafter referred to as the "Constitution") and section 5 of the South African Human Rights Commission Act 40 of 2013 (hereinafter referred to as the "SAHRC Act"). In this application I refer to the Applicant as such or as the "Commission".

2. I am duly authorised to depose to this affidavit on behalf of the Commission and to bring this application on behalf of the Commission.

3. The facts contained in this affidavit are within my own personal knowledge, unless the contrary is stated or appears from the context, and are true and correct.

4. Where I make submissions of law in this affidavit I do so on the advice of the Commission's legal representatives.

THE PARTIES

5. The Commission is a national institution established in terms of Chapter 9 of the Constitution. The Constitutional role of the Commission is to protect and to promote the fundamental human rights which are enshrined in Chapter 2 of the Constitution.



SB

6. The Constitution and the SAHRC Act govern the Commission. In terms of the SAHRC Act, the Commission enjoys a juristic personality to act on its own and to act on behalf of any person or a group or class of persons. The Commission accordingly institutes these proceedings in its own interest and in the public interest.
7. The Commission has 9 (nine) Provincial Offices. Its National Office is located at Braampark Forum 3, 33 Hoofed Street, Braampark, Johannesburg, Gauteng, 2107 and its KwaZulu-Natal Provincial Office is situated on the First Floor, 136 Margaret Mncadi Avenue, Durban, 4001.
8. The First Respondent is the **MSUNDUZI LOCAL MUNICIPALITY**, a municipality established under the Local Government, Municipal Structures Act 117 of 1998, and which is seated at the City Hall, 333 Chief Albert Luthuli Street, Pietermaritzburg, KwaZulu-Natal.
9. The Second Respondent is the **HEAD OF DEPARTMENT OF ECONOMIC DEVELOPMENT, TOURISM AND ENVIRONMENTAL AFFAIRS, PROVINCE OF KWAZULU-NATAL**. The Second respondent is cited herein on his capacity as the accounting officer of the said Department. The Second Respondent's address is: Office of the Head of Department, 270 Jabu Ndlovu Street, Pietermaritzburg, KwaZulu-Natal.
10. The Third Respondent is the **MEMBER OF THE EXECUTIVE COUNCIL FOR ECONOMIC DEVELOPMENT, TOURISM AND ENVIRONMENTAL AFFAIRS,**

PROVINCE OF KWAZULU-NATAL and is cited herein in her capacity as the Member of Executive Council (MEC) who is responsible for waste management in the province in terms section 1 of the National Environmental Management: Waste Act 59 of 2008 (hereinafter referred to as the "Waste Act"). The Third Respondent's address is: Office of the MEC, 217 Burger Street, Pietermaritzburg, KwaZulu-Natal.

11. I refer to the Second and Third Respondents collectively as the "Environmental Authorities".

SUMMARY AND SCHEME OF THE APPLICATION

12. This founding affidavit is in support of an application for an order which ensures that the First Respondent's operation of the New England Road Landfill Site (hereinafter referred to as the "Dump") respects, protects, promotes and fulfils the rights in Bill of Rights. The order that the Commission seeks is set out in full in the Notice of Motion and includes a declarator and a structural interdict sought against the First Respondent.

13. This affidavit is set out as follows:

- 13.1. I deal firstly with the salient background relating to this application;
- 13.2. I deal secondly with the Commission's engagement of stakeholders;



S B

- 13.3. I deal thirdly with the Environmental Authorities' failed attempts to ensure compliance with applicable laws and the Variation Licence;
- 13.4. I deal fourthly with the Commission's *locus standi*;
- 13.5. I deal fifthly with the First Respondent's Constitutional duty to protect its citizens;
- 13.6. I next deal with the relief that the Commission seeks from this Honourable Court; and
- 13.7. I then make submissions relating to the urgency of this matter and the conclusion.

SALIENT BACKGROUND

Location of the Dump

14. The Dump is located on Lot 1853 of the farm Darvill 15036 (hereinafter referred to as "Lot 1853"), in Pietermaritzburg, within the First Respondent's area of jurisdiction. The Dump is located approximately 2 kilometres south of the N3 Highway, in an area between Sobantu Township, Darvill Waste Water Treatment Works and the Pietermaritzburg Golf Course. (Refer to the locality map in **Figure 1** below).



Figure 1: Dump locality map

15. The proximity of the Dump and the Sobantu Township is illustrated in **Figure 2** below:

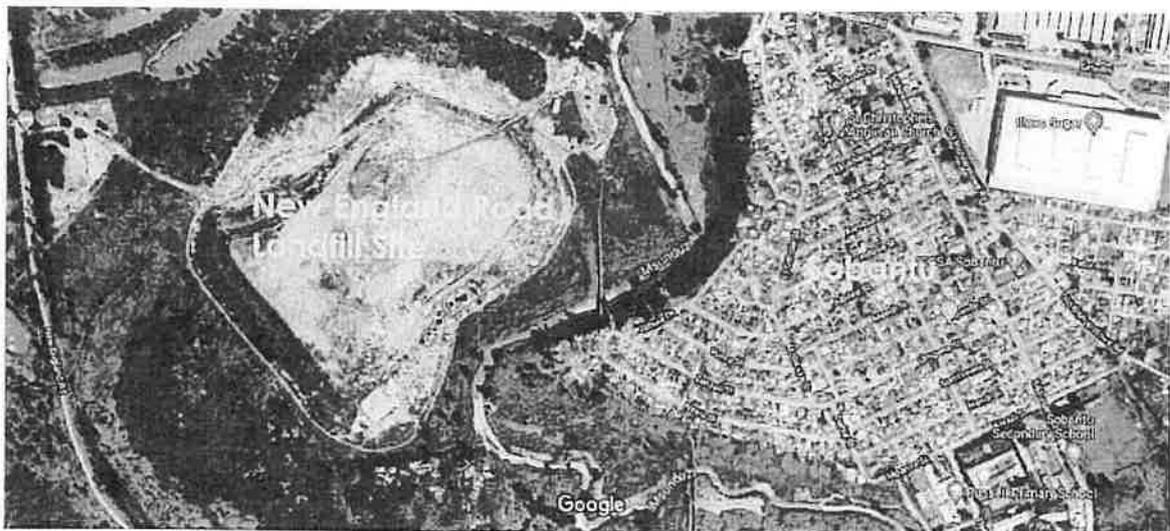


Figure 2: Picture showing proximity of the Dump and Sobantu Township

Type of waste disposed at the Dump




16. The Dump is used for the disposal of general waste only, including domestic waste, inert waste and garden waste. The Dump is the primary landfill disposal site for the First Respondent. The waste disposed at the Dump includes waste from other local municipalities within the Umgungundlovu District Municipality's family of local municipalities.

Infrastructure on the Dump

17. The Dump has a weighbridge, site security, site office and ancillary supporting infrastructure. Vehicle access to the Dump is controlled and the Dump has a perimeter fence.

History of the Dump

18. Lot 1853 and the Dump are legacy assets of the First Respondent. The First Respondent was established in the year 2000 and is the successor-in-law to the Pietermaritzburg-Msunduzi Transitional Local Council. That Council owned and operated the Dump and, when that Council was disestablished in 2000, the First Respondent became the owner and operator of the Dump.
19. The Pietermaritzburg-Msunduzi Transitional Local Council had become the owner and operator of the Dump in its capacity as the successor-in-law to the City of Pietermaritzburg. Since the early 1950s, the City of Pietermaritzburg operated the Dump as a municipal waste disposal site.¹ When the Dump was

¹ S M Jewaskiewitz, "The rehabilitation of the New England Road Landfill in Pietermaritzburg - A case study", published in civil engineering, June 1995, Page 21.

established, it was known as the Darvill Municipal Landfill Site.² That name appears to have been chosen out of recognition of the fact that the Dump is located on “the farm Darvill 15036”.

20. When the City of Pietermaritzburg (as it then was) commenced its operation of the Dump in the 1950s, the Republic of South Africa had no environmental laws which required the establishment and operation of landfill sites to be preceded by any environmental impact assessment (hereinafter referred to as “EIA”). S M Jewaskiewitz expresses this point thus:

“The Landfill was developed at a time when no environmental controls were required for landfill sites and has proceeded without any formal development plan. Consequently, there were no previously planned final levels or projections on site life.”³

Legislative history from 1989 to 2009

21. The first Act of Parliament which regulated the operation of the Dump is the Environment Conservation Act 73 of 1989 (hereinafter referred to as the “ECA”) which came into effect on 9 June 1989. The coming into effect of the ECA did not have an immediate impact on the operation of the Dump as it was only a year later that the relevant section of the ECA became enforceable.

² S M Jewaskiewitz, Page 21.

³ S M Jewaskiewitz, Page 21.

22. When it came into force, the ECA included section 20(1) which stated that no person shall establish, provide or operate any waste disposal site without a permit issued by the Minister of Water Affairs and Forestry. Importantly, the obligation to obtain such permits applied to both existing and proposed landfill sites.

23. On 4 May 1993, the Department of Water Affairs and Forestry issued a section 20 permit which authorised the City of Pietermaritzburg to continue operating the Dump. That permit was issued under Departmental Reference No. B33/2/1920/40/P64. Hence, from 4 May 1993, the City of Pietermaritzburg had the obligation to operate the Dump in compliance with the section 20 permit of the same date.

24. On 9 February 1995, acting in terms of the Local Government Transition Act 209 of 1993, the Minister of Local Government and Housing established the Pietermaritzburg-Msunduzi Transitional Local Council and disestablished the City of Pietermaritzburg. Hence, the Pietermaritzburg-Msunduzi Transitional Local Council is the successor-in-law to the City of Pietermaritzburg. As such, the Pietermaritzburg-Msunduzi Transitional Local Council became the owner and operator of the Dump from 9 February 1995. It follows that the Pietermaritzburg-Msunduzi Transitional Local Council had an obligation to operate the Dump in compliance with the section 20 permit issued by the Department of Water Affairs and Forestry on 4 May 1993.



25. The Pietermaritzburg-Msunduzi Transitional Local Council also had an obligation to comply with the provisions of the Interim Constitution of 1993. The Constitution came into effect on 4 February 1997, thereby replacing the Interim Constitution. Importantly, the Constitution includes Chapter 2 which contains a Bill of Rights. Among those rights is the environmental right which is set out in section 24. In its operation of the Dump, the Pietermaritzburg-Msunduzi Transitional Local Council had an obligation to give effect to section 24 of the Constitution.
26. The Pietermaritzburg-Msunduzi Transitional Local Council subsequently applied for amendment of its section 20 permit. On 22 April 1998, acting in terms section 20 of the ECA, the Department of Water Affairs and Forestry issued a fresh permit in terms of section 20. I refer to that permit as the "Replacement Permit" as it replaced the permit which had been issued to the City of Pietermaritzburg. The Department of Water Affairs and Forestry issued the Replacement Permit under Permit No. 16/2/7U203D3/21/P64. I attach a copy of the Replacement Permit as **Annexure JBS1** hereto.
27. Specifically, in the Replacement Permit, the Department of Water Affairs and Forestry authorised the Pietermaritzburg-Msunduzi Transitional Local Council "to further develop and operate" the Dump subject to specified conditions.⁴
28. I pause to mention that, in the Replacement Permit, the Department of Water Affairs and Forestry made numerous references to the Pietermaritzburg-Msunduzi Transitional Local Council's obligation to comply with the *Minimum*

⁴ Page 1 of the Replacement Permit.

Requirements published by the Department of Water Affairs and Forestry, from time to time. When the Department of Water Affairs and Forestry issued the Replacement Permit on 22 April 1998, the Department of Water Affairs and Forestry had during the same year (1998) published the second addition of that Department's *Minimum Requirements*. The significance of these requirements is that they were part of the conditions of the Replacement Permit. The Minimum Requirements are contained in a bulky document. In order to avoid rendering these papers unnecessarily prolix, I attach an excerpt of the relevant portion marked as **Annexure JBS2**. A full copy will be made available if necessary. The references to the *Minimum Requirements* effectively meant that the Pietermaritzburg-Msunduzi Transitional Local Council also had an obligation to comply with the *Minimum Requirements*.

29. On 29 January 1999, the National Environmental Management Act 107 of 1998 (hereinafter referred to as "NEMA") came into effect. NEMA is a national framework statute designed to give effect to section 24 of the Constitution.
30. Among others, NEMA imposes a duty to take reasonable measures in certain circumstances. This duty is often referred to as the "duty of care" towards the environment. The scope of that duty is very broad. Section 28(2) provides that:

"Without limiting the generality of the duty in subsection (1), the persons on whom subsection (1) imposes an obligation to take reasonable measures, include an owner of land or premises, or person in control of land or premises or a person who has a right to use the land or premises on which or in which –

(a) any activity or process is or was performed or undertaken; or

(b) any other situation exists, which causes, has caused or is likely to cause significant pollution or degradation of the environment.”

31. When NEMA came into effect on 29 January 1999, it imposed a duty of care on the Pietermaritzburg-Msunduzi Transitional Local Council regarding the manner in which that Council operated the Dump.
32. On 19 September 2000, acting in terms of the Local Government: Municipal Structures Act 117 of 1998, the Minister of Traditional Affairs, Safety and Security and of Local Government established the First Respondent and disestablished the Pietermaritzburg-Msunduzi Transitional Local Council. The First Respondent became the owner and operator of the Dump from that date. The First Respondent inherited:
- 32.1. The ownership and operation of the Dump;
- 32.2. The right to operate the Dump in compliance with the Replacement Permit;
- 32.3. The obligation to comply with the conditions of the Replacement Permit;
- 32.4. The obligation to discharge the duty of care set out in section 28 of NEMA;
- 32.5. The responsibility to comply with all the laws that regulated the operation of the Dump, including the requirements flowing from the ECA and NEMA;
- and

- 32.6. The obligation to respect, protect, promote and fulfil the rights in the Bill of Rights, including the environmental right contained in section 24 of the Constitution.
33. The applicable legislative framework remained intact (from 2000) until 2009.

Legislative history from 1 July 2009 to date

34. On 1 July 2009, the Waste Act came into effect. Whereas NEMA is a national framework statute, the Waste Act is a specific environmental management Act designed to regulate waste management in the Republic of South Africa. The First Respondent has an obligation to comply with both.
35. Section 81 of the Waste Act is of particular relevance to this matter. Its significance is that it repealed section 20 of the ECA. Despite that repeal, a permit issued in terms of section 20 of the ECA remained valid, subject to section 81(2) and (3) of the Waste Act. Hence, the repeal of section 20 of the ECA did not have the effect of repealing the First Respondent's Replacement Permit relating to the replacement of the Dump. Instead, the Replacement Permit became regarded as a waste management licence issued in terms of the Waste Act.
36. On 6 June 2016, the First Respondent made an application to the Second Respondent for a variation of the First Respondent's Replacement Permit. At that time the Second and Third Respondents had become the competent authorities who are responsible for the regulation of the First Respondent's operation of the

Dump. That had come about owing to the coming into effect of the Waste Act on 1 July 2009.

37. On 3 July 2017, the Second Respondent granted the above-mentioned application. The Second Respondent issued a waste management licence in terms of the Waste Act and referred to as the "Variation Licence". The Second Respondent issued the Variation Licence under Departmental reference number DC22/WML/0061/2016. I attach a copy thereof marked **Annexure JBS3**.
38. The Variation Licence is the current instrument which regulates the First Respondent's operation of the Dump.

Implications of the legislative history

39. From the legislative history set out above, it is clear that the First Respondent's operation of the Dump is a highly regulated operation. In operating the Dump, the First Respondent:

- 39.1. Had to comply with the Replacement Permit from 2000 to 2 July 2017;
- 39.2. Has to comply with the Variation Licence from 3 July 2017 to date;
- 39.3. Had to comply with the provisions of section 20 of the ECA from 2000 to 30 June 2009;
- 39.4. Has to comply with the provisions of the Waste Act from 1 July 2009 to date;

- 39.5. Has to comply with the provisions of section 28 of NEMA from 2000 to date; and
- 39.6. Had to respect, protect, promote and fulfil the rights in the Bill of Rights, including the environmental right contained in section 24 of the Constitution.

How should a landfill site be operated in compliance with the law?

40. In order to amplify the First Respondent's obligations set out immediately above, I pause to relate how an operator should operate a landfill site lawfully. First, in terms of section 20 of the Waste Act, an operator of a landfill site must be a holder of a waste management licence if that operation involves the disposal of general waste to land covering an area in excess of 200 square metres and with a total capacity exceeding 25 000 tons. This is because operating a landfill site of such dimensions is a listed waste management activity which requires to be undertaken in accordance with a waste management licence.

41. Section 20 of the Waste Act provides that:

"No person may commence, undertake or conduct a waste management activity, except in accordance with –

...

(b) a waste management licence issued in respect of that activity, if a licence is required."

Handwritten initials: SA

42. Secondly, section 16 of the Waste Act imposes a duty of care on a holder of waste. Section 16(1)(d) provides that:

"A holder of waste must, within the holder's power, take all reasonable measures to -

...

(d) manage the waste in such a manner that it does not endanger health or the environment or cause a nuisance through noise, odour or visual impacts".

43. Thirdly, an operator of a landfill site must also comply with the *National Norms and Standards for Disposal of Waste to Landfill, 2013*. The Minister of Environmental Affairs issued those Norms and Standards, in terms of section 7(1)(c) of the Waste Act in Government Notice No. R636 promulgated in *Government Gazette* No. 36784 of 23 August 2013. On the same date, the Minister issued the Waste Classification and Management Regulations in *Government Gazette* No. R634. By issuing the Regulations and the Norms and Standards together, the Minister incorporated the Norms and Standards into law. Hence, to operate a landfill site lawfully, an operator must also comply with the Norms and Standards. I attach copies of the Norms and Standards and the Regulations as **Annexures JBS4** and **JBS5** respectively.

AA

SB

44. Fourthly, in addition to the requirements imposed by the Waste Act, an operator must also discharge its duty of care contained in section 28 of NEMA. Section 28(1) provides that:

“Every person who causes, has caused, or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment.”⁵

45. What makes an operator to attract the duty of care is that undertaking a waste management activity (in other words, operating a landfill site) “may cause significant pollution or degradation of the environment”.

46. Fifthly, section 19 of the National Water Act 36 of 1998 (hereinafter referred to as the “Water Act”) contains a duty of care towards water resources which resembles the duty of care set out in section 28 of NEMA. Section 19(1) of the Water Act provides that:

“An owner of land, a person in control of land or a person who occupies or uses the land on which –

- (a) any activity or process is or was performed or undertaken; or
- (b) any other situation exists,

⁵ Section 28(1) of NEMA.

which causes, has caused or is likely to cause pollution of a water resource, must take all reasonable measures to prevent any such pollution from occurring, continuing or recurring.”

47. The prevention of pollution of water resources is a relevant concern in the context of operating a landfill site. Hence, every operator attracts the duty of care set out in section 19(1) of the Water Act.

First Respondent's history of non-compliance

48. The First Respondent has a long history of non-compliance with its statutory and regulatory obligations. The Commission has reviewed documents which together constitute the First Respondent's record on how the First Respondent has operated the Dump since 2000. In the main, that record comprises documents that the Second Respondent shared with the Commission.
49. I submit that the history of the First Respondent's operation of the Dump may be broken down into the following time periods:
- 49.1. The period from 2000 to 2009;
- 49.2. The period from 2009 to 2015;
- 49.3. The period from 2015 to 2017; and
- 49.4. The period from 2017 to date.

S B

50. I discuss each of the abovementioned periods below.

51. During the period from 2000 to 2009, the First Respondent operated the Dump in a manner that failed to discharge the duty of care set out in section 28 of NEMA. In the Second Respondent's correspondence dated 2 October 2020 (addressed to the Commission), the Second Respondent informed the Commission that:

"During the period from 2001 until July 2009, the Department issued the Msunduzi Municipality or its predecessor, with 4 (four) warning letters on the 27th June 2001, 11th May 2006, 27th November 2006 and 29th January 2007. These warning letters were primarily based on the failure of the Municipality to manage the landfill site in accordance with their obligations of Duty of Care contained in section 28 of the National Environmental Management Act (No. 107 of 1998). During this period there appeared to have been a deterioration of the landfill site and number of fire incidents."

52. I attach a copy of the Second Respondent's correspondence dated 2 October 2020 as **Annexure JBS6** hereto. The Second Respondent also alluded to the First Respondent's failure to comply with the Replacement Permit during the same period. At Paragraph 8.5, the Second Respondent stated that:

"It must be noted that the Department of Water Affairs and Forestry, who were the competent authority to issue and enforce the requirements to obtain a Waste Permit in terms of section 20 of the Environment Conservation Act (No. 73 of 1989) during this period, also issued a number of warning letters and convened various meetings[,] site inspections, in which the Department participated and supported."

53. Hence, during that period, the Second Respondent and the Department of Water Affairs and Forestry issued a number of warning letters (and convened various meetings) in an attempt to ensure that the First Respondent operates the Dump in a manner that complies with the Replacement Permit and the applicable laws.
54. The period from 2009 to 2015 is marked by continued non-compliance by the First Respondent. Notably, during that period, the Second Respondent became the competent authority responsible for the enforcement of the Waste Act.
55. The Second Respondent participated in the Landfill Monitoring Committee that the First Respondent had established as per the conditions of the Replacement Permit. That Committee collapsed during that period as I describe below.
56. The First Respondent simply allowed the Landfill Monitoring Committee to collapse. On 14 December 2012, the Second Respondent sent correspondence to the First Respondent regarding what the Second Respondent described as the failure of the Landfill Monitoring Committee. The Second Respondent sent further correspondence to the First Respondent on 4 October 2013, again raising the issue of the failure of the Landfill Monitoring Committee.⁶ The Second Respondent received a response from the First Respondent on 11 October 2013 indicating that the failure of the Landfill Monitoring Committee was due to a lack of attendance by members of that committee at its meetings which resulted in a lack of quorum. That marked the end of the Landfill Monitoring Committee.

⁶ Paragraph 8.15 of the Third Respondent's letter dated 2 October 2020.

57. During the period from 2009 to 2015, the Second Respondent continued to be concerned with the First Respondent's non-compliance with the applicable laws and the Replacement Permit. The Second Respondent engaged the First Respondent and, as a last resort, issued warning letters on 29 September 2010 and 2 June 2015, respectively.
58. The period from 10 March 2015 to 3 July 2017 is unique as the Second Respondent witnessed the Dump at its worst on 10 March 2015 and thereafter witnessed an improvement from late 2015 to June 2017 in the First Respondent's management of the Dump. On 10 March 2015, representatives of the Second Respondent undertook a comprehensive audit of the First Respondent's operation of the Dump. In that audit, representatives of the First Respondent and the National Department of Environmental Affairs were also involved. I attach a copy of the audit report as **Annexure JBS7** hereto.
59. I verily believe that the abovementioned audit report reflects the true state of the Dump on 10 March 2015. The audit was undertaken by several officials of the Second Respondent and their team leader was Mr. Ian Felton, a duly appointed Environmental Management Inspector. I do not doubt the veracity of the audit report and, should it be necessary, a confirmatory affidavit would be procured from Mr. Felton for filing with this Honourable Court.
60. On Page 9 of the audit report, the following non-compliances were identified as "Key non-compliances" relating to the waste disposal area:

- “1. Observations were made that hazardous chemical containers, paint containers and paint products, whole tyres, motor oil containers have been disposed of at the site indicating that the waste assessment and classification system was not adequate.
 2. Large numbers of people using the disposal area in circumstances that pose significant health hazards. Observations were made that people have access to and are using stagnant and contaminated surface water on the site. Structures have been erected on the disposal area that includes beds and sleeping areas which indicated that people may be permanently living within the waste disposal site, being exposed to extremely hazardous situations.
 3. There was limited to no access control to the Site and an unmanned gate at the rear of the landfill site. Vehicles and pedestrians entering the site through this gate and the numerous pedestrian accesses, were unchecked and no record of waste entering or leaving the site through these gates/openings was taken.
 4. The vehicle maintenance area is being used for the servicing and repair of vehicles and plant. Extensive areas of oil contaminated soil exist within the area. Stormwater washing off this area flows directly to the Msunduzi River.
 5. Leachate was seeping into the environment from the dysfunctional leachate area and the toe of the landfill area.”
61. With regard to the part of the audit report that is titled, “Working Face Leachate Stormwater Management”, the following key non-compliances are recorded in the audit report: (In what follows I reproduce these violations and, in parenthesis, correspondingly annotate the relevant provisions of the statute breached)

- “1. No effective leachate management system is in place within the landfill site. The leachate collection and disposal system are currently dysfunctional. – **a contravention of section 16(1)(a), (b) and (c) of the Waste Act, sections 21G and section 19(1) of the Waste Act, and section 28(1) of NEMA.**

2. No repair or maintenance work was currently taken place on the leachate system in spite of the system being in a state of despair. – **a contravention of section 16(1)(c) of the Waste Act and section 28(1) of NEMA.**

3. There is inadequate operation of the site in accordance with the Minimum Requirements. The working face of the landfill was not being effectively compacted and covered. – **a contravention of section 20 of the Waste Act, section 28(1) of NEMA and section 19(1) of the Water Act.**

4. Excessive waste is stored at the transfer station which was providing condition for flies and odour arising from the landfill site. The transfer station area is not lined and there is no stormwater management or management of contaminated water. – **a contravention of section 20 of the Waste Act, section 28(1) of NEMA and section 19(1) of the Water Act.**

5. Informal waste recovery and recycling is taking place on the site and this is posing significant human health and safety risks. ” – **a contravention of section 16(1)(a), (b) and (c) of the Waste Act, sections 21(g) and section 19(1) of the Waste Act, and section 28(1) of NEMA.**

SB

62. Following the site inspection undertaken on 10 March 2015, the Second Respondent issued a warning letter to the First Respondent drawing the attention of the First Respondent to the non-compliances identified in the audit report.
63. The period from mid-2015 (after the Second Respondent's issuing of the warning letter dated 2 June 2015) to mid-2017 is marked by what the Second Respondent regards as improvement in the management of the Dump. In a letter dated 7 September 2020, the Second Respondent records its view thus:

- (2) Accordingly, the Department issued the Msunduzi Municipality (the Municipality) and relevant municipal officials a warning letter, dated 2 June 2015, documenting the areas of non-compliance and requesting that urgent actions be undertaken to address these non-compliance issues.
- (3) Following the issuing of the warning letter the Municipality took active steps to address most of the identified non-compliance. These actions included the removal of waste pickers and recyclers that were living on the working face; improving security and access; installing concrete palisade fencing around the site; revising and establishing stormwater controls; upgrading and repairing the leachate system; undertaking annual external audits; and, increasing the external berm and ensuring that waste was covered and compacted.
- (4) As parts of these steps to improve management at the landfill site, the Municipality appointed a service provider to make an application to revise and vary the Waste Permit issued in terms of the Environment Conservation Act, 1989 (Act No. 73 of 1989) through this process a Variation Waste Management Licence ("WML") was issued by the Department on the 3rd July 2017 which substituted



the former landfill site permit with a WML in terms of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008)

...

- (5) These corrective actions substantively improved the management and operation of the landfill site, although the site still required continued financial and human resource capital investment by the Municipality to move towards and achieve compliance with its WML".⁷
64. I attach the Second Respondent's letter dated 7 September 2020 as **Annexure JBS8** hereto.
65. The period from 3 July 2017 to date is marked by the end of what the Second Respondent refers to above as "substantively improved ... management and operation" of the Dump. In short, during this period, the First Respondent abandoned the steps that the First Respondent had taken during the period from mid-2015 to mid-2017 to improve the management of the Dump.
66. On 25 October 2017, the combined officials of the Second Respondent and the National Department of Environmental Affairs undertook another comprehensive audit of the First Respondent's operation of the Dump. I attach a copy of the audit report relating to that audit as **Annexure JBS9** hereto.

⁷ Page 3 of the Second Respondent's letter dated 7 September 2020.

Handwritten signature and initials, possibly 'SR', located in the bottom right corner of the page.

67. I verily believe that the abovementioned audit report reflects the true state of the Dump on 25 October 2017. The audit was undertaken by several officials of the Second Respondent and their team leader was Ms. Kershia Govender, a duly appointed Environmental Management Inspector. I do not doubt the veracity of the audit report and a confirmatory affidavit would be procured should it be necessary for same to be provided to this Honourable Court.

68. The purpose of the audit undertaken on 25 October 2017 was to assess the First Respondent's compliance with applicable laws and the Variation Licence. In the audit report, the objectives and scope of the inspection are recorded as:

"Compliance monitoring inspection with applicable environmental legislation and a waste management licence issued in terms of the National Environment Management: Waste Act, 2008.

The methodology followed, as evident from the report, was to assess compliance with every condition in applicable license and with relevant legislative provisions by way of interviews, document review and on-site activities."⁸

69. The 25 October 2017 audit report also recorded that the First Respondent failed to comply with a substantial number of conditions of the Variation Licence. The following non-compliances were also recorded in the audit report:

69.1. "According to the facility all stormwater from the site flows directly to the Blackburowspruit, which can indicate that contaminated stormwater could

⁸ Page 1 of the audit report.

flow into the river.”⁹ – ***a contravention of section 28(1) of NEMA and section 19(1) of the Water Act.***

69.2. “The opening of a monitoring borehole was covered with waste material” and the Second Respondent noted that “waste material has the potential to contaminate the groundwater. The facility had not installed lockable caps for their monitoring boreholes. The boreholes are only capped.”¹⁰ – ***a contravention of section 28(1) of NEMA and section 19(1) of the Water Act.***

69.3. “A Leachate Pond Tank was not enclosed” and the Second Respondent noted that “Leachate from the Leachate Dam has a potential to overflow into the environment.”¹¹ - ***a contravention of section 28(1) of NEMA and section 19(1) of the Water Act.***

70. In the letter dated 7 September 2020, the Second Respondent stated the following with respect to the audit undertaken on 25 October 2017:

“The audit revealed that the Msunduzi Municipality failed to comply with a substantial number of conditions contained in the WML issued for the operation and management of the NERLS [the Dump]. The areas of concern identified were that waste disposal and recycling activities continued to be undertaken in an uncontrolled manner in unauthorised areas; leachate from the workplace had entered the receiving

⁹ Page 30 of the audit report.

¹⁰ Page 30 of the audit report.

¹¹ Page 30 of the audit report.

environment; there were holes in the fences facilitating unauthorised access; the workface was not adequately covered or compacted and remained as a fire hazard; there was limited control of access on the workface; and, there was mixing of domestic and garden waste.”¹²

Effect of the First Respondent’s non-compliances

71. The First Respondent’s non-compliances recorded in the 25 October 2017 audit report have persisted. That has had negative consequences for First Respondent’s citizens. For instance, as a consequence of the First Respondent’s failure to ensure that the workface of the Dump is adequately covered and compacted, the incidents of fire have occurred with frequency after 25 October 2017. One such fire caught the attention of the Commission (on 10 October 2019) as I discuss below.

THE COMMISSION’S ENGAGEMENT WITH STAKEHOLDERS

The Commission’s initial investigation

72. At first, what drew the attention of the Commission to this matter was the occurrence of a fire at the Dump on 10 October 2019. The *Witness* newspaper article which published the story is attached as **Annexure JBS10** hereto.
73. The Commission’s initial investigation revealed that fires are commonplace: they are/were occurring at the Dump on a fairly regular basis. This was borne out by the newspaper reports. I annex a copy of those reports as **Annexure JBS11** hereto.

¹² Paragraph 7 of the letter dated 7 September 2020.

74. At the initial stages of the investigation the Commission considered newspaper reports relating to the First Respondent's operation of the Dump and other publicly available information. The Commission soon realised the seriousness of this matter given the nature and severity of the Constitutional rights alleged to have been violated and/or impacted upon (as a result of the First Respondent's operation of the Dump). Hence, on 23 October 2019, the Commission registered an own initiative complaint in respect of this matter in accordance with section 13(3)(a) of the SAHRC Act.

The Commission's engagement of interested and affected parties

75. As part of the investigation of the abovementioned complaint, the Commission engaged interested and affected parties in order to solicit their views on the matter. Those interested and affected parties are not cited in this application because they are not necessary parties in relation to the relief (being) sought against the First Respondent. However, a Rule 16A Notice will be issued simultaneous with this application calling upon those parties to intervene, if so advised, *as amicus curiae*. And out of the abundance of caution, I shall cause a copy of these papers to be served to them and bring it to their attention that these proceedings have been brought. After all, this application has been brought in the public interest and it is salutary that their attention to this application should be drawn.

76. The first interested and affected party that the Commission engaged is a voluntary association that refers to itself as "Love PMB" or "Love

Handwritten signature and initials, possibly 'S B', located at the bottom right of the page.

Pietermaritzburg". The representatives of the Commission and the representatives of that association held a meeting on 24 February 2020 in Pietermaritzburg and, thereafter, undertook a site inspection of the Dump.

77. The Commission undertook another site visit of the Dump on 16 March 2020. I was in attendance at that site visit as part of the Commission's team.
78. The Commission was in the process of internal engagements when the national lockdown commenced on 26 March 2020. While the Commission continued its consideration of this matter during the months of April 2020, May 2020 and June 2020, the restrictions associated with the lockdown somewhat hampered the investigation. The Commission was able to intensify its investigation from July 2020.
79. On 25 August 2020, Ms. Naomi Hardman, a representative of Love PMB submitted to the Commission a petition that, on that date, had been signed by a total of 17 122 people. More people signed that petition thereafter. The preamble to that petition (as it appears on the relevant online platform) includes the following passage:

"We, the residents of Pietermaritzburg have lost faith in Msunduzi Municipality and our leaders to protect our rights enshrined in the Constitution.

The New England Road Landfill Site ("the Landfill") has deteriorated to the point that it presents a serious risk to human health and wellbeing. Pollution and degradation of the environment is on-going and fires at the

Handwritten signature and initials, possibly 'SA' or 'SOS', located in the bottom right corner of the page.

Landfill has forced us to close schools and businesses because we cannot breathe.

Section 24(a) of the Constitution gives to everyone, the right to an environment that is not harmful to their health or wellbeing.

Section 24(b)(iii) gives affected people the right to have the environment protected for the benefit of present and future generation, through reasonable legislative and other measures that prevent pollution and ecological degradation.

As citizens of Pietermaritzburg, we are denied these rights through the political apathy and mismanagement by the Municipality of the Landfill.

Emissions from the Landfill, because of its failed management, are likely to include carcinogenic compounds such as benzene and gases mixed with sulphides that produced unbearable odours. Leachate escaping the Landfill has the potential to cause loss of life and is already causing serious pollution of the Msunduzi River, an important source of water for the Sobantu community.

Air pollution in the city has reached levels where the discomfort of odours and the risk that the malodorous air contains highly toxic gases, has forced schools and business to close while the Landfill burns.”

80. I annex a copy of Ms. Hardman's email including a copy of the preamble to the abovementioned petition as **Annexure JBS12** hereto. The signatures are omitted in order to avoid overburdening the application papers.
81. Following receipt of the abovementioned petition, representatives of the Commission held a meeting with representatives of Love PMB on 14 September

2020 at Pietermaritzburg. Representatives of Love PMB welcomed the Commission's feedback on its investigation.

82. On 15 September 2020, the representatives of the Commission engaged representatives of the Organised Ratepayer's Associations in the Msunduzi-Pietermaritzburg area. The engagement was a virtual meeting.

83. On 16 September 2020, the representatives of the Commission engaged representatives of:

83.1. Siyazuza Ngemvelo, an association based in the Sobantu Township; and

83.2. *groundWork*, an organisation based in Pietermaritzburg which represents waste pickers who are affected by the First Respondent's operation of the Dump.

84. Following the engagement on 16 September 2020, a representative of *groundWork* submitted a statement expressing support for the Commission to institute these proceedings. I attach that statement as **Annexure JBS13** hereto.

85. On 18 September 2020, representatives of the Commission undertook a site visit of the Dump. Thereafter, they also visited certain areas of the Sobantu Township.

Handwritten signature and initials, possibly 'SA'.

86. Subsequently, the Commission was furnished with a petition that certain representatives of the Sobantu community had submitted to the First Respondent at the end of 2019. I attach the petition as **Annexure JBS14** hereto.
87. On 26 October 2020, the South African Waste Pickers Association submitted a statement setting out that Association's concerns relating to the First Respondent's operation of the Dump. I attach the statement as **Annexure JBS15**.
88. In addition, the Commission engaged the First Respondent as I discuss below.

The Commission's Engagement of the First Respondent

89. The Commission addressed correspondence dated 14 July 2020 to the First Respondent, wherein it requested the First Respondent to provide detailed information relating to the operation of the Dump. The First Respondent provided the requested information in several *tranches*, the Commission received the last *tranche* on 21 August 2020. The essence of the First Respondent's input was that the First Respondent was cooperating with the Environmental Authorities. I attach the Commission's letter as **Annexure JBS16** hereto.

FAILED ATTEMPTS TO ENSURE THE FIRST RESPONDENT'S COMPLIANCE WITH THE VARIATION LICENCE AND THE APPLICABLE LAWS

Administrative Enforcements have failed: Environmental Authorities' attempts

90. During its investigation into this matter, the Commission established that the Environmental Authorities have made numerous attempts to ensure that the First Respondent complies with the Variation Licence and the applicable laws.
91. During the period from 25 October 2017 to 22 February 2019, the Second Respondent engaged the First Respondent on numerous occasions in an attempt to ensure the First Respondent's cooperation. In the Second Respondent's letter dated 7 September 2020, the Second Respondent described the engagement as follows:

- “(8) The Department initiated a series of meetings; issued instructions; and, held engagements and site inspections with the Municipality and the various Municipal officials responsible for the NERLS. The aim of these interactions was to promote and enforce compliance with the relevant legislation and WML in the manner prescribed by the relevant legislation governing inter-governmental relations.
- (9) Following the poor response in respect of lack of corrective measures and in the light of a series of significant fires at the landfill site, the Department was of the view that it had exhausted all cooperative governance mechanisms and had no option but to issue the Municipality and individuals responsible for waste management at the NERLS with a Notice of intention to issue a Compliance Notice (Pre-Compliance Notice) on 22 February 2019.”¹³

¹³ Page 4 of the Third Respondent's letter dated 7 September 2020.

Handwritten signature and initials, possibly 'SB', located in the bottom right corner of the page.

92. In the timeline submitted as Annexure "A" to the Second Respondent's letter dated 7 September 2020, the Second Respondent recorded that site inspections of the Dump were undertaken by the Second Respondent on the following dates:

92.1. 14 August 2018;

92.2. 30 August 2018;

92.3. 13 December 2018;

92.4. 15 January 2019; and

92.5. 18 January 2019.

93. The abovementioned inspections involved meetings between the Second Respondent and the First Respondent regarding compliance issues. In addition, during the same period, separate meetings were held between the Second Respondent and the First Respondent on 9 March 2018 and 8 February 2019, respectively.

94. On 22 February 2019, the Second Respondent issued a Pre-Compliance Notice to the First Respondent.¹⁴ Thereafter, there was a further engagement between the First Respondent and the Second Respondent on 6 April 2019. The engagement took the form of a meeting held regarding the First Respondent's

¹⁴ Annexure "A" to the Third Respondent's letter dated 7 September 2020, second unnumbered page.

submission of representations to the Pre-Compliance Notice. That was followed by the Second Respondent's site inspection of the Dump.

95. The abovementioned timeline also refers to the Second Respondent's site inspection undertaken on 27 April 2019. The Second Respondent confirmed at that site inspection that waste was "being disposed off outside of landfill and blocking road".¹⁵
96. On 15 May 2019, the Second Respondent issued to the First Respondent a compliance notice in terms of section 31L of NEMA. I refer to that compliance notice as the "First Compliance Notice" in order to distinguish it from the Revised Compliance Notice that I discuss below. I attach a copy of the First Compliance Notice as **Annexure JBS17** hereto.
97. Thereafter, the Second Respondent:
- 97.1. Engaged the First Respondent in what the Second Respondent refers to as a "Cooperative governance meeting with Administrator, Acting MM [Municipal Manager], relevant municipal officials and EDTEA [Second Respondent] regarding non-compliance and nonresponse to Compliance Notice"; and

¹⁵ Unnumbered page 2.

- 97.2. Undertook a site inspection (of the Dump) and meeting with the First Respondent on 24 July 2019.¹⁶
98. On 30 July 2019, the First Respondent submitted to the Second Respondent a Draft Action Plan purportedly designed to address the First Respondent's non-compliance issues. The Commission was not furnished with that Draft Action Plan.
99. The Second Respondent received reports of fires at the Dump on 8 August 2019 and 24-26 August 2019, respectively. The Second Respondent undertook a site inspection (of the Dump) and a meeting was held with the First Respondent (as part of the site inspection) on 26 August 2019.
100. The Second Respondent received another report of a major fire at the Dump during the period from 5 to 9 October 2019. On 7 October 2019, an urgent meeting was held between the First Respondent, the Second Respondent and the KwaZulu-Natal Department of Cooperative Governance and Traditional Affairs. On the following day (that is, 8 August 2019), the Third Respondent undertook a site inspection of the Dump.
101. On 17 October 2019, the Second Respondent received a report of another fire at the Dump. On the same day, the Second Respondent undertook a site inspection of the Dump. Following that inspection, the Second Respondent

¹⁶ Timeline, unnumbered second page.



engaged the First Respondent on issues relating to non-compliance with the Variation Licence, the First Compliance Notice and the applicable laws.

102. On 28 October 2019 and 23 December 2019, respectively, the Second Respondent received a report of a fire at the Dump. In response thereto, on 23 January 2020, the Second Respondent issued a warning letter to the First Respondent regarding non-compliances.
103. During the period from 31 January 2020 to 6 February 2020, the Second Respondent considered whether to initiate interdict proceedings against the First Respondent. On the advice of Senior Counsel, the Second Respondent decided against initiating the interdict proceedings. On 7 February 2020, the Second Respondent decided to issue a Revised Pre-Compliance Notice to the First Respondent. In response, the First Respondent submitted representations dated 14 February 2020 and included the First Respondent's "Action Plan – Turnaround Strategy for the New England Landfill Site". I attach a copy of those representations as **Annexure JBS18** thereto.
104. On 18 February 2020, after considering the First Respondent's representations, the Second Respondent issued the Revised Compliance Notice. I attach a copy of the Revised Compliance Notice as **Annexure JBS19** hereto.
105. Importantly, the Second Respondent rejected the Action Plan submitted by the First Respondent on 14 February 2020. Instead, the Second Respondent

included Paragraph 4.1.7 of the Revised Compliance Notice which required the First Respondent to do the following:

“Within 7 (seven) days of the issuing of the Compliance Notice provide the Department with an Action Plan for the immediate removal of the significant volumes of waste had been disposed of along access roads and open areas outside of the approved and lined waste disposal area, and the disposal of this waste in a lawful manner. Once approved by the Department, to diligently and immediately implement this action plan and ensure the rehabilitation to the areas impacted by unlawful waste disposal”.

106. The Second Respondent has confirmed that the First Respondent has not submitted the plan contemplated in Paragraph 4.1.7 of the Revised Compliance Notice. I discuss this issue below.
107. On 19 February 2020, the First Respondent addressed correspondence to the Second Respondent wherein the First Respondent expressed its commitment to complying with the Revised Compliance Notice. I attach the First Respondent's correspondence as **Annexure JBS20** hereto.
108. Notwithstanding the First Respondent's commitment communicated on 19 February 2020, the First Respondent has sought a number of variations of the Revised Compliance Notice. Following the first such request, the Second Respondent issued the Varied Revised Compliance Notice on 5 March 2020. I attach a copy of the Varied Revised Compliance Notice as **Annexure JBS21** hereto.



109. The important aspect of the Varied Revised Compliance Notice is that Paragraph 4.1.7 of the Revised Compliance Notice was amended as follows:

“By the 13th March 2020, provide the Department with an Action Plan for the immediate removal of the significant volumes of waste had been disposed of along access roads and open areas outside of the approved and lined waste disposal area, and the disposal of this waste in a lawful manner. Once approved by the Department, to diligently and immediately implement this action plan and ensure the rehabilitation of the areas impacted by the unlawful waste disposal.”

110. On 9 March 2020, the Second Respondent undertook a site inspection of the Dump. On 10 March 2020, the Second Respondent issued a warning letter to the First Respondent regarding the failure to comply with the Revised Compliance Notice (as amended by the Varied Revised Compliance Notice). Importantly, in Paragraph 5.5 of the warning letter, the Second Respondent reminded the First Respondent that:

“A detailed and comprehensive Action Plan that addresses all the other non-compliances noted in the table contained in section 3.1 of the Revised Compliance Notice was to have been submitted by the 4th March 2020 in terms of paragraph 4.1.16. This Action Plan has not yet been submitted.”

111. I attach a copy of that warning letter as **Annexure JBS22** hereto.



SB

112. The abovementioned letter was followed by engagement between the First Respondent and the Second Respondent, notably meetings held on 13 March 2020 and 16 March 2020, respectively.
113. On 23 March 2020, the Second Respondent acceded to the First Respondent's request for a further variation of the Revised Compliance Notice by issuing the Second Variation to the Revised Compliance Notice. Importantly, there was no further variation of Paragraph 4.1.7 of the Revised Compliance Notice on that occasion. I attach a copy of the Second Variation to the Revised Compliance Notice as **Annexure JBS23** thereto.
114. From 23 March 2020 to 9 July 2020, the Second Respondent undertook a number of site inspections of the Dump. They were also a number of meetings between the First Respondent and the Second Respondent in which the Second Respondent raised issues of non-compliance.
115. On 2 July 2020, the Second Respondent received a report of a major fire at the Dump. On the same day, and over the next few days, the Second Respondent undertook site inspections at the Dump. In the meantime, the fire continued with the result that, on 24 July 2020, the N3 Highway had to be closed due to the impact of the smoke on the visibility on that road.
116. On 29 July 2020, the Second Respondent issued to the First Respondent a directive in terms of section 30 of NEMA relating to the fire that occurred from 21


SB

July 2020 to on or about 25 July 2020. In Paragraph 2 of the directive the Second Respondent informed the First Respondent that:

“Based on the initial Section 30 Incident Report; site observations made by the Environmental Management Inspectors of the Department; the significant number of complaints and concerns raised by the surrounding communities; and; the impacts that the incident has had on air quality and the socio-economic environment, the Department considers that the Section 30 Incident Report must be supplemented by a more detailed assessment of the impacts and/or effects of the incident on the environment and on public health and safety.”

117. The First Respondent had to submit to the Second Respondent the section 30 Incident Report referred to above within a period of sixty (60) days from receipt of the directive. I attach a copy of the section 30 directive as **Annexure JBS24** hereto.

118. In a presentation dated 5 August 2020, the First Respondent informed the Premier of the KwaZulu-Natal Provincial Government that the Dump is a high-risk facility. In that presentation, the First Respondent stated that:

“The Landfill site is a high risk facility for the city for a variety of reasons:-

- If not managed in compliance with relevant legislation it can pose a health and environmental risk
- It is located close to water resource and in low lying areas within the Msunduzi city valley



- It is located close to increasingly densifying settlement areas
- This general risk of this landfill sight is exacerbated by:-
 - Higher than normal occurrence of fires on the site affecting air quality for residents
 - Slow/ poor response by municipality response to the fires
 - It has a growing informal settlement on its perimeters with a large number engaging in waste picking
 - Waste pickers access to the site is not consistently managed with allegations of criminality
- In 2019 the Department of EDTEA issued a notice for the municipality to comply
 - While progress was finally made in the last 5 months towards compliance this has not yet been finalised
 - The latest fires further exposed some of the ongoing weaknesses with regard management of the risks associated with the site ...¹⁷

119. I attach the presentation as **Annexure JBS25** hereto.

120. On 14 August 2020, the Third Respondent held a virtual meeting with relevant stakeholders on the issues relating to the Dump. On the same day, the Second Respondent received a report of fire incident at the Dump.

¹⁷ Page 10.

121. On 17 August 2020, the Second Respondent issued a Third Variation of the Revised Compliance Notice. I attach the Third Variation to the Revised Compliance Notice as **Annexure JBS26** hereto.
122. The timeline ends with the entry of a meeting held on 24 August 2020 between the First Respondent and the Second Respondent regarding what the Second Respondent refers to as an "update compliance report to Cabinet".
123. In the letter dated 7 September 2020, the Second Respondent advised the Commission that while the First Respondent has made a considerable effort to meet key actions identified in the Revised Compliance Notice, there are still areas of non-compliance which constitute non-compliance with Revised Compliance Notice. The Second Respondent furnished the Commission with the following information:¹⁸

| Action Required | Finding |
|---|--|
| Ensure that appropriate landfill plant, required to cover and compact the disposed waste, is functioning and serviced <u>and submit a contingency plan</u> to addresses the measures that will implemented to ensure that the | While emergency procurement processes have been initiated to purchase a new landfill plant and equipment and/or repair equipment, a contingency plan has not been submitted and problems still persist with insufficient and defective |

¹⁸ Page of the letter dated 7 September 2020.

Handwritten initials/signature
SB

| | |
|---|---|
| <p>appropriate landfill plant for covering and compacting is repaired and/or replaced within a maximum of 48 hours of a failure;</p> | <p>municipal equipment on site and/or the full-time availability of competent operators of the equipment, which is impacting the effective management of the site.</p> |
| <p>Provide written confirmation of the measures which have been taken to ensure proper on-site security and access to the landfill site and, to prevent uncontrolled access and dumping outside of the workforce;</p> | <p>Site security and access control has been improved and disposal outside of the working cell has been prevented. Access control of waste pickers however remains problematic and breaches of the boundary fence occur frequently.</p> |
| <p>Provide a detailed and comprehensive Action Plan that addresses all the other non-compliances noted in the table contained in section 3.1 of the Compliance Notice</p> | <p>A detailed Action Plan that meets this objective has not been submitted.</p> |
| <p>Appoint a suitably qualified specialist/engineer to assess the stormwater management system and provide recommendations to ensure that all leachate emanating from the site including contaminated runoff water treated and disposed lawfully</p> | <p>No verification has been received that a suitably qualified engineer appointed to assess stormwater and leachate management.</p> |
| <p>Submit specialist storm water/ leachate report and recommendations and associated timeframes for implementation compiled by the specialist/engineer</p> | <p>No verification has been received that a specialist stormwater / leachate management plan has been submitted</p> |
| <p>Identify and demarcate an appropriate designated area, in</p> | <p>An area for recycling/reclamation has been demarcated and actions are</p> |

[Handwritten signature]
SB

| | |
|--|--|
| <p>consultation with DWS and this Department, for the recycling/reclamation of waste to take place</p> | <p>being undertaken to regulate and formalise waste pickers on site. However currently waste recycling and reclamation is being undertaken at the working face and throughout the landfill in an un-controlled manner.</p> |
| <p>Appoint an independent and suitably qualified landfill site specialist, registered with a relevant professional body, to develop a Decommissioning and Rehabilitation plan for the landfill site</p> | <p>No verification received that a suitably qualified specialist was appointed to develop the Decommissioning and Rehabilitation Plan.</p> |

124. I draw the attention of this Honourable Court, specifically, to the non-compliance relating to the failure to provide a detailed and comprehensive Action Plan.

Criminal Prosecution has not borne any fruits: opening of a criminal case against the First Respondent

125. On 27 August 2019, the Second Respondent opened a criminal case against the First Respondent at the Alexandra Road Police Station, in Pietermaritzburg under Reference No. CAS58/09/2019 Alexandra Road, in respect of the alleged non-compliance with:

125.1. Conditions of the Variation Licence;

125.2. The First Compliance Notice;

125.3. The requirements of the Waste Act; and

125.4. The requirements of NEMA.¹⁹

126. In collaboration with the South African Police Service, the Second Respondent assigned the investigation of the abovementioned case to Mr. Ian Felton, an Environmental Management Inspector in the employ of the Second Respondent.

127. Mr. Felton investigated the matter and, on 6 February 2020, the Second Respondent requested Mr. Felton to take over the Second Respondent's administrative enforcement interventions relating to the First Respondent's operation of the Dump. In his Interim Investigation Report,²⁰ Mr. Felton states that, on 11 February 2020, he requested the Second Respondent to transfer the criminal case docket relating to this matter to someone else (in order) to avoid a perceived conflict of interest. I attach a copy of the Interim Investigation Report as **Annexure JBS27** hereto.

128. From 11 February 2020 to 5 August 2020, there was no progress on the investigation of the criminal case. Mr. Felton kept the case file in his possession for safe keeping. On 6 August 2020, the Second Respondent informed Mr. Felton that the criminal case docket would be transferred to another Investigating

¹⁹ Page 6 of the Second Respondent's letter dated 7 September 2020.

²⁰ Which is undated.

SB

Officer. That transfer had not occurred by 2 October 2020 when the last correspondence was received from the Second Respondent.

Conclusion

129. It is respectfully submitted that in the light of the failed attempts to ensure the First Respondent's compliance with the applicable laws and the Variation Licence, the administrative and criminal sanctions pursued by the Second Respondent have proven to be ineffective, hence this application.

130. The Commission submits that the First Respondent's failure to comply with the Replacement Permit, the Variation Licence and the applicable laws has spanned a period of at least ten years and is on-going. The Commission submits that, unless this Honourable Court intervenes, the First Respondent would continue its violation of the Variation Licence and the applicable laws. As a matter of fact, the First Respondent is currently violating the Revised Compliance Notice.

THE COMMISSION'S LOCUS STANDI

The Commission's notice of intention to institute legal proceedings against the First Respondent

131. In a letter dated 27 August 2020, acting through its attorneys of record, the Commission gave the First Respondent notice of intention to institute these legal proceedings. The Commission gave that notice in recognition of the fact that the First Respondent is an organ of state. I attach this letter as **Annexure JBS28** hereto.

SB

132. The First Respondent replied in a letter dated 1 September 2020 and, among others, questioned the Commission's *locus standi* to institute legal proceedings against the First Respondent, at this stage or at all.

133. In challenging the Commission's *locus standi*, the First Respondent submitted that:

"It is trite that the decision by your client in terms of section 13(3) of the South Africa Human Rights Commission Act No. 40 of 2013 (hereinafter referred to as the Act) is subject to the Doctrine of Legality. To this end and prior to your client proceeding further, I kindly request your client to furnish the following information:

1. When did the Commission take the decision to invoke terms of section 13(3) of the Act against the Municipality?
2. Was the Commission constituted in terms of section 5 read with section 10 of the Act at the time the decision was taken?
3. Was the Municipality given notice of any hearing by the Commission? If so, kindly provide written proof thereof.
4. Was the Municipality given an opportunity to make representations to the Commission prior to the decision? If so, Kindly provide written proof thereof.
5. A copy of the decision is requested together with the reasons for the decision.
6. If the decision was made in terms of section 12 of the Act:



- 6.1. who exactly was given the delegated authority to take the decision in terms of section 13(3)?
- 6.2. a copy of the delegations in terms of section 12(1) which confirms the exercise of powers and assignment of functions to authorise decision is required.
- 6.3. furthermore, a written copy of all conditions, terms of references and directions of the Commission are also required. The Municipality also requires written reasons for the decision.”

134. I attach a copy of the First Respondent's letter dated 1 September 2020 as **Annexure JBS29** hereto.

The Commission's submissions in the light of the First Respondent's questioning of the Commission's locus standi

135. I submit that the First Respondent's questioning of the Commission's *locus standi* evinces a woeful misunderstanding of the role, function and mandate of the Commission. In instituting this application, the Commission is acting within its role, function and mandate. I elaborate on this below.

136. To begin with, the Commission is a Chapter 9 institution established in terms of section 181(b) of the Constitution. Its role is to protect and to promote the fundamental human rights enshrined in the Constitution. As I discuss below, this matter concerns fundamental human rights contained in the Bill of Rights.

137. Secondly, the functions of the Commission are set out in section 184 of the Constitution and include:

- 137.1. To promote respect for human rights and a culture of human rights;
- 137.2. To promote the protection, development and attainment of human rights;
and
- 137.3. To monitor and assess the observance of human rights in the Republic of South Africa.

138. Thirdly, section 184(2) provides that the Commission has the powers:

- 138.1. To investigate and to report on the observance of human rights;
- 138.2. To take steps to secure appropriate redress where human rights have been violated;
- 138.3. To carry out research; and
- 138.4. To educate.

139. The SAHRC Act further elaborates on the powers and functions of the Commission. Specifically, section 13(3)(a) of the SAHRC Act provides that, in addition to any other powers and functions conferred on or assigned to the Commission by section 184(1), (2) and (3) of the Constitution, the Commission is competent and is obliged to make recommendations, undertake such studies

6

for reporting on or relating to human rights, and request any organ of state to supply it with information on any legislative or executive measures adopted by it relating to human rights.

140. Ultimately, the Commission institutes these proceedings in order to enforce the human rights of those who are affected by the First Respondent's operation of the Dump. Section 38 of the Constitution provides that:

“Anyone listed in this section has the right to approach a competent court, alleging that a right in the Bill of Rights has been infringed or threatened, and the court may grant appropriate relief, including a declaration of rights. The persons who may approach a court are—

- (a) anyone acting in their own interest;
- (b) anyone acting on behalf of another person who cannot act in their own name;
- (c) anyone acting as a member of, or in the interest of, a group or class of persons;
- (d) anyone acting in the public interest; and
- (e) an association acting in the interest of its members

141. The Commission submits that the Commission falls within the category of “anyone acting in their own interest” or “anyone acting in the public interest”.

Handwritten signature
SR

142. Importantly, the Commission's *locus standi* is also fortified by section 32(1) of NEMA which provides as follows:

"Any person or group of persons may seek appropriate relief in respect of any breach or threatened breach of any provision of this Act, including a principle contained in Chapter 1, or of any provision of a specific environmental management Act, or of any other statutory provision concerned with the protection of the environment or the use of natural resources-

- (a) in that person's or group of person's own interest;
- (b) in the interest of, or on behalf of, a person who is, for practical reasons, unable to institute such proceedings;
- (c) in the interest of or on behalf of a group or class of persons whose interests are affected;
- (d) in the public interest; and
- (e) in the interest of protecting the environment."

143. In light of the above, it is submitted that the First Respondent's questioning of the Commission's *locus standi* to bring these proceedings is ill-conceived.

144. Below, I deal with the First Respondent's constitutional duty to protect the human rights of its citizens.

THE FIRST RESPONDENT'S CONSTITUTIONAL DUTY TO PROTECT THE HUMAN RIGHTS OF ITS CITIZENS

The First Respondent is part of the state

145. I submit that the First Respondent's operation of the Dump flies in the face of the First Respondent's Constitutional duty to protect its citizens. First, in terms of section 151(1) of the Constitution, the First Respondent is part of the local sphere of the Government of the Republic of South Africa. As such, the Constitution provides that the First Respondent "has the right to govern, on its initiative, the local government affairs of its community".²¹

146. Secondly, in exercising its right to govern, the First Respondent is obliged to give effect to the objects of the local government set out in section 152(1) of the Constitution. Those objects include to:

- 146.1. Provide democratic and accountable government for local communities;
- 146.2. Ensure the provision of services to communities in a sustainable manner;
and
- 146.3. Promote a safe and healthy environment.

147. Thirdly, because it is part of local government, the First Respondent is part of what the Constitution refers to as the "state". Section 7(2) of the Constitution requires the state to respect, protect, promote and fulfil the rights in the Bill Rights.

²¹ Section 151(3).

The First Respondent as part of the regulated community

148. Where the First Respondent engages in a regulated activity, such as the operation of the Dump, the First Respondent becomes part of the regulated community. However, the First Respondent's duty to comply with the applicable laws and permits is much higher than the duty of other members of the regulated community.

149. I submit that, where the First Respondent is part of the regulated community, the First Respondent must act in an exemplary manner by complying strictly with the laws and permits which regulate its conduct. That is so because the First Respondent remains an organ of state even if it is part the regulated community in respect of a particular matter. In *Merafong City Local Municipality v AngloGold Ashanti Limited* [2016] ZACC 35, the Constitutional Court held that a municipality must act as a "good constitutional citizen" and its conduct "should be exemplary in its compliance with" the Constitution.²² The Constitutional Court made a similar observation in *Lesapo v North West Agricultural Bank and Another* [1999] JOL 5760 (CC); 1999 (12) BCLR 1420 (CC); 2001 (1) SA 409 (CC) where it held that an organ of state "should be exemplary in its compliance with the fundamental constitutional principle ... Respect for the rule of law is crucial for a defensible and sustainable democracy."²³

²² *Merafong City Local Municipality v AngloGold Ashanti Limited*, Paragraphs 60 and 61.

²³ *Lesapo v North West Agricultural Bank and Another*, Paragraph 17.

150. The facts of this matter demonstrate the vulnerability of the First Respondent's citizens where the First Respondent does not act in an exemplary manner with respect to its obligations to comply with the law and the applicable permits. When the Second Respondent found that the First Respondent had violated the Variation Licence and the applicable laws (regarding the manner in which the First Respondent operates the Dump), the Second Respondent found itself constrained as both the Second Respondent and the First Respondent are organs of state. The Second Respondent could not act decisively and swiftly against the First Respondent: instead, the Second Respondent had to engage the First Respondent in accordance with the principles of cooperative governance and intergovernmental relations.

151. In the Second Respondent's letter dated 7 September 2020, the Second Respondent informed the Commission that, after finding in the audit undertaken on 25 October 2017, that the First Respondent violated the Variation Licence and the applicable laws, the Second Respondent only issued a Pre-Compliance Notice on 22 February 2019. During the intervening period, the Second Respondent had initiated numerous interactions with the First Respondent "in the manner prescribed by the relevant legislation governing inter-governmental relations"²⁴ and "exhausted all cooperative governance mechanisms"²⁵. Even after the issuing of the Pre-Compliance Notice on 22 February 2019, the Second Respondent indicated that further interaction occurred between the Second

²⁴ Paragraph 8 of the Second Respondent's letter.

²⁵ Paragraph 9 of the Second Respondent's letter.

Handwritten signature and initials, possibly 'SB'.

Respondent and the First Respondent. For instance, in “accordance with cooperative governance prescripts a meeting was held on the 06th March 2019”²⁶.

152. Further interactions occurred between the First Respondent and the Second Respondent with the effect that it was only on 15 May 2019 that the Second Respondent issued the First Compliance Notice. Even the issuing of that Notice did not make the First Respondent to improve its operation of the Dump. As indicated above, the Second Respondent considered whether to institute legal proceedings against the First Respondent in February 2020 as a result of the First Respondent’s failure to comply with the First Compliance Notice.

153. I do not mention the above aspect to criticize the Second Respondent. I mention it to demonstrate that, because the First Respondent is an organ of state, the Second Respondent finds itself hamstrung by the principles of cooperative governance and other considerations. With respect to other considerations, the Second Respondent decided against instituting legal proceedings against the First Respondent on the legal advice of Senior Counsel. Specifically, that advice centred on the fact that the First Respondent was, at that time, under Administration in terms of section 139(1)(b) of the Constitution. Instead of instituting legal proceedings against the First Respondent, the Second Respondent was advised to issue the Revised Compliance Notice given that the situation at the Dump had substantially deteriorated and that additional urgent actions were required to be taken by the First Respondent.

²⁶ Paragraph 10 of the Second Respondent’s letter.

154. While the Second Respondent was hamstrung by the principles of cooperative governance and other considerations, the First Respondent continued to operate the Dump in a manner that violated the Variation Licence and the applicable laws. It is submitted that the First Respondent's operation of the Dump in those circumstances demonstrated the vulnerability of the First Respondent's citizens who are affected by the First Respondent's operation of the Dump. Those citizens may not look upon the Second Respondent with confidence for their protection. Hence, they have no option but to look upon this Honourable Court for their protection.

Violation of Constitutional Rights

155. It is submitted that the First Respondent's operation of the Dump violates several Constitutional rights. Section 24 of the Constitution provides for the following environmental right:

"Everyone has the right—

(a) to an environment that is not harmful to their health or wellbeing;
and

(b) to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that—

(ii) prevent pollution and ecological degradation;

(iii) promote conservation; and

- (iv) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.”

156. The Commission submits that, in so far as the reasonable legislative measures are concerned, the Constitution contemplates the environmental laws that the Parliament passed after the coming into effect of the Constitution. Such laws include:

156.1. NEMA;

156.2. The Waste Act; and

156.3. The Water Act.

157. On the facts of this matter, the First Respondent has been found to be violating those “reasonable legislative ... measures” on a continuous basis for at least the past decade.

158. With respect to what the Constitution refers to as “other measures” the Commission submits that the Constitution contemplates the state to issue permits, licences and enforcement measures as empowered in terms of the applicable environmental laws. On the facts of this matter, it is submitted that the First Respondent has violated the “other measures” on numerous occasions and on an on-going basis for at least the past decade.

159. The Commission emphasises that the abovementioned violations have been on-going for at least a decade. That reality flies in the face of the fact that section 7(2) of the Constitution requires the First Respondent to “respect, protect, promote and fulfil the rights in the Bill of Rights.”
160. The First Respondent’s citizens, including the community residing in the Sobantu Township, have had to contend with an environment that is significantly compromised by the presence and the operation of the Dump in a manner that violates the applicable laws and the Variation Licence. The risk that the Dump poses to the First Respondent’s citizens is known to all the parties to this application. As indicated above, the First Respondent acknowledged this risk in its presentation to the Premier on 5 August 2020.
161. While the First Respondent is of the view that “IF not managed in compliance with relevant legislation it [the Dump] can pose a health and environmental risk”, I submit that the impacts of the First Respondent’s non-compliances are already being felt by the First Respondent’s citizens. The stakeholder engagement that the Commission undertook revealed that the First Respondent’s operation of the Dump has:
- 161.1. Compromised the health of some of the citizens;
 - 161.2. Negatively affected the livelihoods of some of the citizens;
 - 161.3. Compromised the wellbeing of some of the citizens; and

161.4. Negatively affected the environment within the First Respondent's area of jurisdiction.

162. I attach the representations received by the Commission from the interested and affected parties as **Annexure JBS30** hereto.

163. I acknowledge that the abovementioned representations do not constitute scientific evidence that the First Respondent's operation of the Dump has violated the environmental rights of citizens of the First Respondent in the precise manner alleged in those representations. However, those representations point to the state's failure to comply with its own laws and the international law. I draw the attention of this Honourable Court to section 39(1)(b) of the Constitution which requires that, when interpreting the Bill of Rights, the Court must consider international law.

164. The Republic of South Africa ratified the International Covenant on Economic, Social and Cultural Rights (1966) in 2015. Article 12(2)(b) of that Covenant places an obligation on the Republic to ensure the "improvement of all aspects of environmental and industrial hygiene". The UN Committee on Economic, Social and Cultural Rights (CESCR) clarified this obligation in its General Comment 14 by emphasising that the States Parties have a duty to reduce citizens' exposure to detrimental environmental conditions that directly or



indirectly impact upon human health.²⁷ The same duty is found in the African Charter on Human and Peoples' Rights (1981) which obliges States Parties to take necessary measures to protect the health of their peoples and, conversely, which gives all peoples "the right to a general satisfactory environment favourable to their development."²⁸

165. Furthermore, the abovementioned duty is found in article 4 of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (1992). Article 4(2)(c) of that Convention requires States Parties to regulate management of waste and "take steps as are necessary to prevent pollution due to hazardous wastes and other wastes arising from such management and, if such pollution occurs, to minimise the consequences thereof for human health and the environment".

166. I emphasise that, if this Honourable Court does not intervene in this matter, the Commission is of the view that the First Respondent would continue to violate the Constitutional rights of the First Respondent's citizens and the Environmental Authorities would continue to engage the First Respondent without any success. In other words, the state would continue to violate the Constitution, the national laws and international law.

RELIEF SOUGHT BY THE COMMISSION

²⁷ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art.12 Of the Covenant), 11 August 2000, E/C.12/2000/4, para 15.

²⁸ Articles 16 and 24.

SUMMARY OF THE RELIEF SOUGHT

167. The Commission seeks a relief that is two-fold: a declaration that the First Respondent has violated the Variation Licence, the Revised Compliance Notice, section 31L(4) of NEMA, section 20 of the Waste Act, section 28 of NEMA, section 19 of the Water Act and section 24 of the Constitution; and a structural interdict which guides the First Respondent towards compliance.

DECLARATOR

168. As indicated above, the First Respondent has violated the Variation Licence, the Revised Compliance Notice and the relevant laws, both domestic and international. In the first place, it is the First Respondent's violation of the Variation Licence which necessitated the issuing of the Revised Compliance Notice. Hence, I request this Honourable Court to declare that the First Respondent has violated the Variation Licence.

169. I also request this Honourable Court to declare that the First Respondent has violated the Revised Compliance Notice. One of the continuing non-compliances relates to the First Respondent's failure to submit a detailed and comprehensive Action Plan to the Second Respondent. The First Respondent had an obligation to submit that Plan within 7 days of the issuing of the Revised Compliance Notice. It follows that the First Respondent should have submitted that Plan by, or on, 25 February 2020.


SB

170. Related to the above, I submit that the First Respondent's conduct is a violation of section 31L(4) of NEMA. That section states that:

"A person who receives a compliance notice must comply with that notice within the time period stated in the notice unless the Minister or MEC has agreed to suspend the operation of the compliance notice in terms of subsection (5)."

171. The Second and Third Respondents have not suspended the operation of the Revised Compliance Notice. Hence, the First Respondent has an obligation to comply strictly with its provisions. Therefore, the Commission requests this Honourable Court to declare the First Respondent's conduct to be in violation of section 31L(4) of NEMA.

172. I submit that the First Respondent has also contravened section 20 of the Waste Act. That section provides that no person may conduct a waste management activity "except in accordance with ... a waste management licence issued in respect of that activity, if a licence is required." The Second Respondent issued enforcement measures against the First Respondent (including the Revised Compliance Notice) on the basis that the First Respondent is not operating the Dump in accordance with the applicable waste management licence (i.e. the Variation Licence). On this basis, I request this Honourable Court to declare that the First Respondent's conduct, in so far as it has necessitated the issuing of the enforcement measures, including the Revised Compliance Notice, constitutes a violation of section 20 of the Waste Act.

173. In addition, I submit that the First Respondent has failed to discharge its duty of care and remediation of the environment contained in section 28(1) of NEMA. The operation of the Dump in a manner that violates section 31L(4) of NEMA and section 20 of the Waste Act falls short of what section 28(1) of NEMA requires of the First Respondent. Hence, the Commission requests this Honourable Court to declare that the First Respondent has violated section 28(1) of NEMA.
174. Related to the Commission's request made immediately above, the Commission also requests this Honourable Court to declare that the First Respondent has violated section 19(1) of the Water Act. While the duty of care and remediation of the environment contained in section 28(1) of NEMA relates to the environment in general the duty of care set out in section 19(1) of the Water Act relates to "a water resource" in particular. It is submitted that, on the facts of this matter, the manner in which the First Respondent has operated the Dump falls short of what section 19(1) of the Water Act requires of the First Respondent.
175. Finally, given that the First Respondent's violations amount to a violation of the "reasonable legislative and other measures that ... prevent pollution and ecological degradation", I request this Honourable Court to declare the First Respondent's conduct to be a violation of section 24 of the Constitution. As alluded to above, these violations also constitute a breach of the First Respondent's obligations at international law.
176. A declarator alone will not assuage the perennial problem of the First Respondent's violations of its obligations. Something more is required. In terms

of section 172(1)(b) of the Constitution, this Court has the power and duty to grant a 'just and equitable' remedy. I submit that such a remedy is to order a structural interdict. I discuss this remedy below.

STRUCTURAL INTERDICT

Introduction

177. The Environmental Authorities' attempts to implement administrative remedies and criminal sanctions against the First Respondent have not yielded any positive results. It would not take this matter forward for this Honourable Court to order the Environmental Authorities to take further measures against the First Respondent.

Supervision relating to the Action Plan

178. It is submitted that, to ensure compliance, this Honourable Court must oversee the First Respondent's steps towards compliance with its obligations. Specifically, under the supervision of this Honourable Court, it is necessary for the First Respondent to develop a detailed and comprehensive Action Plan as required in Paragraph 4.1.7 of the Revised Compliance Notice. This Plan had to be submitted on or by 13 March 2020, but the First Respondent has not submitted it. The Environmental Authorities have failed in their attempts to ensure that the First Respondent submits it (as required).

179. It is submitted that, if this Honourable Court does not intervene and compel the First Respondent to comply with Paragraph 4.1.7 of the Revised Compliance

Notice, the First Respondent would continue to violate Paragraph 4.1.7 of the Revised Compliance Notice.

Supervision relating to section 28 of NEMA

180. I submit that this Honourable Court must also intervene and compel the First Respondent to discharge its duty of care and remediation of environmental damage in terms of section 28(1), (2) and (3) of NEMA. In its letter dated 29 July 2020, the Second Respondent directed the First Respondent to undertake a "detailed assessment of the impacts and/or effects of the incident [the fire which occurred at the Dump on 21 July 2020] on the environment and on public health and safety." I submit that, while the Second Respondent was correct to require an assessment of the impacts of the fire incident concerned, what has been overlooked is the need to require the First Respondent to undertake an assessment of the impacts and/or effects of the First Respondent's operation of the Dump in a manner that violates the conditions of the Variation Licence, the applicable national laws, section 24 of the Constitution and international law.

181. I submit that, on the facts of this matter, it is appropriate for this Honourable Court to require the First Respondent to undertake an assessment that covers the scope of impacts beyond the impacts of the incident of 21 July 2020. In support of this submission, I draw the attention of this Honourable Court to Paragraph 2.2 of the *Minimum Requirements* which states the following:

"Landfilling is environmentally acceptable if properly carried out. Unfortunately, if not carried out to sufficiently high standards, landfilling

has the potential to have an adverse impact on the environment. This impact may be divided into short term impacts and long term impacts:

Short term impacts

Short term impacts include problems such as noise, flies, odour, air pollution, unsightliness and windblown litter. Such nuisances are generally associated with a waste disposal operation and should cease with the closure of the landfill.

Long term impacts

Long term impacts include problems such as pollution of the water regime and landfill gas generation. Such problems are generally associated with incorrect landfill site selection, design, preparation or operation and may persist long after the landfill site has been closed.

The general objective of environmentally acceptable landfilling, therefore, is:

To avoid both short or long term impacts or any degradation of the environment* in which the landfill is located.

More specific objectives are pro-actively to:

Prevent pollution of the surface and ground water."

182. In requesting this Honourable Court to direct the First Respondent to assess the impacts of its operation of the Dump in violation of the Variation Licence, the Revised Compliance Notice and the applicable laws, the Commission seeks to vindicate the environmental rights enshrined in section 24 of the Constitution.

183. Therefore, the Commission requests this Honourable Court to intervene by issuing a structural interdict against the First Respondent. The structural interdict sought is set out in detail in the Notice of Motion.

URGENCY

184. This matter is urgent. There is a continuing violation of the Constitution by an organ of state. The violation concerned has spanned a period of more than ten (10) years. The plight of the First Respondent's citizens is continuously in jeopardy. It is only a matter of time before a disaster may occur at the Dump. In fact, such a disaster has already happened in the form of the fires which occurred in July 2020. The operation of the Dump in the manner undertaken by the First Respondent is a disaster waiting to happen.

185. The Applicant is not seeking any interim interdict. All that is sought on an urgent basis is a *rule nisi* which will regulate the delivery of any opposing affidavit/s and place the First Respondent on terms to address the matter. I submit that in order to obtain a *rule nisi* without an interdict, an applicant is required to establish a *prima facie* case of unlawful activities. In what I state above, I submit that I have not only established a *prima facie* case, I have established a clear case of unlawful activities which are ongoing.

CONCLUSION

186. The Commission is accordingly entitled to the relief sought in the Notice of Motion.

JONAS BEN SIBANYONI

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of his knowledge both true and correct. This affidavit was SIGNED and AFFIRMED to before me at Bks on this the 20 day of November 2020, and that the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended, and Government Notice No. R1648 of 19 August 1997, as amended, having been complied with.

SUID-AFRIKAANSE
COMMUNITY
2020 -11- 2 n
BRONKHORSTSPRUIT
SOUTH AFRICAN POLICE SERVICE

**COMMISSIONER OF OATHS
DESIGNATION**

SUID-AFRIKAANSE POLISIEDIENS
COMMUNITY SERVICE CENTRE
2020 -11- 2 n
BRONKHORSTSPRUIT
SOUTH AFRICAN POLICE SERVICE



**DEPARTEMENT VAN WATERWESE EN BOSBOU
DEPARTMENT OF WATER AFFAIRS AND FORESTRY**

RESIDENSIEGEBOU / BUILDING, SCHOEMANSTRAAT 185 STREET, PRETORIA

Fax: (012) 326-1780
323-4472
326-2715
E-mail:

Privaat Sak X313
Private Bag
Pretoria
0001

Navrae: **P. Reddy**
Enquiries:
☎ (031) 336-2759
Verwysing:
Reference: 16/2/7/U203/D3/Z1

1998-04-22

PERMIT NUMBER: 16/2/7/U203/D3/Z1/P64
(Amendment to Permit number B33/2/1920/40/P64)

CLASS: G:L:B +

WASTE DISPOSAL SITE: NEW ENGLAND ROAD LANDFILL SITE

LOCATION: LOT 1853 OF THE FARM DARVILL 15036, DISTRICT OF
PIETERMARITZBURG

PERMIT HOLDER: PIETERMARITZBURG-MSUNDUZI TRANSITIONAL
LOCAL COUNCIL

ADDRESS: P.O. BOX 205, PIETERMARITZBURG, 3200

**PERMIT IN TERMS OF SECTION 20 OF THE ENVIRONMENT
CONSERVATION ACT, 1989 (ACT 73 OF 1989)**

By virtue of the powers delegated to me by the Minister of Water Affairs and Forestry (hereinafter referred to as "the Minister"), I, Jacobus Louis Johannes van der Westhuizen, in my capacity as acting Chief Director: Scientific Services in the Department of Water Affairs and Forestry (hereinafter referred to as "the Department"), hereby, in terms of section 20(1) of the Environment Conservation Act, 1989 (Act 73 of 1989), authorise the abovementioned Permit Holder to further develop and operate the New England Road waste disposal site, subject to the conditions specified herein.

SB

PERMIT CONDITIONS

In this Permit, "Regional Director" means the Regional Director: KwaZulu-Natal of the Department, who may be contacted at the address below:

Regional Director: KwaZulu-Natal
Department of Water Affairs and Forestry
P. O. Box 1018
DURBAN
4000

1. LOCATION

1.1 This Permit authorises the further development and operation of a waste disposal site on Lot 1853 of the farm Darvill 15036, District of Pietermaritzburg, (hereinafter referred to as "the Site") according to the following reports:

- (a) 2/P3/pmbdwaf.d91 by Lombard & associates dated 17 December 1991;
- (b) 8200.32 by A. A. Loudon & Partners dated 25 October 1991; and
- (c) 14525 by Hill Kaplan Scott dated August 1991,

(hereinafter referred to as "the Reports"), submitted by the Permit Holder.

1.2 The boundaries of the Site must be as indicated by the co-ordinates on plan number WMD4L dated June 1996, submitted by the Permit Holder.

2. PERMISSIBLE WASTE

2.1 Any portion of the Site which has been constructed or developed according to condition 3 of this Permit, may be used for the disposal of all waste types which are classified according to the latest edition of the "Minimum Requirement" series of documents as published by the Department (hereinafter referred to as the "Minimum Requirements"), as suitable for disposal at a general disposal facility, excluding those waste types listed in Annexure I.

2.2 The Permit Holder must also take all reasonable steps to ensure that -

2.2.1 no organic or inorganic element or compound which may have a definite acute or chronic negative effect on human health and/or the environment, due to its toxic, physical, chemical or persistent characteristics and which corresponds with the UNEP definition of hazardous waste is disposed of on the Site;

2.2.2 no medical waste is disposed of on the Site; and

2.2.3 no scheduled pharmaceutical products registered in terms of the Medicines and Related Substances Control Act, 1965 (Act 101 of 1965) or associated containers, are disposed of on the Site.

3. CONSTRUCTION

3.1 The construction of further development within the Site must be in accordance with the approved plan number WMD4L, dated June 1996.

SR

- 3.2 The construction of further development within the Site which are not shown on the approved plan, as described in condition 3.1, may only be undertaken by the Permit Holder after specified engineering plans have been submitted to and approved in writing by the Regional Director.
- 3.3 The construction of further development within the Site must be carried out under the supervision of a Professional Civil Engineer, registered under the Engineering Profession of South Africa Act, 1990 (Act 114 of 1990) as proposed by the Permit Holder and approved by the Regional Director.
- 3.4 After construction of further development within the Site is completed by the person referred to in condition 3.3 according to plans for which approval has been obtained in terms of condition 3.1, the Permit Holder must notify the Regional Director thereof before disposal may commence on that portion within the Site.
- 3.5 The completed construction works of the Site or a portion thereof, as referred to in condition 3.4, must be inspected by an official of the Department and the person referred to in condition 3.3. If the Regional Director is satisfied with the construction of the Site or any further development within the Site and has given written permission, the Permit Holder may use the Site or any further development within the Site for the disposal of waste.
- 3.6 Works constructed in compliance with condition 5 must be of such a capacity as to maintain a freeboard of half a metre and to accommodate -
 - (a) all stormwater runoff, which could be expected as a result of the estimated maximum precipitation during a period of 24 hours with an average frequency of once in hundred years (hereinafter referred to as the "estimated maximum precipitation"); and
 - (b) all expected leachate.
- 3.7 Works constructed in compliance with condition 3.6 must, on a continuous basis, be properly maintained.
- 3.8 The Site must be constructed in accordance with recognised civil engineering practice, with special consideration to stability.
- 3.9 The maximum height of the Site must not exceed 654 metres above mean sea level.
- 3.10 The slope of the sides of the Site must be constructed and maintained in such a manner that the occurrence of erosion is prevented.
- 3.11 The Permit Holder must make provision for adequate sanitation facilities on the Site.

4. GENERAL IMPACT MANAGEMENT AND OPERATION

4.1 Disposal of Waste

4.1.1 Waste disposal and operation of the Site must be done in accordance with the Minimum Requirements, the Reports, the conditions of this Permit and any other written direction issued by the Regional Director to the Permit Holder.

JA
SB

4.2 Bufferzone

4.2.1 The Permit Holder must take all reasonable steps, such as suitable zoning, written agreements with adjacent landowners, buying out land and/or obtaining a servitude to prevent the development of further residential and/or light industrial areas closer to the Site than –

- (a) 165 metres to the north-west, which is the distance to Moon Market Garden at the date of this Permit;
- (b) 180 metres to the north, which is the distance to Sobantu Village at the date of this Permit; and
- (c) 800 metres to the east, south and west,

during the operative life of the Site.

4.2.2 The Permit Holder must submit written proof to the Regional Director of the steps taken according to condition 4.2.1, within one year from the date of this Permit.

4.2.3 Heavy industries or industries which may create nuisance conditions may be permitted within the bufferzone in terms of the appropriate legislation.

4.2.4 Should the complaints register, external audit reports referred to in condition 9.2, results from the air quality monitoring programme referred to in condition 7, or any other factor at any time indicate that a bufferzone greater than the distances indicated in condition 4.2.1 is necessary to prevent detrimental effects or nuisance conditions, the Permit Holder must appoint specialists to investigate the dispersion of air pollution around the Site.

4.2.5 The investigation referred to in condition 4.2.4 must make recommendations regarding measures to be taken to address these detrimental effects or nuisance conditions, including the extent of the bufferzone, and the Permit Holder must implement these recommendations to the satisfaction of the Regional Director.

4.3 General operational measures

4.3.1 Waste disposed of on the Site must be compacted and covered at the end of each working day with a minimum of 150 millimetres of soil or other material approved by the Regional Director.

4.3.2 Waste disposed of on the Site may not be reclaimed.

4.3.3 The Permit Holder must take all reasonable steps to ensure that the Site is operated in such a manner that nuisance conditions or health hazards, or the potential creation of nuisance conditions or health hazards, are prevented.

4.3.4 The Permit Holder must use moveable fences to control wind-blown waste.

4.3.5 Wind-blown waste and litter must be picked up and removed from fences and vegetation on a daily basis.

4.3.6 The Permit Holder must at all times apply sufficient dust control measures to prevent wind-blown dust from causing nuisance conditions or health hazards.

4.3.7 The Site must be operated in such a manner that the height of the embankment or perimeter wall is at all times maintained at a higher elevation than the level of the operating floor.





- 4.3.8 Indigenous trees must be established on the screening berm around the Site to effectively screen the Site from nearby roads and residential areas.
- 4.3.9 The Permit Holder must implement adequate measures to the satisfaction of the Regional Director, to –
 - (a) ventilate methane gas generated in the waste disposal area;
 - (b) prevent the build-up of flammable gas inside buildings on the Site; and
 - (c) prevent lateral migration of methane gas,

and monitor these measures according to condition 7.1, in order to prevent the build-up of dangerous concentrations within the Site.

- 4.3.10 The Permit Holder must prepare a contingency plan to be followed when measured levels of flammable gas reaches the levels as referred to in condition 7.1.3. This plan must be submitted to the Regional Director within four (4) months from the date of this Permit.

4.4 Operating hours

- 4.4.1 The Permit Holder must prepare a weatherproof area, as close to the entrance gate as possible and within the Site, where waste arriving at the Site after operational hours, can be temporarily stored. Waste stored in this area must be removed to the active working area on the Site before 10h00 of the next morning.
- 4.4.2 The Permit Holder shall accept waste on the active working area of the Site only between 07h00 and 17h00 during weekdays and between 07h00 and 14h00 on Saturdays.
- 4.4.3 Waste disposed of on the active working area of the Site must be compacted and covered before 18h00 on weekdays and before 15h00 on Saturdays. No heavy machinery shall be in operation on the Site on Sundays, or between 18h00 on weekday evenings; or 15h00 on Saturday afternoons and 06h00 the following morning, except at the area described in condition 4.4.1.

4.5 Access Control

- 4.5.1 Weatherproof, durable and legible notices in two official languages applicable in the area, must be displayed at each entrance to the Site. These notices must prohibit unauthorised entry and state the hours of operation, the name, address and telephone number of the Permit Holder and the person responsible for the operation of the Site.
- 4.5.2 The Site must be fenced to a minimum height of 1,8 metres, with gates of the same height at all entrances, to reasonably prevent unauthorised entry and to curtail the spreading of wind-blown paper and plastic materials.
- 4.5.3 The Permit Holder must take all reasonable steps to maintain service roads in a condition which ensures unimpeded access to the Site for vehicles transporting waste and must keep these roads free of waste.
- 4.5.4 The Permit Holder must ensure that all entrance gates are manned during the hours of operation and locked outside the hours of operation.
- 4.5.5 The Permit Holder must ensure effective access control.
- 4.5.6 The Permit Holder must take all reasonable steps to prevent the disposal of waste on the Site for which the Site has not been approved.

- 4.5.7 Notices prohibiting unauthorised persons from entering the Site, as well as an internationally accepted sign indicating the risks involved in unauthorised entry must be displayed at 100-meter intervals along the boundary of the Site.

5. WATER QUALITY MANAGEMENT

5.1 Water Quality Requirements

- 5.1.1 Runoff water is deemed to be uncontaminated when the quality thereof is complying with the quality requirements specified in Annexure II.

- 5.1.2 Leachate is deemed to be treated when the quality thereof is complying with the quality requirements of the General Standard, as prescribed in terms of section 21(1)(a) of the Water Act, 1956 (Act 54 of 1956) as published in Government Notice 991 of 18 May 1984, or with such quality requirements as may from time to time be determined by the Regional Director.

5.2 Runoff Management

- 5.2.1 All runoff water (stormwater) arising as a result of precipitation –

- (a) on land adjacent to the Site; and
- (b) on the Site,

must be prevented from coming into contact with any substance, whether such substance is a solid, liquid, vapour or gas, or a combination thereof, which is produced, used, stored, dumped or spilled on the premises, including leachate and must be diverted and drained -

- (i) around the Site; and
- (ii) from the working face of the Site,

by means of works constructed by the Permit Holder in accordance with condition 3.6.

- 5.2.2 Uncontaminated runoff water as defined in condition 5.1.1 must be diverted away from the Site to the Blackburrow Spruit and discharged into this Spruit at a point upstream of the Site.

- 5.2.3 In the event that runoff water referred to in condition 5.1.1 becomes contaminated to the extent of not complying with the water quality requirements specified in condition 5.1.1, but complies with the water quality requirements as specified in condition 5.1.2 –

- (a) the information regarding the quality of the water must be supplied to the Regional Director, and
- (b) this water must be contained on the Site in works constructed for this purpose according to condition 3.6,

until the Regional Director has informed the Permit Holder whether to deal with this water according to condition 5.2.2 or condition 5.3.1.

- 5.2.4 In the event that runoff water referred to in condition 5.2.1 becomes contaminated to the extent of not complying with the water quality requirements as referred to in condition 5.1.2, it must be regarded as untreated leachate and must be dealt with according to condition 5.3.1.

- 5.2.5 Runoff water arising from operational actions, for example the washing of vehicles and containers, must be regarded as contaminated runoff and must be treated according to condition 5.3.1.
- 5.2.6 Uncontaminated runoff water must under no circumstances be used to dilute waste water resulting from any activities on the Site or actions relating to the operation of the Site or leachate emanating from the Site but must be dealt with according to condition 5.2.2.
- 5.3 Leachate Management**
- 5.3.1 All leachate from the Site, including contaminated runoff water, must be collected in works constructed according to condition 3.6 and –
 - 5.3.1.1 treated to comply with the quality requirements specified in condition 5.1.2 or with such quality requirements as may from time to time be determined by the Regional Director; or
 - 5.3.1.2 sprayed over those portions of the Site which comply with the requirements set in terms of condition 3; or
 - 5.3.1.3 discharged into any convenient sewer, provided that written proof has been supplied to the Regional Director that the authority in control of that sewer will accept that leachate and bear responsibility for the impact it may have on the operation of this sewerage works.
- 5.3.2 Treated leachate or contaminated runoff water, which complies with the requirements of condition 5.1.2, may be discharged into the Blackburrow Spruit at a point downstream from the point where uncontaminated runoff water is being discharged as specified in condition 5.2.2.

6 WATER QUALITY MONITORING

6.1 Groundwater Quality Monitoring Network

- 6.1.1 The groundwater monitoring network for the Site must consist of –
 - (a) the boreholes numbered BH10, BH11, BH12, BH13, BH14, BH15, BH16, BH17, BH18, BH19 at the locations indicated on Figure 1 of Appendix 2 of the Report as submitted by the Permit Holder; and
 - (b) the boreholes constructed in terms of condition 6.1.2.
- 6.1.2 As part of the groundwater monitoring network the Permit Holder must, within the financial year starting 1 April 1998, construct –
 - (a) an additional borehole to be used as a background monitoring point (where the groundwater in the borehole is at an expected higher hydraulic pressure level than the hydraulic pressure level in the groundwater under the Site); and
 - (b) additional boreholes as proposed by the Permit Holder in the letter dated 28 October 1992 from Lombard and Associates.

The location of these boreholes must be determined in consultation with the Regional Director.


 SB

- 6.1.3 Samples from the borehole numbered BH12 and the borehole constructed according to condition 6.1.2(a), shall be considered as background monitoring.
- 6.1.4 Groundwater quality monitoring of the network described in condition 6.1.1 must be conducted during each monitoring occasion in terms of condition 6.3, starting in July 1998.
- 6.1.5 Monitoring boreholes must be equipped with lockable caps. The Department reserves the right to take water samples at any time and to analyse these samples, or to have them taken and analysed.
- 6.1.6 The Permit Holder must maintain this groundwater quality monitoring network to the satisfaction of the Regional Director, so that unobstructed sampling, as required in terms of this Permit, can be undertaken.

6.2 Surface Water Quality Monitoring Network

- 6.2.1 Background monitoring of surface water must be conducted during each monitoring occasion in terms of condition 6.3 –
 - (a) in the Msunduzi River at the monitoring point numbered K5;
 - (b) in the Blackburrow Spruit at the monitoring point numbered B5; and
 - (c) at any other locations identified by the Regional Director, which will be upstream of the Site.

- 6.2.2 Monitoring of uncontaminated runoff water quality must be conducted for the variables specified in Annexure II during each rainfall occasion –

- (a) in stormwater drains and containment works on and adjacent to the Site; and
- (b) in the Blackburrow Spruit downstream from the point where uncontaminated runoff water is being discharged,

at a point or points, which shall be identified by the Regional Director.

- 6.2.3 Monitoring of contaminated runoff water, and/or treated leachate, which is discharged into the environment must be conducted –

- (a) at the point where the contaminated runoff water, and/or treated leachate exits the treatment facility; and
- (b) in the Blackburrow Spruit downstream from the point where leachate and/or contaminated runoff water is being discharged,

at a point or points which shall be identified by the Regional Director.

- 6.2.4 Monitoring of the impact of the Site on the surface water quality must be conducted –

- (a) in the Msunduzi River downstream from the Site at the monitoring point numbered K5a;
- (b) in the Blackburrow Spruit downstream from the Site at the monitoring point numbered B5a; and
- (c) in the Msunduzi River downstream from its confluence with the Blackburrow Spruit at a point or points which shall be identified by the Regional Director.

- 6.2.5 The location of monitoring points referred to in conditions 6.2.1, 6.2.2, 6.2.3 and 6.2.4, as identified by the Regional Director, as well as any other location or locations which may from time to time be specified by the Regional Director, shall be communicated in writing to the Permit Holder and this communication shall be regarded as part of the Permit.
- 6.3 **Frequency Of Water Quality Monitoring And Variables For Analysis**
- 6.3.1 Monitoring of the ground and surface water quality network must be conducted at the locations specified in conditions 6.1.1, 6.2.1, 6.2.2, 6.2.3 and 6.2.4 –
- (a) quarterly for the variables listed in Annexure III; as well as
 - (b) bi-annually during the months of September and March for the additional variables listed in Annexure IV.
- 6.3.2 Monitoring of treated leachate and contaminated runoff water which are discharged into the environment must be conducted annually for any other variables which are not covered by Annexure III and Annexure IV, but which are listed in Government Notice 991, referred to in condition 5.1.2, at the locations specified in condition 6.2.3.
- 6.4 **INVESTIGATIVE MONITORING**
- 6.4.1 If, in the opinion of the Regional Director, a water quality variable at any monitoring point shows an increasing trend, the Permit Holder must initiate a monthly monitoring programme for those water quality variables and monitoring points specified by the Regional Director.
- 6.5 **POST-CLOSURE WATER QUALITY MONITORING**
- 6.5.1 Water quality monitoring, in accordance with conditions 6.1, 6.2 and 6.3, must continue after closure of the Site and must be maintained for a period of 30 years, or for such period and/or frequency and/or at locations as may be determined by the Regional Director.
- 7 **AIR QUALITY AND GAS MONITORING**
- 7.1 **MONITORING OF LANDFILL GAS**
- 7.1.1 Monitoring of flammable gas must be conducted –
- (a) through a network of boreholes or any other monitoring devices approved by the Regional Director, which must be at least one metre deeper than the deepest point of the waste body; and
 - (b) in the atmosphere inside buildings on the Site,
- for the quantitative detection of the following volatile materials on the Site:
- (i) carbon dioxide;
 - (ii) methane;
 - (iii) total volatile organic carbons; and
 - (iv) benzene.
- 7.1.2 This network must be established within four months from the date of the Permit for the quarterly measurement of variables required in terms of condition 7.1.1.

- 7.1.3 The atmospheric levels in the atmosphere of
 - (a) carbon dioxide must not exceed 0.5%; and
 - (b) methane must not exceed 1%,
 by volume in air at the monitoring locations specified in condition 7.1.1.
- 7.1.4 Should the atmospheric levels of flammable gas be between 0.1% and 1%, a higher frequency of monitoring must be instituted. Should levels above 1% be detected in buildings on the Site, the buildings must be evacuated and the contingency plan referred to in condition 4.3.10 must be followed immediately.
- 7.1.5 Should measurements of the gas monitoring network at any time exceed the limits specified in condition 7.1.3 the Permit Holder must report this as an incident according to condition 13.1.
- 7.1.6 The measurements of flammable gasses must be amended for Standard Temperature and Pressure.

7.2 AIR QUALITY AND DUST MONITORING PROGRAMME

- 7.2.1 The Permit Holder must, within 60 days from the date of the Permit, submit a proposal for a comprehensive air quality, gas and dust monitoring program to the Department for approval by the Regional Director, which must address the following aspects:
 - (a) A monitoring procedure for the Site;
 - (b) monitoring of flammable gas according to condition 7.1;
 - (c) on and off-Site monitoring of additional air quality variables not described in condition 7.1, including dust; and
 - (d) post-closure monitoring.
- 7.2.2 This monitoring programme must be implemented within 60 days from the date on which it was approved by the Regional Director and the implementation and maintenance of this network must be to the satisfaction of the Regional Director.
- 7.2.3 Until such time as the programme referred to in condition 7.2.1 is implemented, an interim air quality and dust monitoring programme must be implemented with immediate effect.

7.3 POST-CLOSURE AIR QUALITY AND GAS MONITORING

- 7.3.1 Air quality, gas and dust monitoring, as described in the monitoring programme referred to in condition 7.2.1, must continue after closure of the Site for a period until the landfill gas peak concentration of methane and carbon-dioxide has been detected, or for any longer period as may be determined by the Director.

8 FURTHER INVESTIGATIONS

- 8.1 If, in the opinion of the Regional Director, groundwater, surface water and/or air pollution have occurred or may possibly occur, the Permit Holder must conduct, and/or appoint specialists to conduct the necessary investigations and implement additional monitoring and rehabilitation measures to the satisfaction of the Regional Director.



9 AUDITING

9.1 Internal audits

9.1.1 Internal audits must be conducted quarterly by the Permit Holder and on each audit occasion an official report must be compiled by the relevant auditor to report the findings of the audits, which must be made available to the external auditor specified in condition 9.2.1 and the Department, according to conditions 9.3.2 and 13.2.2.

9.2 External audits

9.2.1 The Permit Holder must appoint an independent external auditor to audit the Site bi-annually and this auditor must compile an audit report documenting the findings of his audit, which must be submitted by the Permit Holder according to condition 13.2.3.

9.2.2 The audit report must specifically state whether conditions of this Permit are adhered to and must include an interpretation of all available data and test results regarding the operation of the Site and all its impacts on the environment.

9.2.3 The audit report must contain recommendations regarding non-compliance or potential non-compliance and must specify target dates for the implementation of the recommendations by the Permit Holder.

9.3 Departmental audits and inspections

9.3.1 The Department reserves the right to audit and/or inspect the Site at any time and at such a frequency as the Regional Director may decide, or to have the Site audited or inspected.

9.3.2 The Permit Holder must make any records or documentation available to the Regional Director upon request, as well as any other information the Regional Director may require.

9.3.3 The findings of these audits or inspections shall be made available to the Permit Holder and the Monitoring Committee within 60 days of the end of the audit or inspection and shall not be treated as confidential.

10 MONITORING COMMITTEE

10.1 The Permit Holder must take all reasonable steps to maintain and ensure the continued functioning of the New England Road Landfill Site Monitoring Committee (herein referred to as the "Monitoring Committee") for the normal operative lifetime of the Site and for a period of at least two years after the closure of the Site, or such longer period as may be determined by the Regional Director.

10.2 The Monitoring Committee shall be representative of relevant interested and affected persons and may consist of at least the following parties:

- (a) Permit Holder and/or his appointed consultant(s) or advisor(s);
- (b) Representative(s) of the Health, Environment and/or Waste Departments of the relevant local authority(ies);
- (c) Representative(s) of this Department;
- (d) Representative(s) of the Provincial Government responsible for waste management and environmental matters; and

Handwritten signature/initials
S.B

- (e) At least 3 (three) persons/parties from the local community and/or their representatives appointed by the local residents and/or their appointed consultant(s) or advisor(s).

10.3 The Monitoring Committee shall meet at least once every four months and not later than 30 days after the external audit report specified in condition 9.2 has been submitted according to condition 13.2.3.

10.4 The Permit Holder must ensure that minutes of all Monitoring Committee meetings are kept and must ensure that these minutes are distributed to all members of the Monitoring Committee within 14 days after a meeting.

11 ANALYSIS OF SAMPLES

11.1 The Permit Holder must ensure that all samples taken in accordance with conditions 6 and 7, are –

- (a) analysed by a laboratory accredited by the South African Bureau of Standards (SABS), referred to in the Standards Act, 1982 (Act 30 of 1982); and
- (b) according to the methods prescribed in terms of Government Notice 991 of 18 May 1984, or another method of analysis for which approval had been obtained from the Regional Director.

12 RECORDING

12.1 The Permit Holder must keep records and update all the information referred to in Annexure V on an annual basis.

12.2 The Permit Holder must keep records of all water monitoring data resulting from chemical analyses in terms of condition 6 in the format depicted in Annexure VI, as well as from air quality and gas monitoring conducted in accordance with condition 7.

13 REPORTING

13.1 Reporting of incidents

13.1.1 The Permit Holder must, within 24 hours, notify the Regional Director of the occurrence or detection of any incident at the Site, or incidental to the operation of the Site, which has the potential to cause, or has caused water pollution, pollution of the environment, health risks or nuisance conditions.

13.1.2 The Permit Holder must, within 14 days, or a shorter period of time, if specified by the Regional Director, from the occurrence or detection of any incident referred to in condition 13.1.1, submit an action plan, which must include a detailed time schedule, to the satisfaction of the Regional Director of measures taken to –

- (a) correct the impacts resulting from the incident;
- (b) prevent the incident from causing any further impacts; and
- (c) prevent a recurrence of a similar incident.

Handwritten signature and initials

- 13.1.3 In the event that measures have not been implemented within 21 days to address impacts caused by the incident referred to in condition 13.1.1, or measures which have been implemented are inadequate, the Regional Director may implement the necessary measures at the cost and risk of the Permit Holder.
- 13.1.4 The Permit Holder must keep an incident report and complaints register, which must be made available to both external and Departmental auditors for the purposes of their audits.
- 13.2 **Audit reports**
- 13.2.1 Baseline monitoring results, (when sampling was done prior to the commencement of site operations) which were obtained from monitoring prior to the date of the Permit numbered B33/2/1920/40/P64 and/or as contained in the Report, must be included in all audit reports and must be reported for each sampling occasion.
- 13.2.2 All internal audit reports referred to in condition 9.1.1 must be made available to the external auditor referred to in condition 9.2.1.
- 13.2.3 Each external audit report referred to in condition 9.2 must be submitted to the Regional Director and the Monitoring Committee within 30 days from the date on which the external auditor finalised the audit.
- 13.3 **Other reports**
- 13.3.1 The information required in terms of condition 12.1 must be submitted to the Regional Director within a period of one year from the date of issuing of this Permit and annually thereafter.
- 13.3.2 The information required in terms of conditions 6 and 7 must be reported to the Regional Director, in the format specified in condition 12.2 where applicable, within a period of 30 days following the analysis of the samples. The information must also be included into a trend report, which must contain a graphical presentation of all results obtained previously at any specific sampling point, as well as an interpretation and discussion of the results of each monitoring occasion.
- 13.3.3 The Permit Holder must submit a written report to the Regional Director regarding any deviations from plans and/or operation procedures described in this Permit and must obtain written permission from the Regional Director before such deviations may be implemented.
- 14 **REHABILITATION AND CLOSURE OF THE SITE**
- 14.1 The operation of the Site must address rehabilitation processes as part of operation by preventing erosion and the formation of pools due to rain through the re-establishment of vegetation and final shaped covering of any disused portion of the Site.
- 14.2 The Permit Holder must rehabilitate the Site or any portion thereof, in accordance with a rehabilitation plan, which must be submitted to the Regional Director for approval at least one year prior to the intended closure of the Site, or any portion thereof.
- 14.3 The Permit Holder must, at least 90 days prior to the intended closure of the Site, or any portion thereof, notify the Regional Director by registered mail of such intention and submit any final rehabilitation plan amendments for his approval.

[Handwritten signature]
SB

- 14.4 Immediately following the cessation of operations with the intention to close the Site, or any portion thereof, the surface of the Site must be covered and the Site must be maintained in such a way that -
- (a) the formation of pools due to rain is prevented;
 - (b) free surface runoff of rain-water is ensured;
 - (c) contamination of stormwater is prevented;
 - (d) no objects or materials which may hamper the rehabilitation of the Site are present; and
 - (e) little or no erosion occurs,

until the approved rehabilitation plan referred to in condition 14.2 is completely implemented.

15 LEASING AND ALIENATION OF THE SITE

- 15.1 Should the Permit Holder want to alienate or lease the Site, he must notify the Regional Director in writing of such an intention at least 90 days prior to the said transaction.

16 GENERAL

- 16.1 This Permit replaces Permit number B33/2/1920/40/P64 issued on 1993-05-04 for the New England Road waste disposal site.
- 16.2 This Permit is not transferable.
- 16.3 This Permit shall not be construed as exempting the Permit Holder from compliance with the provisions of the Health Act, 1977 (Act 63 of 1977), the Water Act, 1956 (Act 54 of 1956), the Occupational Health and Safety Act, 1993 (Act 85 of 1993) or any other applicable act, ordinance, regulation or by-law.
- 16.4 The Permit Holder must within a period of 60 days from the date of issuing of this Permit apply for the rezoning of the Site for waste disposal purposes. Should the Permit Holder be unsuccessful in rezoning the Site for waste disposal purposes within a period of 2 years from the date of issuing of this Permit, a written motivation must be provided to the Regional Director defining the reasons why the application for rezoning failed. The Regional Director shall then take a decision regarding the future of the Site.
- 16.5 Unless otherwise specified elsewhere in this Permit, this Permit will be completely reviewed 5 (five) years from the date on which this Permit was issued.
- 16.6 Transgression of any condition in this Permit could result in the Permit being withdrawn by the Minister.

Acting CHIEF DIRECTOR: SCIENTIFIC SERVICES
p.p. MINISTER OF WATER AFFAIRS AND FORESTRY

DATE: 22/4/98

ANNEXURE I

WASTE WHICH SHALL NOT BE ACCEPTED ON THE SITE: CONDITION 2.1

1. Waste where specific control has been established in terms of the Nuclear Energy Act, 1993 (Act 131 of 1993).
2. Waste types controlled in terms of the Minerals Act, 1991 (Act 50 of 1991) and the Electricity Act, 1987 (Act 41 of 1987), unless written permission has been obtained from the Regional Director.
3. Waste which is defined, according to the Minimum Requirements, as an extreme hazard or Hazard Group 1 (HG1); high hazard or Hazard Group 2 (HG2); moderate hazard or Hazard Group 3 (HG3) and low hazard or Hazard Group 4 (HG4), unless an application for delisting has been successfully submitted to the Regional Director and written approval was obtained from the Regional Director for the disposal of this waste on the Site.
4. Flammable wastes, with a closed cup flash point less than 61°C.
5. Corrosive substances, as defined and described in the Minimum Requirements as Class 8 (1994 edition: page 53, Diagram IV).
6. Oxidising substances and organic peroxides, as defined and described in the Minimum Requirements as Class 5 (1994 edition: page 53, Diagram IV).
7. Any waste with a substance which is a Group A and/or Group B carcinogen/mutagen. Group A carcinogens/mutagens have been proven in humans, both clinical and epidemiological. Group B carcinogens/mutagens have been proven without doubt in laboratory animals.
8. Any waste with a substance at a concentration greater than 1% where the substance is a Group C and/or Group D carcinogen/mutagen. Group C carcinogens/mutagens have shown limited evidence in animals. Group D carcinogen/mutagen - the available data is inadequate and doubtful.
9. Any infectious waste, unless it has been incinerated at 800°C or higher for at least 1 second. Infectious waste is waste which is generated during the diagnosis, treatment or immunisation of humans or animals; in the research pertaining to this; in the manufacturing or testing of biological agents including blood, blood products and contaminated blood products, cultures, pathological wastes, sharps, human and animal anatomical wastes and isolation waste that contain or may contain infectious substances.
10. All materials which falls in Class 1 (explosives), Class 2 (compressed gases) and Class 7 (radioactive materials), as defined and described in the Minimum Requirements.
11. Any waste with a pH less than 6 or greater than 12.
12. Any waste which is difficult to analyse and classify.
13. Any complexes of heavy metal cations, paint and paint sludges, or laboratory chemicals.

Handwritten signature and initials

ANNEXURE II

WATER QUALITY REQUIREMENTS TO WHICH UNCONTAMINATED RUNOFF WATER
MUST COMPLY BEFORE DISCHARGE INTO THE BLACKBURROW SPRUIT:
CONDITIONS 5.1.1 AND 6.2.2

| Determinant | Value |
|--------------------------------------|---------|
| pH | 5.5-8.5 |
| Electrical conductivity (mS/m) | 40 |
| Chemical oxygen demand (COD in mg/l) | 40 |
| Fluoride (F in mg/l) | 1 |
| Manganese (Mn in mg/l) | 0.05 |
| Sulphate (SO ₄ in mg/l) | 200 |
| Chloride (Cl in mg/l) | 100 |
| Calcium (Ca in mg/l) | 32 |
| Ammonia(NH ₄ in mg/l)) | 1.0 |


SB

ANNEXURE III

WATER QUALITY VARIABLES REQUIRED FOR QUARTERLY MONITORING:
CONDITION 6.3.1 (a)

| |
|---|
| Alkalinity (as mg CaCO ₃ /l) |
| Free & saline ammonia as N (NH ₄ -N) |
| Calcium (Ca) |
| Chemical oxygen demand (COD) |
| Chloride (Cl) |
| Electrical conductivity (EC) |
| Fluoride (F) |
| Iron (Fe) |
| Magnesium (Mg) |
| Nitrate (as N) (NO ₃ -N) |
| pH |
| Potassium (K) |
| Sodium (Na) |
| Sulphate (SO ₄) |
| Mercury (Hg) |
| Manganese (Mn) |

ANNEXURE IV

ADDITIONAL WATER QUALITY VARIABLES REQUIRED FOR BI-ANNUAL MONITORING:
CONDITION 6.3.1 (b)

| | |
|---|--|
| Arsenic (As) | Mercury (Hg) |
| Cadmium (Cd) | Poly Aromatic Hydrocarbon (PAH) |
| Chromium (hexavalent) (Cr ⁶⁺) | Poly Chlorinated Hydrocarbon (PCH) |
| Chromium (Total) (Cr) | Soluble orto-phosphate (PO ₄ - P) |
| Cyanide (free)(CN) | Total dissolved solids (TDS) |
| Dissolved organic carbon (DOC) | Total organic carbon (TOC) |
| E. Coli (counts per 100ml) | Total phenol (Phen) |
| Lead (Pb) | Uranium (U) |
| Manganese (Mn) | Vanadium (V) |

SB

ANNEXURE V

INFORMATION WHICH SHALL BE SUBMITTED ON AN ANNUAL BASIS: CONDITION 12.1

* = Indicate with an X. Please print legibly.

| | |
|--------------------------------|----------------------------------|
| NAME OF SITE: NEW ENGLAND ROAD | DATE OF REPORT (yy/mm/dd): _____ |
|--------------------------------|----------------------------------|

1. Registered owner(s) of property on which disposal site is situated:

| | | |
|----------------|-------------|--|
| Name | Telephone | |
| Postal Address | Fax | |
| | Postal Code | |

2. Operator in control of disposal site:

| | | | | | | |
|--------------------------------|---------|--|----------------|-------------|--------|-----------------|
| Name | | | | Telephone | | |
| Identity number | | | | After hours | | |
| Educational Qualifications (*) | std 6 | | std 8 | | matric | Other (specify) |
| | diploma | | higher diploma | | degree | |

3. Latest estimated lifetime of the disposal site: _____ yr.

4. Indicate the type of waste and approximate quantities of waste disposed of during the year:

| Type of waste | Quantity (m ³ annum ⁻¹) | Compacted (C) | Uncompacted (U) |
|--|--|---------------|-----------------|
| Non-hazardous waste | | | |
| Household | | | |
| Garden refuse | | | |
| Building rubble | | | |
| Industrial (not hazardous) - (specify) | | | |
| TOTAL | | | |
| Hazardous waste | | | |
| Flammable solids | | | |
| Flammable liquids | | | |
| Oxidising agents | | | |
| Toxic wastes | | | |
| Corrosive wastes | | | |
| Hospital and infectious wastes (specify) | | | |
| TOTAL | | | |

5. (a) Indicate the method of disposal of waste (*).

| | | |
|--------------|--|-------------|
| Landbuilding | | Landfilling |
|--------------|--|-------------|



Handwritten signature and initials, possibly 'SB'.

(b) Indicate the present dimensions of the site (metre)

| | |
|--------------|--|
| Height/depth | |
| Length | |
| Breadth | |

6. Indicate the applicable waste types and quantities salvaged during the year (*)

| Salvaging undertaken? | | Yes | No | | |
|-----------------------|-----|----------------------------|---------------|-----|----------------------------|
| Type | (*) | Quantity (m ³) | Type | (*) | Quantity (m ³) |
| Paper/wood fibre | | | Rubber | | |
| Plastics | | | Textiles | | |
| Glass | | | Iron | | |
| Copper | | | Aluminium | | |
| Zinc | | | Lead | | |
| Phospho-gypsum | | | Fly-ash | | |
| Waste for composting | | | Food residues | | |
| Flammable gases | | | Other | | |
| Other | | | Other | | |
| Other | | | Other | | |
| | | | | | |
| | | | | | |

7. Indicate the types, sources and approximate quantities of available covering material (*).

| Type | (*) | Sources | Quantity m ³ |
|-----------------|-----|---------|-------------------------|
| Soil | | | |
| Sand | | | |
| Ash | | | |
| Gravel | | | |
| Clay | | | |
| Building rubble | | | |
| Other (specify) | | | |

I, the undersigned, declare that the information stated above is to my knowledge a true reflection of the status at the New England Road waste disposal site.

Signature: _____

Name: _____

Capacity: _____

Place: _____ Date _____

SB

ANNEXURE VI

FORM TO BE USED FOR CHEMICAL INFORMATION: CONDITIONS 6, 7 AND 12

| | | | | |
|---------------------------------------|-------|------------------|------|---|
| Name of site | | New England Road | | |
| Borehole/monitoring point name/number | | | | |
| Sampling date (y-m-d): | | Method: | Bail | |
| Sampling Time | | | Pump | |
| Time after start of pump: | h min | Depth of sample | | m |
| Date of analysis (y-m-d) | | Laboratory | | |

General chemistry

| Constituent | Unit | Value | Constituent | Unit | Value |
|--------------------|---------------------------|-------|-------------|--------|-------|
| pH | (-log[H ⁺]) | | Al | (mg/l) | |
| EC | (mS/m) | | As (III) | (mg/l) | |
| TDS | (mg/l) | | B | (mg/l) | |
| Ca | (mg/l) | | Cd | (mg/l) | |
| Mg | (mg/l) | | free CN | (mg/l) | |
| Na | (mg/l) | | Cr (Total) | (mg/l) | |
| K | (mg/l) | | Cr (VI) | (mg/l) | |
| Alkalinity | (mg CaCO ₃ /l) | | Cu | (mg/l) | |
| Cl | (mg/l) | | Fe | (mg/l) | |
| SO ₄ | (mg/l) | | Mn | (mg/l) | |
| NO ₃ -N | (mg/l) | | Pb | (mg/l) | |
| F | (mg/l) | | Zn | (mg/l) | |
| COD | (mg/l) | | Co | (mg/l) | |
| NH ₄ -N | (mg/l) | | Hg | (mg/l) | |
| Organic N | (mg/l) | | Li | (mg/l) | |
| Phenol | (mg/l) | | Ni | (mg/l) | |
| PO ₄ | (mg/l) | | Se | (mg/l) | |
| E. Coli | counts/100ml | | U | (mg/l) | |
| DOC | mg/l | | V | (mg/l) | |
| TOX | µg/l | | | | |
| TOC | mg/l | | | | |
| PAH | µg/l | | | | |
| PCH | µg/l | | | | |
| VFA | (mg/l) | | | | |
| VOH | (mg/l) | | | | |
| | | | | | |
| | | | | | |

Handwritten signature

SR

**IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG**

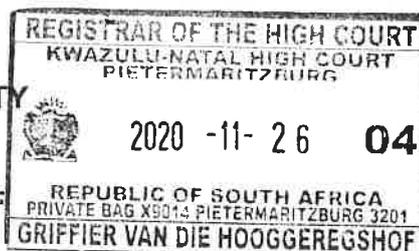
Case No: 8407/20P

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

Applicant

and

MSUNDUZI LOCAL MUNICIPALITY



First Respondent

**HEAD OF THE DEPARTMENT OF
ECONOMIC DEVELOPMENT,**

**TOURISM AND ENVIRONMENTAL AFFAIRS,
KWAZULU-NATAL PROVINCIAL GOVERNMENT**

Second Respondent

**MEMBER OF THE EXECUTIVE COUNCIL
FOR ECONOMIC DEVELOPMENT,
TOURISM AND ENVIRONMENTAL AFFAIRS,
KWAZULU-NATAL PROVINCIAL GOVERNMENT**

Third Respondent

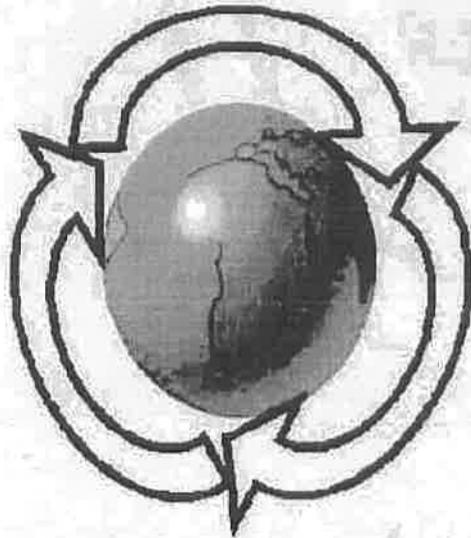
INDEX BUNDLE 2

| | Document | Page Number |
|---|--|--------------------|
| 5 | 'JBS2' - Excerpt of the relevant portion of the <i>Minimum Requirements for Waste Disposal by Landfill</i> | 101-126 |
| 6 | 'JBS3' - Variation Licence issued under reference number DC22/WML/0061/2016 | 127-154 |
| 7 | 'JBS4' - National Norms and Standards for Disposal of Waste to Landfill, 2013 | 155-161 |

| | | |
|---|--|---------|
| 8 | 'JBS5' - Waste Classification and Management Regulations | 162-167 |
| 9 | 'JBS6' - Second Respondent's correspondence dated 2 October 2020 | 168-173 |

"JBS2"

**MINIMUM REQUIREMENTS
FOR WASTE DISPOSAL BY LANDFILL**



*waste
management
series*

DEPARTMENT OF WATER AFFAIRS AND FORESTRY

Second Edition 1998



Handwritten initials

SR

SYNOPSIS

MINIMUM REQUIREMENTS FOR WASTE DISPOSAL BY LANDFILL

The *Minimum Requirements for Waste Disposal by Landfill* forms part of the Department of Water Affairs and Forestry's Waste Management Series. This series establishes a reference framework of standards for waste management in South Africa. It also facilitates the enforcement of the landfill permitting system provided for in terms of Section 20(1) of the Environment Conservation Act, 1989 (Act 73 of 1989).

The Act states that no person shall establish, provide or operate any disposal site without a Permit issued by the Minister of Water Affairs & Forestry and subject to the conditions contained in such a Permit. This applies to all new and operating sites.

Unpermitted closed sites are controlled in terms of Sections 22, 22A, and 23 of the Water Act of 1956, (Act 54 of 1956). This Act is being phased out to be replaced by the National Water Act, 1998 (Act 36 of 1998) and the Water Services Act, 1997 (Act 108 of 1997).

In this document, the procedures, actions and information which may be required from an applicant when permitting a landfill, or written into a permit as conditions, are set out in the form of Minimum Requirements.

The objective of setting Minimum Requirements is to take pro-active steps to prevent the degradation of water quality and environment, and to improve the standard of waste disposal in South Africa. To ensure practical and affordable environmental protection, graded requirements are applied to different classes of landfill. The landfill class is determined from the waste type, size of operation, and potential for significant leachate generation. Where significant leachate is generated, leachate management is mandatory. Where hazardous waste is involved, the most stringent Minimum Requirements are applicable.

There is an important relationship between all aspects

of the landfill development process. Good landfill site selection provides for simple cost-effective design, which, provided the site preparation is correctly carried out, provides for good landfill operation. This in turn ensures the environmental acceptability of the landfill. Environmental acceptability, in its turn, often relates directly to public acceptability. Minimum Requirements are therefore set for all technical aspects of landfill development, operation and closure. They are also set for involving Interested and Affected Parties (IAPs) in determining site feasibility and end-use requirements.

The requirements for public participation are integrated with the Public Scoping requirements of the Department of Environmental Affairs and Tourism's (DEAT) Environmental Impact Assessment Regulations (EIAK). The Environmental Impact Assessment (EIA), together with other necessary stages in the landfill development process, forms part of the Landfill Permit System, and has to be approved by DEAT (Province).

The Permit Holder is primarily and ultimately accountable for the landfill and any effect it may have on the receiving environment. However, the Permit Holder may appoint a Responsible Person, for example, a consultant or operator, to ensure that the appropriate Minimum Requirements are applied throughout the development, operation and closure of the landfill. The Responsible Person must be qualified to the satisfaction of the Department and must be capable of understanding and correctly applying the Minimum Requirements.

The accompanying *Figure* provides an overview of the relationship between all aspects of the landfill process, for a number of different scenarios. It also provides an overview of the permitting procedure.

From the *Figure*, it can be seen that the first step in any scenario is to classify the landfill under

consideration, whether it be proposed or existing.

Thereafter all applicable Minimum Requirements are based on this classification.

In the case of new landfills, site selection procedures eliminate sites with inherent Fatal Flaws, on a site specific basis. Site selection requires the due consideration of alternatives, in that more than one site must be considered. Site feasibility is then based on both technical suitability and public acceptance.

Site investigation will vary, depending on the landfill status. In most instances, however, it will involve a geohydrological investigation, an EIA and the determination of end-use requirements from the IAPs. Based on this information, a site design, operating plan and monitoring plan will be prepared. The design may be a new site design, an upgrade of an existing design, or closure design. In most cases, however, the basic design parameters, together with the end-use plan, must be addressed.

The results of the investigations and the design, together with certain additional information, must be collated and presented as a Permit Application Report. Based on this, the Department will consider granting a Permit to operate a landfill, either for a prolonged period, or with a view to closure.

Once a Permit is granted, new landfill sites will be developed, prepared and commissioned for waste

disposal, while existing sites may require upgrading and/or rehabilitation. New landfills can only be operated once the Department has approved the completed construction. Thereafter, landfills must be operated and monitored in accordance with the Minimum Requirements applicable to the class of landfill under consideration.

In the event of closure, the Permit Holder or landfill operator must inform the Department of the intention to close the facility one year before the event. The end-use requirements are then considered and the closure requirements are determined. Based on this, and on an appropriate investigation, the design is upgraded and a closure report is drawn up. The latter compares the landfill status with what is required and makes recommendations regarding rehabilitation.

Once the closure report has been accepted and the site has been rehabilitated to the satisfaction of the Department, the site may close and the end-use plan may be implemented. The closed landfill site then continues to be monitored for thirty years after closure. This period may, however, be shortened or extended, at the discretion of the Department.

Throughout the landfill development, operation and closure process, a close liaison must be maintained with the Department. At certain critical points, written consent must be obtained, before certain steps may be taken. In this way, the Department will use the Minimum Requirements to enforce waste disposal site permitting. A close liaison must also be maintained with IAPs throughout the process, to ensure public acceptance.

Section 2

WASTE DISPOSAL BY LANDFILL

2.1 The Role of Landfill in the Waste Management System

The term 'landfilling' refers to the deposition of waste on land, whether it be the filling in of excavations or the creation of a landfill above grade, where the term 'fill' is used in the engineering sense.

Historically, wastes have been disposed of on land. This is because landfilling is the cheapest and most convenient method of waste disposal. It is estimated that in excess of 95% of the waste generated in South Africa is disposed of in landfills, while the world figure is believed to be in excess of 85%.

No matter what waste minimisation technologies are implemented, whether they be for volume reduction or resource recovery, some form of residue will always remain and waste will continue to be generated. As depicted in Figure 3, this is ultimately disposed of in a landfill, the most commonly used method for ultimate disposal.

2.2 The Environmental Impact of Landfill

Landfilling is environmentally acceptable if properly carried out. Unfortunately, if not carried out to sufficiently high standards, landfilling has the potential to have an adverse impact on the environment. This impact may be divided into short term impacts and long term impacts:

Short term impacts

Short term impacts include problems such as noise, flies, odour, air pollution, unsightliness and windblown litter. Such nuisances are generally associated with a waste disposal operation and should cease with the closure of the landfill.

Long term impacts

Long term impacts include problems such as pollution of the water regime and landfill gas generation. Such problems are generally associated with incorrect landfill site selection, design, preparation or operation and may persist long after the landfill site has been closed.

The general objective of environmentally acceptable landfilling, therefore, is:

To avoid both short or long term impacts or any degradation of the environment in which the landfill is located.

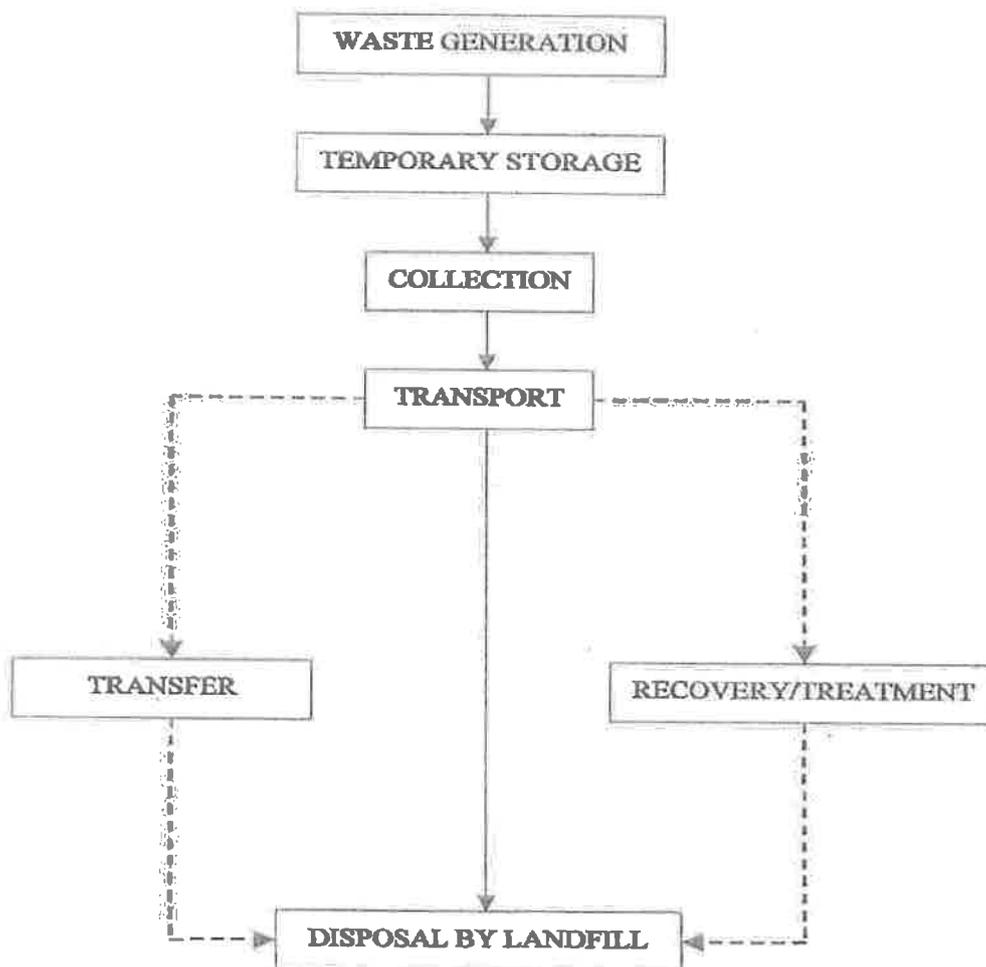
More specific objectives are pro-actively to:

Prevent pollution of the surface and ground water.

* 'Environment' is used in the holistic sense and includes cultural, social, soil, biotic, atmospheric, surface and ground water aspects associated with the landfill (see Glossary).

A
SB

FIGURE 3
The Role of Landfill in the Waste Management System



NOTE:

The purpose of this figure is to emphasize that landfill is the ultimate means of waste disposal. The elements and relationships depicted in the figure have therefore been simplified.

J
SR

- Ensure public acceptance by ensuring environmental acceptability.

2.3 Overview of Environmentally Acceptable Landfilling

As is evident from *Figure 1*, the commissioning of a new landfill follows at the end of a lengthy process.

This process includes long term planning and information gathering, as well as early consultation with interested and affected parties, stakeholders, and communities. This is ongoing and may therefore continue to affect landfill design, operation and rehabilitation procedures throughout the landfill development process.

An important relationship exists between the siting, the design and the standard of operation of a landfill. In essence, good landfill site selection provides for simple cost-effective design, which, provided the site preparation is correctly carried out, provides for good operation.

2.3.1 Selecting a landfill site

The due consideration of alternatives is a basic IEM principle. Applied in this context, it means that a landfill site should only be selected after appropriate candidate sites have been identified and given due consideration.

The criteria which influence landfill site selection are discussed in Section 4. These will include economic, environmental and public acceptance considerations.

Economic considerations

Economic considerations include aspects such as

haul distance from waste generation areas, site size, access and land availability. These affect acquisition, haul and other costs.

Environmental considerations

Environmental considerations relate to the potential threat of the operation to the physical environment, specifically to water resources. These include, *inter alia*, criteria such as site topography, drainage, soils, geohydrology and adjacent land-use.

Public acceptance considerations

Public acceptance considerations relate to the possible adverse impact of a landfill on public health or safety, quality of life, and local land and property values. Well founded public resistance may prohibit the development of a landfill site.

Experience has shown that it is often economic and public acceptance considerations that determine the general area in which a landfill is sited. Within these constraints, the optimum physical environmental option must be sought.

2.3.2 Designing a landfill

The design of a landfill is based on the outcome of the site investigation and environmental impact assessment, which are addressed in Sections 6 and 7, respectively.

The design of a landfill is covered in Section 8. If the best available site identified during the site selection process is sub-optimal from an environmental or geohydrological point of view, the subsequent site design must compensate for these shortcomings by means of appropriate engineering.

The objective in this instance is to reduce the risk

AM
SB

to public health or the impairment of any ecosystem or resource in the receiving physical environment to an acceptable level. In particular, the design must minimise the risk of water pollution by leachate and make provision for sufficient cover to isolate the waste body from the environment. Sufficient cover must be provided for both the landfill operation and final closure and end-use.

Prevention of water pollution

A mandatory physical separation between the waste and the surface and ground water regimes, as well as an effective surface water diversion drainage system, are fundamental to all landfill designs. These elements represent the first steps in the prevention of environmental pollution by waste disposal. In the case of landfills that produce significant leachate, particular attention must be paid to the need for leachate management.

Provision of cover

As the proper landfilling of waste requires regular covering to isolate the waste from the environment, landfills should be so sited and designed that sufficient cover is conveniently available for the duration of the operation. Any cover excavations must also be planned to ensure an adequate separation between the waste and the ground water regime once the soil has been removed.

2.3.3 Operating a landfill

The Minimum Requirements for the operation of a landfill are set out in Section 10.

The concept of sanitary landfilling was developed in order to minimise adverse impacts of the landfill operation on the environment. It is a Minimum Requirement that landfills be operated in

accordance with the following sanitary landfill principles:

- " the compaction of waste, and
- " the covering of waste on a daily basis.

The correct application of these two principles obviates most short term adverse impacts associated with the landfill operation.

Compaction

Compaction of waste is generally achieved by passing heavy equipment over deposited waste. This reduces voids in the waste, thus reducing the chances of channelling which promotes the rapid infiltration and migration of any leachate formed. It also reduces the risk of fires, discourages vermin, controls litter, reduces the amount of cover required and increases site life.

Cover application

The application of soil or other suitable cover to compact waste also reduces litter and the risk of fire, but its main purpose is to eliminate odour. It also reduces scavenging and generally improves aesthetics. The sanitary landfill definition specifies daily or more frequent cover, but, in certain instances, such as small or remote sites with a shortage of cover material, this Minimum Requirement might, with the proper motivation, be appropriately amended.

Other short term impacts, such as unsightliness, dust, noise and traffic, are addressed using methods detailed in Section 10.

2.3.4 Closing a landfill

All landfills, except those closed prior to August 1990 when the permitting system came into effect,

must be permitted before they can be considered legally closed.

Closure will involve, *inter alia*, the application of final cover, topsoiling, vegetating, drainage maintenance and leachate management. In instances of poor landfill siting, design and/or operation, remedial work will be required prior to closure as part of the closure process. Any remedial design and rehabilitation must be based on appropriate investigation. After closure, the landfill can then be utilised in terms of its designed end-use.

Any landfill closed prior to 1990, the effective date of the Permit system, will also have to be rehabilitated, if this is considered necessary by the Department.

2.3.5 Monitoring a landfill

Monitoring is a control mechanism which is applied throughout the development of a landfill.

During site preparation and liner placement, quality assurance and control are forms of monitoring which are implemented in terms of the Minimum Requirements objectives (see Section 9). The site is also monitored during operation, rehabilitation and after closure. Considerations include monitoring the impact of the landfill on the receiving environment; this includes gas monitoring and water quality monitoring (see Section 11 and the *Minimum Requirements for Monitoring at Waste Management Facilities*).

Both ground and surface water quality monitoring systems are set up at the landfill site investigation stage to provide pre-disposal background water quality data (see Section 13). During the design, these are formalised and expanded to address other facets of water monitoring. Water quality monitoring continues throughout the operation, and post-closure monitoring may continue for up to 30 years, or more if required, after the closure of the site.

Section 3

LANDFILL CLASSIFICATION

3.1 Introduction

In order for waste disposal to be both affordable and environmentally acceptable, the Minimum Requirements have to be adaptable. They have to suit different needs and situations in a scientifically defensible way. A village with a population of 100, for example, cannot be expected to have the same waste disposal needs, or meet the same Minimum Requirements, as a city with a population of 1 000 000.

A system for classifying landfills was therefore needed, as a basis for setting and applying the appropriately graded Minimum Requirements. This system had to recognise the inherent qualities and differences which characterise any landfill operation, i.e. the types of waste involved, the size of the waste stream and the potential for significant leachate generation.

The landfill classification system in existence at the beginning of the project used only waste type, and made no provision for size of operation or for leachate generation. In particular, the potential for significant leachate generation, the main cause of water pollution from landfills, was disregarded. A new landfill classification system was therefore formulated.

The objectives of this landfill classification system are:

- To consider waste disposal situations and needs in terms of combinations of waste type, size of waste stream and potential for significant leachate generation.

- To develop landfill classes which reflect the spectrum of waste disposal needs.
- To use the landfill classes as the basis for setting graded Minimum Requirements for the cost-effective selection, investigation, design, operation and closure of landfills.

Using the classification system, landfills are grouped according to:

- the type of waste involved
- the size of the waste stream, and
- the potential for significant leachate generation.

Note that the landfill classification system cannot address factors specific to a particular site, such as the sensitivity of the receiving environment. Such factors are addressed during site selection, investigation and environmental impact assessment, where any critical factor would be identified (see Sections 4.4 and 4.5). Before a landfill can be developed or permitted for continued operation, it will have to be demonstrated that any adverse environmental impacts can be addressed in the landfill design and operating plan.

3.2 Waste Class

Waste types are grouped into two classes, General

J
SB

Section 10 LANDFILL OPERATION

10.1 Introduction

The Minimum Requirements applicable to the different classes of landfill are summarised in Table 10, at the end of this Section.

This section sets out the Minimum Requirements for the operation of landfill sites. Additional information regarding landfill operation may be found in Chapter 9 of *Landfill Design, Construction and Operational Practices* [Ref: UK Department of Environment Waste Management Paper 26B, HMSO Publications, 1995].

In terms of the Environment Conservation Act, only an approved landfill, which has been issued with a Permit in terms of Section 20(1) of the Act, may operate (see Figure 7). In the case of new landfills and extensions, site preparation and construction have to be approved by the Department prior to the operation commencing.

The objectives of the Minimum Requirements for landfill operation are:

- To ensure that all waste is disposed of in an environmentally and socially acceptable manner.
- To ensure that the disposal operation is acceptable to those whom it affects.

The operation must thus conform to both the Permit conditions and to the Minimum Requirements associated with the site classification.

It is the duty of the Responsible Person to ensure that the Minimum Requirements for the operation of a landfill site are applied to the degree commensurate with its class and hence to the satisfaction of the Department.

10.2 Facilities and Resources required for Landfill Operation

There must be sufficient facilities and resources to ensure that the landfill operation can conform to both the Permit conditions and the relevant Minimum Requirements. For example, there should be sufficient trained staff to monitor, control and record incoming waste where required.

10.2.1 Signposting and road access

Signs in the appropriate official languages must be erected in the vicinity of the landfill, indicating the route and distance to the landfill site from the nearest main roads. These traffic signs must conform to the requirements of the Road Ordinance. Suitable signs must also be erected on site, to direct vehicle drivers appropriately and to control speed.

A general notice board must be erected at the site entrance. This must also be in the appropriate official languages, stating the names, addresses and telephone numbers of the Permit Holder and the Responsible Person, the hours of operation, and an emergency telephone number. It is of particular importance that the sign clearly states the class of landfill and the types of waste that can be accepted. Wastes that cannot be accepted must also be stated. It must be stated that disposal of non-acceptable waste types is illegal and can lead to prosecution.

In the case of hazardous waste landfills, clearly visible signposts warning of the associated hazards must be erected along the fence line at intervals not exceeding 100m.

Road access to the site must be maintained at all times, in a manner suitable to accommodate the vehicles normally expected to utilise the facility. All roads, particularly on-site roads, must be so surfaced and maintained as to ensure that waste can reach the working face with the minimum of inconvenience in all weather conditions. Two-way traffic must also be possible in all weather conditions. Unsurfaced roads must be regularly graded and watered to control dust. No mud from the site may be tracked onto public roads.

10.2.2 Controls

Waste acceptance

One of the purposes of the landfill classification system is to ensure that general waste disposal sites receive only the general waste for which they are designed and that all hazardous waste is disposed of only on hazardous waste disposal sites.

Prior to waste being accepted at general waste disposal sites, it must be inspected by suitably qualified staff and the transporter must confirm that it is general waste. In the case of doubt, any industrial waste should be considered as potentially hazardous until proven otherwise, see *Minimum Requirements for the Handling, Classification and Disposal of Hazardous Waste*. The operator at the working face must also ensure that no hazardous wastes (e.g. hazardous liquids, sludges, solids or even sealed drums) are disposed of. Such controls are particularly important at general waste landfill sites in the vicinity of industrial areas. In the event of hazardous waste being intercepted at a general waste landfill site, it must be diverted to a hazardous waste landfill site. The source, vehicle registration and a description of the waste must be reported immediately to the Department.

In the event that medical wastes are intercepted at either a general or a hazardous waste landfill site, it is a Minimum Requirement that the Responsible Person or the Permit Holder immediately contact the

Department for a directive in this regard.

At hazardous waste sites, all new enquiries for disposal of dry and liquid hazardous waste must be submitted to the Responsible Person with representative samples and a completed waste information sheet. Each load of such waste which subsequently arrives at the site must be sampled and tested for correlation with results of the original enquiry, prior to disposal. Waste which does not conform to the original specifications must be properly identified by testing in a laboratory, prior to its disposal on site. Any discrepancies must be reported to the client and appropriate steps must be taken to ensure the proper disposal of the waste.

If a waste cannot be identified, the precautionary principle must be applied and the waste must be regarded as falling into the most hazardous category. This is particularly important in the case of H:h sites which are only permitted to accept waste with Hazard Ratings 3 and 4. Any unidentified wastes or wastes with Hazard Ratings of 1 and 2, arriving at an H:h site, may not be accepted and must be referred to an H:H site.

A report on all wastes received, by the hazardous waste disposal site, must be sent to the Department on a quarterly basis by the Site Operator. It must classify all hazardous wastes in terms of the hazardous waste classification system and outline the disposal method used. See *Minimum Requirements for Handling, Classification and Disposal of Hazardous Waste*.

Special care and consultation with the Department are necessary in the disposal of delisted hazardous wastes at H:b, G:L:B⁺ and G:M:B⁺ sites (see Section 10.3.3).

Access control

In order to facilitate the above waste acceptance procedures, access to the site must be controlled. It is therefore a Minimum Requirement that vehicle access to a site be limited to a single controlled

SA

entrance, to prevent the unauthorised entry and illegal dumping of waste on the site. The site entrance must comprise a lockable gate which must be manned during hours of operation. Additional security, after operating hours, is required at all hazardous waste disposal sites, and general waste disposal sites where appropriate.

In addition to the gate, all sites must have the portion of the site currently in use adequately fenced and/or secured. In the case of medium and large general landfills and hazardous landfills, fences must be 1.8m with an overhang and must be constructed of galvanised steel wire, or of other suitably sturdy and durable material. Where normal fencing is removed, or is not practicable because of continued theft despite security measures, barbed wire fences, earth berms and/or shallow trenches must be used to prevent vehicle access. In all events, however, the site boundaries must be clearly demarcated and measures must be taken to prevent unauthorised vehicle access.

Collection of disposal tariffs

Since the Minimum Requirements increase the standards of waste disposal, they also increase the cost. In order to offset these costs, waste disposal tariffs should be levied and collected at all landfill sites, from medium size upward. Tariffs should be displayed on the notice board. They should be based on mass, where a weigh bridge exists, or on estimated volumes.

Security

In addition to access control, suitable security must be provided to protect any facilities and plant on site.

It is a Minimum Requirement that unauthorised pedestrian access be strictly prohibited at hazardous waste disposal sites, although this may be difficult in some instances. Primarily for the purpose of protecting public health and safety, waste reclamation and squatting should be discouraged at general waste

disposal sites. It is a Minimum Requirement that no reclamation be allowed at hazardous waste disposal sites. Since fencing is not always effective, additional measures may be necessary in order to achieve this Minimum Requirement.

10.2.3 Operating Plan

An Operating Plan is a site-specific document that will be developed as part of the Landfill Permit Application Procedure (see Figures 1 and 2). It describes the way in which the landfill is to be operated, commencing at the level and detail of daily cell construction and continuing through to the projected development of the landfill with time. Everything pertaining to the operation of a landfill should therefore be included in the Operating Plan, which is subject to regular update.

The complexity of the Operating Plan will vary with the class of site; this varies from a very simple plan, in the case of a G:S site, to a very detailed and sophisticated document for an H:H site.

The Operating Plan would include, *inter alia*, the phasing, the excavation sequence, the provision of wet weather cells, site access and drainage. It would also include all operation monitoring procedures (see Section 11.5) and a plan for mitigatory actions in response to problems detected by monitoring.

In drawing up the Operating Plan, cognisance must be taken of the input of IAPs during the Feasibility Study and Permit Application Procedure. If necessary, certain issues, for example, the phasing of the operation, must be discussed and agreed with the IAPs, to whom access to the final plan will be given. In addressing the monitoring of operation, the Operating Plan must make reference to the role of the Monitoring Committee, which is to include IAPs (see Section 11).

In the case of all hazardous waste disposal sites, a Response Action Plan is required to form part of the

Operating Plan (see Section 7.4). The Response Action Plan will detail procedures to be followed in case of failure in the design or operation. It will also include an emergency evacuation plan. For hazardous waste landfills the Operating Plan must also address all items stipulated in the Major Hazard Installation Regulations, governed under the Occupational Health and Safety Act 1993, (Act No. 85 of 1993). All failure modes and effects must be quantified in a risk assessment, and on-site and off-site emergency plans developed.

10.2.4 Resources

Adequate facilities, equipment and suitably trained staff are required in order to ensure an ongoing environmentally acceptable waste disposal operation. It is therefore a Minimum Requirement that there be sufficient resources to meet the Minimum Requirements relating to the operation.

Infrastructure

The facilities at a landfill site will vary in accordance with the size of the operation. In the case of a G:C site, only access control would be a Minimum Requirement. Larger sites would typically have services such as water, sewerage, electricity, telephones, security and infrastructure such as weighbridges, site offices and plant shelters. In the case of hazardous waste disposal sites, an on-site laboratory would be a Minimum Requirement.

Plant and equipment

The plant and equipment on site must be commensurate with the size and type of the operation. The type of equipment employed for all phases of the operation must therefore be of suitable capacity and construction. Typically, larger sites would have a combination of purpose-built landfill compactors, bulldozers, front-end loaders and trucks to transport cover material. In the case of smaller sites, however, less would be required.

For example, a small bulldozer or a tractor combination system would be sufficient to compact

and cover waste at a G:S site.

The Minimum Requirement is to provide sufficient suitable equipment, drivers and back-up to ensure environmentally acceptable waste disposal at all times. The plant and equipment must provide the means whereby the waste can be disposed of in accordance with the Minimum Requirements. It must also be maintained in good order, so as not to cause nuisances such as noise and air pollution.

Staff

It is a Minimum Requirement that the operation of all landfill sites be carried out under the direction of a Responsible Person. This may be a gate controller in the case of a G:C site, a site foreman in the case of a G:S site, a site superintendent in

the case of a G:M site and a landfill manager with a post-matric or tertiary qualification in the case of a G:L site. In the case of H:h sites and H:H sites, the Responsible Person must have the academic equivalent of a BSc Degree with a Chemistry major and suitable experience. He/she must also be fully au fait with the Hazard Rating system and its application.

The Responsible Person must, in all cases, be supported by suitably qualified and competent staff. This staff complement would be commensurate with the size and type of the operation, as well as with the facilities and plant involved.

Sufficiently qualified staff and back-up are required to ensure that the Minimum Requirements relating to the operation are met. Where applicable, the Responsible Person must also ensure that the requirements of the Occupational Health and Safety Act are met, with regard to visitors and site staff.

10.3 Landfill Operation

Waste deposition is considered mainly in terms of sanitary landfill principles. In the case of hazardous waste, however, more stringent waste acceptance procedures, pre-treatment, co-disposal and encapsulation are addressed.

As indicated in Section 2, the majority of waste in South Africa is disposed of by landfill. Some 90% of this waste is general waste. The principles of sanitary landfilling and the variations on this method thus apply predominantly to general waste. These principles are, however, also applied to hazardous waste landfills in conjunction with other procedures, such as co-disposal, waste load allocations, pre-treatment etc.

10.3.1 Principles of sanitary landfilling

Landfills must be operated in accordance with the following sanitary landfill operating principles (see also Section 2.3.3):

- waste must be compacted, and
- covered at the end of each day's operations.

Compaction

Compaction is best achieved if the waste is spread in thin layers and compacted by a purpose-built landfill compactor. This compaction procedure is a Minimum Requirement at G:M, G:L and hazardous waste disposal sites. At smaller sites, where purpose-built equipment is not available, the best practicable compaction is required.

Daily cover

The sanitary landfill definition specifies daily cover. It is therefore a Minimum Requirement that the waste be fully covered at the end of each working day. In certain instances, such as existing

small or remote sites with a shortage of cover material, the Department may allow this Minimum Requirement to be appropriately amended. The consent of the IAPs would, however, be necessary before relaxation could be considered.

Most sanitary landfill operations are based on a series of trenches or cells which are prepared to receive the waste. In either case, the general layout must be in accordance with the Operating Plan. Waste is deposited in trenches or cells, spread, compacted and covered, so that each day's waste is effectively isolated from the environment.

The material to be used for cover may be on-site soil or builders' rubble. With the approval of the Department, ash or other artificial covering can be

used. In all cases, a strategic stockpile of cover, enough for at least three days, should be maintained close to the working face for use in emergencies. Suitable equipment and resources must also be available to ensure that there is sufficient cover material, so that no area is left uncovered at the end of the day's operation.

In the case of proposed sites, it is a Minimum Requirement in terms of both siting and design that provision be made for sufficient cover for a sanitary landfill operation, throughout the projected life of the facility.

It is a Minimum Requirement that daily or periodic cover be sufficient to isolate the waste from the environment. A minimum thickness equivalent to the effective covering of 150mm of compacted soil is required. This thickness may, however, have to be increased in the case of poor quality cover:

If the area is to be left for an extended period, but ultimately to be covered again with waste, the compacted thickness of this intermediate cover must be increased to 300mm. This is not as thick

as final cover, but affords the additional protection required in the longer term.

10.3.2 Methods of landfilling:

General waste

Sanitary landfilling principles can be applied using the following methods:

Trench system

In Class G:C and G:S landfills, where relatively small volumes of waste are disposed of, trenches are often made in preference to cells. Such trenches must be excavated on an ongoing basis during the operation.

Nonetheless, this must always be done in accordance with the original design parameters and the Operating Plan. There must always be sufficient trench capacity on site to accommodate at least two week's waste.

Trenches must always be suitably fenced or protected, and off-loading must be such that persons or vehicles cannot accidentally fall into the excavation.

Waste is deposited into the trench, spread and compacted as much as possible, until it reaches a depth of between 0,5m and 1,0m. With the trench method, daily covering is always a Minimum Requirement, as spoil from the excavation makes this possible.

Standard cell operation

The basic landfill unit is a cell of compacted waste which, when completed at the end of each day, is entirely contained by cover material. The sides are usually formed by 1,5m to 2,0m high berms, constructed from soil, rubble, or sloped waste covered by daily cover. A series of adjoining cells of the same height is termed a lift.

The working face is the active part of the landfill, where waste is deposited by incoming vehicles. The working face must be kept as small as

possible for control and covering purposes. The width, however, is determined by the manoeuvring requirements of the vehicles depositing waste. It should thus be sufficiently wide to avoid traffic congestion. There must also be sufficient cell capacity on site to accommodate at least one week's waste.

Where the cell system is applied, best compaction results are obtained when the waste is deposited at the bottom of the working face and worked up a 1 in 3 slope. Cover is then deposited and spread on the top of the cell during the day and extended to cover the working face at the end of the day. This is termed the Ramp Method.

Wet weather cell

An easily accessible wet weather cell must be constructed close to the site entrance or close to an all weather road, for use under abnormally wet weather conditions. The wet weather cell must have sufficient capacity to accommodate one week's waste.

The cell should be constructed in the same manner as the standard cell. It should, however, have a well drained gravel type base in order to ensure vehicle access in wet weather. As far as possible, the wet weather cell should be operated in the same manner as the standard cell.

Special cells for putrescible waste

Special cells may be constructed for the disposal of putrescible general wastes, food or restaurant wastes. Such waste should be deposited and covered immediately with a layer of soil at least 0,5m thick. This is to prevent odours and to discourage uncontrolled salvaging. Alternatively, such waste may be deposited at the base of the working face and covered immediately with other waste. The latter method has the advantage of not disrupting the standard operation.

Methods other than cell operation

'End tipping' is the method whereby waste is pushed over the edge of an extended advancing face. This is not permitted on a normal landfill because it results in slope instability, minimal compaction and many other related problems. Exceptions to this may include some G:C and G:S sites, where waste has to be end-tipped into trenches.

The Area Method may be used at certain waste disposal sites, where large volumes of non-putrescible dry general waste are disposed of and where compaction is not critical. This method involves the spreading of waste in a 0,5m layer over a large area. Wastes suited to such disposal methods include ash, slag, rubble, bark and shredded fibre. This method differs from end tipping in that the waste is spread laterally in thin layers in a controlled manner, as opposed to being pushed haphazardly over an extended slope.

10.3.3 Methods of landfilling: Hazardous waste

Hazardous wastes are disposed of on H:H or H:h landfills, depending on their hazard ratings.

H:H landfills are specifically designed to accept wastes of Hazard Rating 1 or 2. They may, however, also accept all other wastes, including those with Hazard Rating 3 or 4 and general waste.

H:h landfills are designed to accept hazardous waste with Hazard Rating 3 or 4. They may also accept general wastes, but they may not accept wastes with Hazard Rating 1 or 2. In cases where a waste is unidentified, the precautionary principle is applied and the worst case is assumed, see *Minimum Requirements for the Handling, Classification and Disposal of Hazardous Waste*. The waste would therefore be assigned a hazard rating of 1 and diverted to an H:H site. It is a Minimum Requirement that hazardous waste

landfills be designed and lined to the standards for H:H and H:h sites set out in Section 8.4.3. and Appendix 8.2. The requirements for hazardous waste site design and construction are intended to provide the most stringent level of containment. These requirements may apply to the whole site, to a specially lined or engineered cell, or to a section of the landfill designed specifically to accommodate hazardous waste.

Pre-treatment of hazardous wastes

The properties of certain hazardous wastes are such that they cannot be safely deposited directly into a landfill. In such cases, the wastes must be pre-treated to render them immobile, less toxic or less reactive. See also *Minimum Requirements for the Handling, Classification and Disposal of Hazardous Waste*.

A variety of treatment options exist. These are often interrelated but may be generally categorised into physical, chemical and biological treatment methods. Chemical processes include neutralisation, precipitation, fixation and oxidation. Physical processes include incineration, blending and encapsulation. Biological processes include aerobic and anaerobic degradation of organic materials. Once a waste has been pre-treated, the residue is disposed of in accordance with its hazard rating on the appropriate landfill.

Unidentified wastes are also regarded as unacceptable for landfilling and will require identification, followed by appropriate treatment, pre-treatment or encapsulation.

Delisting of hazardous wastes

Delisting of hazardous wastes, involves treatment and/or hazard rating tests to confirm that the waste is of such low mobility or concentration, that it can be reclassified to a lower hazard rating. Such delisted wastes can then be safely disposed of on a lower class of landfill. In this regard, however, the landfill may not have less than a G:M:B¹ liner and

leachate management system design.

Co-disposal

Co-disposal refers to the mixing of liquid and dry wastes or to the mixing of general and hazardous wastes. Co-disposal ratios of liquid to dry waste are addressed in Appendix 10.1.

Liquid wastes may be co-disposed with dry waste in order to soak up excess liquid and to avoid pool formation or unauthorised lagoon situations. General waste is frequently disposed of at hazardous waste landfills with a view to establishing a substrate in which to excavate trenches into which liquid hazardous waste is deposited. Co-disposal may also be used to advance the anaerobic degradation of leachate and to reduce its toxicity and that of any hazardous wastes involved.

Miscellaneous

Three alternative types of waste disposal are grouped under this heading as they do not constitute standard landfilling practice. These are mono-disposal, lagooning and encapsulation.

Mono-disposal refers to the disposal of a single waste type into a dedicated facility. Where a waste can be re-used, mono-disposal is a preferred option as it allows the waste to be easily reclaimed in the future. Mono-disposal may also be used as a way of delisting certain hazardous wastes, by ensuring that they are not disposed of with other wastes, which enhance their mobility. Although only one waste type is involved, a mono-disposal landfill must meet all the Minimum Requirements associated with its class.

Lagooning, which is the practice of disposing of liquid wastes in lined lagoons, is sometimes classed as landfilling. Although lagooning is considered to be beyond the scope of this document, Section 8. and Appendix 8.2. do refer to the design of lagoons. Since there are no set procedures for the operation of lagoons, it is a

Minimum Requirement that such operations be approved by the Department prior to commencement in order to ensure environmental and public health protection.

Encapsulation is the practice of containing waste in concrete capsules. This is because, on account of the extreme hazards involved, certain wastes cannot be disposed of directly into a landfill.

Where encapsulation is practised it is a Minimum Requirement that the Permit Holder submits the specifications to the Department for approval, prior to commencement (see *Minimum Requirements for the Handling, Classification and Disposal of Hazardous Waste* Section 9.2.3.).

Standard operating procedures

It is a Minimum Requirement that the off-loading of hazardous waste and co-disposal operations be executed under the jurisdiction of the Responsible Person. The Responsible Person must ensure that appropriate standard operating procedures are adhered to. Aspects include:

- Ensuring the use of protective clothing (e.g. gloves, goggles and breathing apparatus) by workers
- Ensuring that no incompatible wastes, for example those which could cause explosions or the generation of poisonous gas, (e.g. cyanide and hydrochloride acid) are co-disposed
- Ensuring that the hazardous waste load allocation as specified in the Permit is not exceeded; see also *Minimum Requirements for the Handling, Classification and Disposal of Hazardous Waste*
- Ensuring that the correct liquid/solid co-disposal ratio is adhered to, see Appendix 10.1.
- Ensuring immediate and/or daily covering

SB

- Ensuring that there are no free liquid surfaces left at the end of the day's operation.

It is also essential that the Responsible Person and the workers know and can execute the content and the requirements of the Response Action Plan for the site, in case of an emergency.

10.3.4 Co-disposal

In order to regulate the practice of co-disposal, it is a Minimum Requirement that documentation be drawn up describing the waste load allocations and liquid co-disposal ratios. An operating procedure and a Response Action Plan, suitable for the hazardous waste disposal operation under consideration, are also Minimum Requirements. **The waste load allocations, liquid co-disposal ratios, operating procedure and Response Action Plan must be written into the Environmental Impact Control Report. This must be presented to, and accepted by the Department before the operation commences.**

Co-disposal of General and Hazardous waste

Where general waste is disposed of on hazardous waste landfills, the standard cell operations at a general waste landfill apply. Co-disposal could be by mixing general and hazardous waste at the working face, spreading on deposited waste prior to covering, or mixing in trenches excavated in *in situ* waste. Where trenches or engineered cells are used, they must always be suitably protected and off-loading must be such that persons or vehicles cannot accidentally fall into the trench or cell.

Co-disposal of liquid and solid waste

Any landfill where the co-disposal of liquids is permitted requires to be lined and equipped with a leachate management system which can contain, extract and preferably treat the resultant leachate flow.

Liquid wastes may be co-disposed by end tipping

into trenches excavated into the waste body, or into engineered cells containing predominantly solid waste. The co-disposed waste is subsequently covered with dry general waste, which may also be end tipped. It is a Minimum Requirement that, by the end of the working day, there is sufficient dry waste in the cell to permit vehicle trafficability and covering activities. There must be no lagooning or free liquid surfaces which create odours and possibly air pollution. In order to achieve this, an appropriate solid/liquid waste co-disposal ratio is required. Where trenches excavated into the waste body remain filled with liquid, they must be secured and covered by a constructed frame cover.

Calculation of the site specific solid/liquid co-disposal ratio

The variation of the co-disposal ratio, i.e. the ratio of solid to liquid waste, has both economic and environmental implications.

Increasing the volume of dry waste reduces leachate generation, potential environmental impacts and leachate management costs. However, expensive landfill airspace associated with lined landfill sites is used up by the dry general waste. Reducing the volume of dry waste saves airspace utilisation, but creates a greater need for leachate management, including additional lined airspace for storage of leachate in leachate ponds. If too much liquid is disposed of, the situation could prove environmentally unacceptable and leachate management could become very expensive.

It is therefore in the interests of the landfill operator to optimise the co-disposal ratio by minimising the sum of the airspace utilisation and liquid management costs. The co-disposal ratio used, however, must ensure that the operation is environmentally acceptable, i.e. that all leachate is managed and that there are no free liquid surfaces, causing odour and possibly air pollution problems. Also, the build up of a hydraulic head within the



landfill can affect its stability and therefore must be avoided by operating the landfill at the appropriate co-disposal ratio.

In order to take site specific factors into consideration and to allow efficient utilisation of additional liquid storage capacity in landfills situated in arid B⁺ areas¹, no co-disposal ratio is prescribed. The approach rather is to link co-disposal to the concept of the Water Balance and to limit leachate generation to manageable quantities, taking local climate into account. This applies to the co-disposal of hazardous liquids in hazardous waste landfills as well as the possible co-disposal of non-hazardous or delisted liquids at G:M:B⁺ and G:L:B⁺ sites.

It is therefore a Minimum Requirement that no more than 200mm/year of leachate be generated at a given landfill site.

The rationale behind this approach is that a landfill which receives liquids in a B⁺ climate will (all things being equal) produce less leachate than an identically operated landfill in a B⁻ climate. It is therefore possible to co-dispose of more liquid per ton of dry waste in a B⁻ area without necessarily producing any more leachate than is produced under identical conditions in a B⁺ area.

In general, a landfill in a B⁻ area may produce leachate sporadically, but will not necessarily produce leachate in an average year. However, in wetter B⁻ areas of the country, significant leachate will be produced even in a drier than average year, even if no liquids are co-disposed. In either case, the approach is to limit leachate generation to 200 mm/year over the area of the waste body, or to a figure for which the leachate treatment capacity may be designed.

¹ Any landfill in a B⁺ area that practices co-disposal must be equipped with an appropriate liner and leachate management system.

Because there may be existing or future need to dispose of liquid wastes in wet areas, a nominal limit to leachate produced, under typical wet season weather conditions at any co-disposal site, is set at 200 mm per year. This allows for limited co-disposal of liquid wastes in wet areas such as Richards Bay, but very much more effective liquid waste co-disposal in drier areas such as Gauteng.

The limit of 200 mm per year is a figure which will ensure socially and environmentally acceptable conditions. It may only be exceeded if it can be shown that the overall design of the landfill, the leachate management system and the leachate treatment system can easily accommodate this flow.

Regardless of the co-disposal ratio used or the amount of leachate generated, it is a Minimum Requirement that there are no free liquid surfaces on the landfill and that the fill is trafficable.

The theory underlying the approach to co-disposal and examples of its application in typical South African weather conditions is set out in Appendix 10.3.

10.3.5 Disposal of medical wastes

The disposal of medical wastes at any landfill site is prohibited. Incineration of medical waste is a prerequisite to disposal. The ash must be disposed of under dry conditions at an approved hazardous waste site, unless negotiated otherwise with the Department.

In the event of an emergency, and in the interests of public health and the environment however, the Department will consider applications for the disposal of medical waste into a specially constructed dry cell within an approved site. Such disposal would be under controlled conditions and for a limited period of time, and it is a Minimum Requirement that the Department be approached

SR

for directives in this regard and that all key role players and IAPs be consulted.

Where past practice has been to dispose of medical waste on general waste landfills, the Department must be informed and consulted for directives for the future management of the situation (see the *Minimum Requirements for the Handling, Classification and Disposal of Hazardous Waste*, Section 9.4.1.).

10.4 Other Elements of the Operation

10.4.1 Excavation for cover

Where cover is excavated on site, the Responsible Person must ensure that the separation between the floor of the excavation and the wet season high elevation of the ground water, as specified in the design, is maintained (see Section 8.2.2). This will ensure that an adequate separation between the future waste body and the ground water will be maintained, should the excavation be used for waste disposal in the future.

Excavations must also be properly drained to avoid ponding of accumulated surface water, especially near the waste body. Where the base of such an excavation forms the base of the landfill, it should be sloped to direct leachate to a control point. In all cases, but particularly in the case of B+ and hazardous waste landfills, the base should also be appropriately lined (see Section 8.4.3).

10.4.2 Drainage

The principles of landfill site drainage are as follows:

- Upslope run-off water must be diverted away from the waste, to prevent water contamination and to minimise leachate generation.
- Where contaminated water or leachate does arise on a site, it must be managed. This means that it must be kept out of this environment. This also applies to the drainage from wash bays and spills at hazardous waste landfills.
- Clean, uncontaminated run-off water must not be permitted to mix with, and increase the volume of, contaminated water.

The principles of the main drainage system are presented in the site design (see Section 8.4.1). All upslope cut-off and toe drains, must be in place before the landfill is commissioned.

The following are Minimum Requirements:

- Run-off and storm water must always be diverted around one or both sides of the waste body, by a system of berms and/or cut-off drains.
- Water contaminated by contact with waste, as well as leachate, must be contained within the site. If it is to be permitted to enter the environment, it must conform or be treated so as to conform to the Special or General Effluent Standards in terms of the Permit. [Ref: *Government Gazette*, No. 9225, 18 May 1984].
- The bases of trenches and cells must be so designed that water drains away from the deposited waste. Alternatively, cells must be so orientated as to facilitate drainage away from deposited waste. The resulting contaminated water, together with all other contaminated run-off arising from the landfill, must be stored in a sump or retention

[Handwritten signature]
SR

dam. It may be pumped from the dam and disposed of if it conforms to the Special, General or Specific Effluent Standards stipulated in the Permit.

- A 0,5m freeboard, designed for the 1 in 50 year flood event, must always be maintained in the case of contaminated water impoundments and drainage trenches.
- All temporarily and finally covered areas must be graded and maintained to promote run-off without excessive erosion and to eliminate ponding or standing water.
- Clean, uncontaminated water, which has not been in contact with the waste, must be allowed to flow off the site into the natural drainage system, under controlled conditions.
- All drains must be maintained. This involves ensuring that they are not blocked by silt or vegetation.

10.4.3 Control of nuisances

Nuisances resulting from the landfill operation should be controlled as follows:

Burning of waste

At present, the burning of waste takes place at many small landfills in South Africa, to reduce the volume of waste and its attraction to vermin and livestock. The burning of waste is considered unacceptable, however, because of aesthetics, odours, and the potential of health dangers from air pollution. On account of these adverse impacts, therefore, the Department prohibits the burning of waste at landfill sites.

Possible exceptions to this Minimum Requirement would be G:C and G:S landfills in rural areas, provided that they are at least a 1,000m downwind of residential areas. In such cases, special permission to burn waste must be obtained. This would be subject to the acceptance of the IAPs, the

local authority and the Department of Environmental Affairs and Tourism.

Where burning is permitted, proper procedures must be followed to protect public health and safety, and to prevent the degradation of the environment. Efficient burning to obtain complete combustion without smouldering would therefore be a Minimum Requirement and all relevant occupational safety requirements would have to be met. Details and guidelines in this regard are included in Appendix 10.2.

Accidental fires on landfills where burning is not permitted must be extinguished immediately. Appropriate operational procedures, involving the spreading and smothering of burning waste, rather than the application of water, must be implemented.

At a hazardous waste landfill site a major fire may be classified as major incident in terms of the Major Hazard Installation Regulations governed under the Occupational Health and Safety Act 1993, (Act No. 85 of 1993). The employer shall therefore implement all items of these regulations, which include among others a risk assessment and development of on-site and off-site emergency plans. The risk assessment shall include studies on dispersion of possible hazardous combustion products and on-site and off-site exposure levels.

Litter

It is a Minimum Requirement that all litter be contained within the site. This may be achieved by applying the sanitary landfill principles of compaction and cover. On sites characterised by high winds, however, movable litter fences are a Minimum Requirement. Windblown litter must be picked up and removed from fences and vegetation on a daily basis.

Odours

Odours must be combatted by good cover

application and maintenance. Furthermore, the prompt covering of malodorous waste to reduce odour problems is a Minimum Requirement. In extreme cases, odour suppressants such as spray curtains may be required.

Where breaches in the cover from which significant volumes of landfill gas escape are identified by their odour, proper investigation is a Minimum Requirement. This may be followed by properly engineered passive or active gas venting and flaring, to alleviate odour problems.

Noise

All equipment used on site must conform to the local authority's by-laws concerning noise levels and hours of operation. In the absence of by-laws, national regulations on noise control must be complied with.

Vermin and disease vectors

It is a Minimum Requirement that landfill sites be kept free of vermin. Appropriate measures must be taken to eliminate or minimise disease vectors such as rats or flies.

Dust

Unsurfaced roads and ungrassed or unpaved areas, which give rise to dust problems, must be regularly watered to restrict dust to levels which do not pose a nuisance to workers or users of the facility.

10.4.4 Waste reclamation

At present, both uncontrolled salvaging and controlled reclamation take place at many landfills. While the ethic of reclamation from the waste stream is supported, reclamation at landfills can endanger the health and safety of the reclaimers. On account of the risks to health and safety, therefore, **the Department discourages waste reclamation at landfill sites.** Specifically, it is a Minimum Requirement that no waste reclamation

be permitted at hazardous waste sites.

Should the Permit Holder wish to allow controlled reclamation at a general waste disposal site, however, permission can be obtained as part of the Permit Application or as an amendment to an existing Permit. In this case, guidelines and Minimum Requirements are provided, in order to ensure safe and controlled working conditions. **Notwithstanding, it is noted that responsibility for the safety of any reclaimers on the site vests with the Permit Holder, who will be required to enter into an indemnity agreement with the Department.**

It is a Minimum Requirement that any reclamation operation be formalised in the Operating Plan. This would include regular consultation with and registration of reclaimers and the provision of appropriate safety measures. Safety measures would include the separation of reclamation from compaction and covering activities, and the provision of safety clothing. Details and guidelines regarding the above are included in Appendix 10.3.

10.4.5 Leachate and gas management

In B⁺ landfill sites, significant leachate is generated and leachate management is mandatory. The design for such sites will include a leachate management system. As with the drainage system, however, the leachate management system requires to be maintained and continuously adapted and developed, as the landfill develops. Where treatment is involved, a whole separate operating procedure must also be adhered to. This procedure would be written up in the Operating Plan.

At B⁻ sites, any sporadic leachate generated on account of unusual circumstances must be both reported to the Department and properly controlled (see Section 10.4.2). This could also include leachate recycling.

SB

Where a gas management system exists at a site (see Section 8.4.4), it must be correctly operated, maintained and monitored to ensure that any landfill gas emanating from the site is properly managed.

10.4.6 Progressive rehabilitation of completed areas

The progressive rehabilitation of landfills by means of capping and the subsequent establishment of vegetation is a Minimum Requirement. Capping should be implemented on all areas where no further waste deposition will take place, and vegetation should commence as soon as possible.

Screening berms are the first areas where vegetation must be established. This ensures that waste disposal operations take place behind vegetated berms. These are extended upwards in advance of the disposal operation to ensure continued screening. This is referred to as the 'rising green wall' approach.

All final levels and slopes must be in accordance with the landfill design and the End-use Plan. Slopes should not be steeper than 1 in 2.5, as this will promote erosion.

10.4.7 Final cover

Immediately on completion of an area, the final cover must be applied. The thickness of the final cover must be consistent and in accordance with the design (see Appendix 8.2). The final cover must comprise material capable of supporting the vegetation called for in the End-use Plan. In order to prevent erosion and improve aesthetics, re-vegetation should commence as soon as possible after applying the final cover.

All covered surfaces on the landfill must be so graded as to promote run-off to prevent ponding. Re-vegetation must commence as soon as is

practically possible after the final cover has been placed, in order to rehabilitate on an ongoing basis.

10.4.8 Public Participation in the operation

As noted in Appendix 4.1, the standard of operation at a given landfill may be monitored and enforced by a Monitoring Committee. This should comprise representatives of the Department, the operator and representatives of those affected by the landfill. The objective of this committee is to provide a mechanism whereby the needs and concerns of the IAPs can be addressed in the operation of the facility. In the interests of transparency, IAPs should, through the Monitoring Committee, be given access to the site and information relating to the operation.

10.5 Hazardous Waste Lagoons

As discussed in Section 8, lagooning is not regarded as a form of landfilling. Nonetheless, hazardous waste lagoons are controlled under Section 20 of the Environment Conservation Act.

This form of disposal is not encouraged, and is regarded as an exception. Operating procedures for lagooning have not yet been drawn up. Consequently the Responsible Person should liaise directly with the Department regarding the operation of lagoons. Lagoons can only be considered for approval if nuisance related odours or hazardous vapours do not arise from the evaporating liquid.

Handwritten signature and initials in the bottom right corner of the page.

TABLE 10
Minimum Requirements for Landfill Operation

| LEGEND | CLASSIFICATION SYSTEM | | | | | | | | | |
|---------------------------------------|------------------------|----------------|---------------------|----------------|----------------------|----------------|---------------------|----------------|----------------------------|--------------------------|
| | G General Waste | | | | | | | | H Hazardous Waste | |
| | C Communal Landfill | | S Small Landfill | | M Medium Landfill | | L Large Landfill | | H:H Hazard Rating 3 & 4 | H:H Hazard Rating 1-4 |
| MINIMUM REQUIREMENTS | B ⁻ | B ⁺ | B ⁻ | B ⁺ | B ⁻ | B ⁺ | B ⁻ | B ⁺ | | |
| Facilities & Resources | | | | | | | | | | |
| Signposting | R | R | R | R | R | R | R | R | R | R |
| All weather roads | N | N | F | F | R | R | R | R | R | R |
| Controls | | | | | | | | | | |
| Waste acceptance procedure | R | R | R | R | F | R | R | R | R | R |
| Fencing | R | R | R | R | R | R | R | R | R | R |
| Control of vehicle access | R | R | R | R | R | R | R | R | R | R |
| Site security | N | N | F | F | F | F | R | R | R | R |
| Operating Plan | N | N | R | R | R | R | R | R | R | R |
| Response action plan | N | N | N | N | F | F | R | F | R | R |
| Waste load allocations | N | N | N | N | N | F | R | F | R | R |
| Liquid Co-disposal ratios | N | N | N | N | N | F | N | F | R | R |
| Encapsulation specifications | N | N | N | N | N | N | N | N | R | R |
| Resources & Infrastructure | | | | | | | | | | |
| Weighbridge | N | N | F | F | R | R | R | R | N | R |
| Collection of Waste disposal tariffs | N | N | F | F | R | R | R | R | R | R |
| Site office | N | N | R | R | R | R | R | R | R | R |
| Laboratory | N | N | N | N | R | N | N | N | R | R |
| Adequate plant and equipment | R | R | R | R | R | R | R | R | R | R |

Handwritten signature/initials
SB

| LEGEND | CLASSIFICATION SYSTEM | | | | | | | | | |
|--|-----------------------|---|---|---|---|----------------------|---|---|-----|-----|
| | G General Waste | | | | | H Hazardous Waste | | | | |
| B ⁻ = No significant leachate produced | | | | | | | | | | |
| B ⁺ = Significant leachate produced | | | | | | | | | | |
| R = Requirement | | | | | | | | | | |
| N = Not a requirement | | | | | | | | | | |
| F = Flag: special consideration to be given by expert or Departmental representative | | | | | | | | | | |
| n/a = Not applicable | | | | | | | | | | |
| Responsible Person | R | R | R | R | R | R | R | R | R | R |
| Sufficient qualified staff | R | R | R | R | R | R | R | R | R | R |
| Landfill Operation | | | | | | | | | | |
| Compaction of waste | N | N | R | R | R | R | R | R | R | R |
| Daily cover | F | F | R | R | R | R | R | R | R | R |
| Two week's cell or trench capacity | R | R | R | R | R | R | R | R | R | R |
| Protection of unsafe excavations | R | R | R | R | R | R | R | R | R | R |
| One week's wet weather cell capacity | N | N | F | R | R | R | R | R | R | R |
| Immediate covering of putrescibles | R | R | R | R | R | R | R | R | R | R |
| End-tipping prohibited | N | N | N | N | R | R | R | R | R | R |
| Three days' stockpile of cover | F | F | R | R | R | R | R | R | R | R |
| Final cover | R | R | R | R | R | R | R | R | R | R |
| Waste reclamation prohibited | F | F | F | F | F | F | F | F | R | R |
| Any reclamation operation formalised in Operating Plan | R | R | R | R | R | R | R | R | n/a | n/a |
| Registration of reclaimers | R | R | R | R | R | R | R | R | n/a | n/a |
| Protection of reclaimers | R | R | R | R | R | R | R | R | n/a | n/a |
| Protective clothing | R | R | R | R | R | R | R | R | n/a | n/a |
| Control of nuisances | R | R | R | R | R | R | R | R | R | R |
| Waste burning prohibited | F | F | F | F | R | R | R | R | R | R |
| Draining water away from the waste | R | R | R | R | R | R | R | R | R | R |
| Contaminated run-off contained | F | F | F | F | R | R | R | R | R | R |
| Leachate contained | N | F | F | R | F | R | F | R | R | R |

Handwritten signature
SB

3. WASTE MANAGEMENT ACTIVITIES LICENSED

The applicant applied for activities listed in terms of Government Notice No. 921 of November 2013 of the National Environmental Management: Waste Act No. 59 of 2008. The licence therefore authorises the following waste management activities:

| Activity number | Activity description <i>(as per the list of waste management activities)</i> | Applicable activity with respect to this licence |
|-----------------|---|---|
| A (2) | <i>The sorting, shredding, grinding, crushing, screening or bailing of general waste at a facility that has an operational area in excess of 1000m².</i> | <i>The landfill site will have activities which will entail the sorting and bailing of general waste materials.</i> |
| B (8) | <i>The disposal of general waste to land covering an area in excess of 200m² and with a total capacity exceeding 25000 tons.</i> | <i>Disposal of municipal and commercial general waste to landfill.</i> |

JA

N.C

| | | |
|--|---|--------------|
| Department of Economic Development, Tourism and Environmental Affairs, KwaZulu-Natal | Waste management licence D22/WML/0061/2016 | Page 4 of 26 |
|--|---|--------------|

SB

4. GENERAL INFORMATION

4.1 Compliance with the conditions of this licence

In terms of section 67(1)(h) of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), contravening or failing to comply with a condition or requirement of a waste management licence constitutes an offence for which a convicted person may be liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment. The licensing authority may also revoke or suspend this licence in terms of section 56 of the said Act if the licensing authority is of the opinion that the licence holder has contravened a condition of this licence and such contravention may have, or is having a significant effect on health or the environment.

4.2 Amendments to the waste management activities undertaken

Any changes to, or deviations from, the activity as described in section 2 of this licence must be approved, in writing, by the licensing authority before such changes or deviations may be implemented.

4.3 Variation of this licence

The licensing authority may vary this licence, or a condition of this licence, in terms of section 54 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008).

4.4 Transfer of this licence

If ownership of the activity is to be transferred, the licence holder must apply to the licensing authority, on a form required by the licensing authority, for permission to transfer the licence to the new owner in terms of section 52 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008). The licensing authority must take into account whether the person to whom the licence is to be transferred is a fit and proper person as contemplated in section 59 of the said Act.

N.C

SAB

4.5 Renewal of this licence

This licence is valid for a certain time period as stipulated in section 5. If the licence holder wishes to continue with the activity, the licence holder must apply for a licence renewal to the relevant licensing authority at least six (6) months prior to the expiry of the licence.

4.6 Contact details of the licence holder

It is the responsibility of the licence holder to ensure that the licensing authority is made aware of any changes to the contact details of the licence holder as soon as is reasonably practicable.

4.7 Contact details for the Department

For the purposes of this licence, any correspondence with the Department must be forwarded to the District Manager: uMgungundlovu at the contact details below. Any correspondence must include the licence reference number. It is the responsibility of the licence holder to ensure the above details are correct at the time of submitting any documentation, and that the documentation reaches the relevant official.

The District Manager: uMgungundlovu

Attention: Pollution and Waste Component

Department of Economic Development, Tourism and Environmental Affairs

Private Bag X07

Cascades

3202

Fax Number: (033) 347 1826

Telephone Number: (033) 347 1820

4.8 Compliance with other legislation

This licence does not negate the licence holder's responsibility to comply with any other statutory requirements that may be applicable to the activity.

| | | |
|--|---|--------------|
| Department of Economic Development, Tourism and Environmental Affairs, KwaZulu-Natal | Waste management licence D22/WML/0061/2016 | Page 6 of 26 |
|--|---|--------------|

N.C

[Handwritten signature]

[Handwritten initials]

5. CONDITIONS

5.1 GENERAL

Scope of licence

- 5.1.1 The activity which is authorised by this licence may only be carried out at the site indicated in section 1 above, in accordance with the Infrastructure plans indicated on Annexures II and III, attached to this licence.
- 5.1.2 The licence holder is responsible for ensuring compliance with the conditions by any person acting on his or her behalf, including but not limited to, an agent, sub-contractor, employee or person rendering a service to the licence holder.
- 5.1.3 A copy of this licence must be kept by the licence holder and made available to any authorised official of the Department on request.

Validity of licence

- 5.1.4 This licence is valid for a period of ten (10) years from the date of issue. If the licence holder wishes to continue with the activity, the licence holder must apply for a licence renewal to the relevant licensing authority at least six (6) months prior to the expiry of the licence.

Notification of interested and affected parties

- 5.1.5 The licence holder must notify every registered interested and affected party (including State departments identified during the application) in writing and within 14 (fourteen) days of the date that this licence was issued.
- 5.1.6 The notification referred to in 5.1.5 must –
 - indicate the decision of the Department;
 - specify the date on which the licence was issued;
 - advise the interested and affected party that a copy of the licence, including reasons for the decision, will be provided on request;
 - inform the public where the decision can be accessed; and

N. C

| | | |
|--|---|--------------|
| Department of Economic Development, Tourism and Environmental Affairs, KwaZulu-Natal | Waste management licence D22/WML/0061/2016 | Page 7 of 26 |
|--|---|--------------|



SB

- advise the interested and affected party that the prescribed appeal forms can be obtained from the Department, the licence holder, or the Environmental Assessment Practitioner.

5.1.7 The licence holder must publish a notice, within **14 (fourteen) days** of the date that this licence was issued, in the newspaper/s which were used for the placing of notices as part of the public participation process.

5.2 CONSTRUCTION

5.2.1 Continued or further development and construction of the landfill site must take place in accordance with the Plan entitled: General Existing Infrastructure Layout Plan: Plan No. 525-2015-003 and the Co-ordinated Infrastructure Layout Plan 525-2015-004 prepared by Envitech Solutions attached as **Annexures II and III**.

5.2.2 Further development at the site must be designed with an appropriate containment barrier or liner as described in the National Norms and Standards for Disposal of Waste to Landfill GNR 636 of 23 August 2013. This requirement is also applicable to the leachate collection dam.

5.2.3 The licence holder must notify this Department and the Engineering Section of the Department Water and Sanitation (DWS) in writing, should any further development within the site be proposed. The Department must confirm in writing that it is satisfied that the construction is in accordance with recognised civil engineering practice and requirements, prior to waste disposal commencing in the cell(s).

5.2.4 The site must be constructed in accordance with recognised civil engineering practice with special consideration to stability.

5.2.5 The slopes of the sides of the berms shall be constructed in consultation with a suitably qualified engineer in such a manner to ensure that little or no erosion occurs.

| | | |
|--|---|--------------|
| Department of Economic Development, Tourism and Environmental Affairs, KwaZulu-Natal | Waste management licence D22/WML/0061/2016 | Page 8 of 26 |
|--|---|--------------|

N.C


S B

- 5.2.6 The maximum height of the site must not exceed 654 metres above mean sea level.
- 5.2.7 Storm water berms and channels must be constructed to divert clean storm water away from contaminated water emanating from the site and to prevent gully erosion.
- 5.2.8 Works constructed in compliance with condition 5.2.1 must be properly maintained on a continuous basis.
- 5.2.9 The licence holder must construct works to:
- (a) divert and drain all runoff water from the working face of the site, which could be expected as a result of the estimated maximum precipitation during a 24 hour period with an average frequency of once in 100 years (referred to as "estimated maximum precipitation"); and
 - (b) to cater for all expected leachate.
- 5.2.10 Such works must ensure that clean water runoff is prevented from coming into contact with leachate. The works constructed to accommodate the clean water runoff and leachate must each be of such a capacity as to maintain a freeboard of half a metre and must be lined to prevent pollution to groundwater.

5.3 OPERATION

Management

- 5.3.1 The site may be only be used for disposal of general waste as classified according to the applicable waste classification system, excluding those wastes listed in Annexure IV attached to this waste management licence.
- 5.3.2 No organic or inorganic element or compound which may have a definite acute or chronic negative effect on human health and/or the environmental, due to its toxic, physical, chemical or persistent characteristics may be disposed of on site.

| | | |
|--|---|--------------|
| Department of Economic Development, Tourism and Environmental Affairs, KwaZulu-Natal | Waste management licence D22/WML/0061/2016 | Page 9 of 26 |
|--|---|--------------|

N.C


 SA

- 5.3.3 No medical waste may be disposed of on site.
- 5.3.4 No schedule pharmaceutical products registered in terms of the Medicines and Related Substances Control Act, 1965 (Act 101 of 1965) or associated containers, may be disposed of on the site in accordance with Annexure IV.
- 5.3.5 The licence holder must ensure that personnel operating the landfill are competent in waste disposal and landfill operation.
- 5.3.6 A dedicated accessible area must be established to receive waste during wet weather conditions when an operational cell cannot be accessed.
- 5.3.7 Waste disposed of at the site may be reclaimed. The sorting may take place at a designated area allocated by Landfill Site Management and must not interfere with the daily operation of the site. In this regard the licence holder must take measures to ensure that an appropriate area for reclamation is identified and implemented within **one (1) year** of the date of this licence.
- 5.3.8 The licence holder must keep records of the volume and types of waste materials reclaimed and report this to the licensing authority and into the national waste information system as required by the National Waste Information Regulations.
- 5.3.9 Waste disposed of must be compacted and covered at the end of each working day with a minimum of 150mm of soil or other material approved by the licensing authority.
- 5.3.10 Sufficient cover material, enough for at least **two (2) weeks**, must be stock piled within or in close proximity to the site at all times.
- 5.3.11 The site must be operated in such a manner that the height of the embankment or perimeter wall is at all times maintained at a higher elevation than the level of the operating floor.

| | | |
|--|---|---------------|
| Department of Economic Development, Tourism and Environmental Affairs, KwaZulu-Natal | Waste management licence D22/WML/0061/2016 | Page 10 of 26 |
|--|---|---------------|

n.c



 SB

- 5.3.12 The licence holder may only accept waste on the active working area of the site between 07h00 and 16h00 during weekdays and between 07h00 and 15h00 on Saturdays.
- 5.3.13 The licence holder must ensure that all entrance gates are manned during the hours of operation and locked outside the hours of operation.
- 5.3.14 The licence holder must ensure that the site is fully fenced with an installed lockable gate, legible notice board written in at least two (2) appropriate languages and must include operation hours; contact and emergency details; types of wastes allowed, and tariffs. Appropriate warning signs must be displayed at the entrance on the notice board.
- 5.3.15 Notices prohibiting unauthorized persons from entering the site, as well as an internationally accepted sign indicating the risks involved in unauthorized entry must be displayed at 100 meter intervals along the boundary of the site.
- 5.3.16 The licence holder must take all reasonable steps to maintain service roads in a condition which ensures unimpeded access to the site for vehicles transporting waste and to keep the roads free of waste.
- 5.3.17 The licence holder must take all reasonable steps to ensure that the site is operated in such a manner that nuisance conditions or health hazards or the creation of nuisance conditions or health hazards including vermin and odour are prevented.
- 5.3.18 No smoking, burning of waste or naked flames are allowed on the site.
- 5.3.19 Litter scattered by wind must be collected on a daily basis and the licence holder must use movable fences to control wind-blown waste where practicable.
- 5.3.20 Sufficient dust control measures to prevent wind-blown dust from causing nuisance conditions or health hazards must be applied.

N.C

VARIATION OF WASTE MANAGEMENT LICENCE FOR THE NEW ENGLAND ROAD LANDFILL SITE

- 5.3.21 Indigenous trees must be established on the screening berm around the site to effectively screen the site from nearby roads and residential areas.
- 5.3.22 During the operative life of the site, the licence holder must take all reasonable steps, such as suitable zoning, written agreements with adjacent landowners, buying out land and/or obtaining a servitude to prevent the development of further residential and /or light industrial areas closer to the Site than –165 metres to the north-west, 180 metres to the North, and 800 metres to the east, south and west.
- 5.3.23 The licence holder must implement adequate measures to the satisfaction of the Department to:
- 5.3.23.1 ventilate methane gas generated in the waste area;
 - 5.3.23.2 prevent the build-up of flammable gas inside buildings on the site; and,
 - 5.3.23.3 prevent lateral migration of methane gas;
- and monitor these measures in accordance with condition 5.3.42 in order to prevent the build-up of dangerous concentrations within the site. The licence holder must ensure that there is a contingency plan to be followed when measured levels of flammable gas reach the levels as referred to in condition 5.3.42.
- 5.3.24 The licence holder must maintain all infrastructure works on a continuous basis to prevent all runoff water from the working face coming into contact with the leachate from on the site.
- 5.3.25 Works constructed to accommodate surface runoff and leachate must be continuously monitored to ensure a freeboard of half a metre is maintained.
- 5.3.26 Runoff water must comply with quality requirements of the General and Special Standard prescribed by the Department of Water and Sanitation, as amended from time to time.

| | | |
|--|---|---------------|
| Department of Economic Development, Tourism and Environmental Affairs, KwaZulu-Natal | Waste management licence D22/WML/0061/2016 | Page 12 of 26 |
|--|---|---------------|

N.C

SB

5.3.27 Leachate is deemed to be treated when the quality thereof complies with the quality requirements of the General and Special Standard prescribed by the Department of Water and Sanitation, as amended from time to time.

5.3.28 All runoff water (storm water) arising as a result of precipitation-

(i) On land adjacent to the site; and

(ii) On the site;

must be prevented from coming into contact with any substance, whether such substance is a solid, liquid, vapour or gas or a combination thereof which is produced, used, stored, dumped or spilled on the premises, including leachate and must be diverted and drained-

(i) Around the site; and

(ii) From the working face of the site;

by means of works constructed by the licence holder in accordance with condition 5.2.9.

5.3.29 Uncontaminated runoff water as defined in condition 5.3.26 must be diverted away from the site to the Blackburrow Spruit and discharged into this Spruit at a point upstream of the site.

5.3.30 In the event that runoff water referred to in condition 5.3.26 becomes contaminated to the extent of not complying with the water quality requirements as referred to in condition 5.3.26, it must be regarded as untreated leachate and must be dealt with according to condition 5.3.33.

5.3.31 Runoff water arising from operational actions, for example the washing of vehicles and containers, must be regarded as contaminated runoff and must be treated according to condition 5.3.33.

5.3.32 Uncontaminated runoff must under no circumstances be used to dilute waste water resulting from any activities on the site, or actions relating to the operation of the site, or leachate emanating from the site, but must be dealt with according to condition 5.3.29.

n.c



SB

- 5.3.33 All leachate emanating from the site including contaminated runoff water shall:
- 5.3.33.1 be treated to comply with the aforementioned standard and discharged in a legal manner;
 - 5.3.33.2 be evaporated in a lined dam and /or;
 - 5.3.33.3 be discharged into a sewer if accepted by the authority in control of that sewer.

Monitoring and auditing

- 5.3.34 The licence holder must submit a detailed geo-hydrological report for the site to this Department and Department of Water and Sanitation within **one (1) year** from the date of issue of this licence.
- 5.3.35 The licence holder must establish and maintain the monitoring boreholes and water quality monitoring/sampling points as reflected on the Water Quality Monitoring Plan Ref. 525-2015-001 prepared by Envitech Solutions and attached as Annexure V.
- 5.3.36 Monitoring boreholes must be equipped with lockable caps. The Department reserves a right to take water samples at any time and to analyse these samples, or to have them taken and analysed.
- 5.3.37 Monitoring of the ground and surface water quality network must be conducted at the locations identified in the Water Quality Monitoring Plan and must monitor the variables listed in Annexure VI at the frequencies reflected therein.
- 5.3.38 If, in the opinion of this Department, the water quality variables referred to 5.3.37 and listed in Annexure VI shows an increasing trend, the licence holder shall initiate a monthly monitoring programme.
- 5.3.39 The licence holder must establish and maintain the landfill gas monitoring points as reflected on the Landfill Gas Monitoring Plan Ref. 525-2015-002 prepared by Envitech Solutions and attached as Annexure VII.

VARIATION OF WASTE MANAGEMENT LICENCE FOR THE NEW ENGLAND ROAD LANDFILL SITE

5.3.40 Monitoring of flammable gas must be conducted –

(a) Through a network of boreholes or any other monitoring devices approved by the licensing authority, which must be at least one metre deeper than the deepest point of the waste body; and

(b) In the atmosphere inside buildings on the Site;

for the quantitative detection of the volatile materials on the Site:

(i) Carbon Dioxide

(ii) Oxygen; and

(iii) Methane

5.3.41 Quarterly monitoring of the flammable gas variables must take place at the points identified on the Landfill Gas Monitoring Plan Ref. 525-2015-002 prepared by Envitech Solutions and attached as Annexure VII.

5.3.42 The atmospheric levels in the atmosphere of

(a) carbon dioxide must not exceed 0.5%; and

(b) methane must not exceed 1%,

by volume in air at the monitoring locations.

5.3.43 Should the atmospheric levels of flammable gas be between 0.1% and 1%, a higher frequency of monitoring must be instituted. Should levels above 1% be detected in buildings on the site, the buildings must be evacuated and the contingency plan implemented.

5.3.44 Should measurements of the gas monitoring network at any time exceed the limits specified, the licence holder must report this as an incident.

5.3.45 The measurements of flammable gases must be amended for Standard Temperature and Pressure.

5.3.46 The licence holder must within 60 (sixty days) from the date of issue of this licence, submit a proposal for a comprehensive air quality, gas and dust

| | | |
|--|---|---------------|
| Department of Economic Development, Tourism and Environmental Affairs, KwaZulu-Natal | Waste management licence D22/WML/0061/2016 | Page 15 of 26 |
|--|---|---------------|

N.C

SB

VARIATION OF WASTE MANAGEMENT LICENCE FOR THE NEW ENGLAND ROAD LANDFILL SITE

monitoring programme for approval by the licensing authority. Once approved the licence holder must implement this monitoring programme.

5.3.47 The licence holder shall carry out all tests in accordance with methods prescribed by and obtainable from the South African Bureau of Standards (SABS), referred to in the Standards Act, 2008 (Act of 2008), to analyse samples taken for monitoring.

5.3.48 The licence holder must submit quarterly environmental audit reports, prepared by the licence holder, to this Department, unless otherwise agreed to in writing by this Department.

5.3.49 This Department or any other state organ reserves the right to audit/or inspect the site at any time, and the licence holder must make any records or documentation regarding the site available upon request.

5.3.50 The licence holder must establish a landfill Monitoring Committee that will meet twice a year and not later than 30 days after the external audit report specified in condition 5.3.53 has been submitted. The monitoring committee must include interested and affected parties, this Department, the licence holder and Department of Water and Sanitation.

5.3.51 The licence holder must ensure that minutes of the Monitoring Committee meetings are kept and must ensure that these minutes are distributed to all members of the Monitoring Committee within 14 days after a meeting.

5.3.52 The licence holder must appoint an independent, suitably qualified external auditor to audit the annually.

5.3.53 The external audit report referred to in 5.3.52 must include-

- An evaluation of the compliance with the conditions of this licence for the reporting period;
- Actions taken to rectify the non-compliances identified.

N.C

| | | |
|--|---|---------------|
| Department of Economic Development, Tourism and Environmental Affairs, KwaZulu-Natal | Waste management licence D22/WML/0061/2016 | Page 16 of 26 |
|--|---|---------------|

SR

5.3.54 The external audit report referred to in 5.3.52 must be submitted to the Department within 90 (ninety) days of the audit being conducted.

Recording and reporting

5.3.55 The licence holder must, within 24 hours notify this Department of occurrence or detection of any incident on the site which has the potential to cause environmental impact or water pollution.

5.3.56 The licence holder must, within 14 days or shorter time if specified by this Department, from the occurrence or detection of any incident referred to condition 5.3.55, submit to this Department an action plan which must include a detailed time schedule of measures taken to:

- 5.3.56.1. correct the impact resulting from the incident;
- 5.3.56.2. prevent the incident from causing any further impacts; and
- 5.3.56.3. prevent the recurrence of a similar incident.

5.3.57 The licence holder must keep an incident report and complaints register, which must be made available to the external auditor and the licensing authority for purposes of their audits.

5.4 Site closure and decommissioning

5.4.1 The operation of the site must address rehabilitation processes as part of the operation by preventing erosion and the formation of pools due to rain through the re-establishment of vegetation and the final shaped covering of any disused portion of the site.

5.4.2 The Licence holder must rehabilitate the site or any portion thereof, in accordance with legislated closure requirements.

5.4.3 In the event of closure of the site, the licence holder must contact the Department for confirmation of relevant requirements.

| | | |
|--|---|---------------|
| Department of Economic Development, Tourism and Environmental Affairs, KwaZulu-Natal | Waste management licence D22/WML/0061/2016 | Page 17 of 26 |
|--|---|---------------|

N.C



SB

VARIATION OF WASTE MANAGEMENT LICENCE FOR THE NEW ENGLAND ROAD LANDFILL SITE

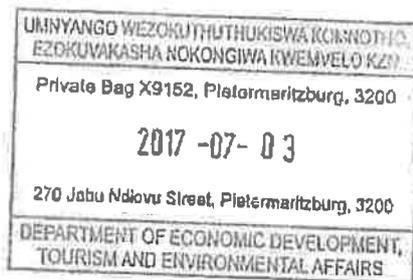
- 5.4.4 Water quality monitoring must be maintained for a period of 30 years or for such period, frequency and/or at locations as may be determined in writing with the licencing authority.
- 5.4.5 Air quality, gas and dust monitoring must continue for a period until the landfill gas peak concentration of methane and carbon dioxide has been detected, or for any longer period as may be determined in writing with the licencing authority.

Date of issue of Waste Management Licence: 03/07/2017.



for: Head of Department

KZN Department of Economic Development, Tourism and Environmental Affairs




SR

ANNEXURE I: REASONS FOR DECISION

1. Information considered in making the decision

In reaching its decision, the Department took, *inter alia*, the following into consideration -

- a) The application form for variation of a Waste Management Licence in terms of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008).
- b) The comments received from interested and affected parties and responses as included in the application document prepared by Envitech Solutions dated 01 June 2016.

2. Key factors considered in making the decision

a) Administrative process:

- The application for variation of the Waste Management Licence for licensing the existing waste disposal site for Msunduzi Municipality situated in KwaZulu-Natal was received by this Department on the 06 June 2016.
- Following receipt of the aforementioned documentation, the Department has confirmed that the requirements processes have been met.
- Whilst the Msunduzi Municipality made application for variation to bring the existing Permit in line with correct practices and improvement being undertaken at the site, the licensing authority, in terms of Section 53(1) of the Waste Act has determined that it is appropriate to issue the waste management licence to conform to current terminology and format. The Department consulted with the local authority who agreed that the existing permit be issued in the Waste Management Licence format.

b) Public Participation:

Public participation involved the placement of site notice boards in English and IsiZulu at the main entrance of the New England Road Landfill Site; the emailing of written notices to interested and Affected Parties and various identified and potential stakeholders; the placing of newspaper advertisement in the Edendale

N.C

| | | |
|--|---|---------------|
| Department of Economic Development, Tourism and Environmental Affairs, KwaZulu-Natal | Waste management licence D22/WML/0061/2016 | Page 19 of 26 |
|--|---|---------------|

SB

VARIATION OF WASTE MANAGEMENT LICENCE FOR THE NEW ENGLAND ROAD LANDFILL SITE

Eyethu newspaper dated 06 May 2016 and The Witness Newspaper dated 05 May 2016; and, the provision of reports and information to Interested and Affected Parties to satisfy the requirements of Chapter 6 of the NEMA EIA Regulations, 2014.

c) Need and desirability:

The variation application was initiated to comply with the Waste Act; to update the licensing authority details and to align with best practice in waste management principles and to mitigate negative impacts; to ensure compliance with Duty of Care as outlined in Section 28 of NEMA.

d) Objectives of integrated environmental management:

The Department is satisfied that, subject to compliance with the conditions contained in this variation Waste Management Licence, the general objectives of integrated environmental management in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and the National Environmental Management: Waste Act, 58 of 2008 and associated Regulations, and Norms and Standards, will be met.

N.C.



SB

10: LANDFILL OPERATION

| LEGEND | CLASSIFICATION SYSTEM | | | | | | | | | |
|--|-----------------------|---|---|---|---|----------------------|---|---|---|---|
| | G General Waste | | | | | H Hazardous Waste | | | | |
| B = No significant leachate produced | | | | | | | | | | |
| B* = Significant leachate produced | | | | | | | | | | |
| R = Requirement | | | | | | | | | | |
| N = Not a requirement | | | | | | | | | | |
| F = Flag: special consideration to be given by expert or Departmental representative | | | | | | | | | | |
| n/a = Not applicable | | | | | | | | | | |
| Storm water diversion measures | R | R | R | R | R | R | R | R | R | R |
| 0.5m freeboard for diversion and impoundments | F | F | R | R | R | R | R | R | R | R |
| Grading cover/avoiding ponding | R | R | R | R | R | R | R | R | R | R |
| General site maintenance | R | R | R | R | R | R | R | R | R | R |
| Sporadic leachate reporting | R | R | R | R | R | R | R | R | R | R |
| Landfill gas control | N | N | F | F | F | F | F | F | F | F |
| Rehabilitation and vegetation | F | F | R | R | R | R | R | R | R | R |

SB

"JBS3"



edtea

Department :
Economic Development, Tourism and
Environmental Affairs
PROVINCE OF KWAZULU-NATAL

Enquiries: Ms. Kim van Heerden
Reference: DC22/WML/0061/2016
Date: 03 JULY 2017
Tel: (033) 264 2500
Physical Address: 270 Jabu Ndlovu Street
Pietermaritzburg 3200
www.kznded.gov.za

Msunduzi Municipality
Private Bag X321
PIETERMARITZBURG
3200

ATTENTION: Municipal Manager
Tel: (033) 392 2002 Fax: (033) 392 2397

cc. ATTENTION: Cyril Naidoo
Email Address: Cyril.naidoo@msunduzi.gov.za

cc. ATTENTION: Etienne de Jager
Telephone Number: (011) 425 2810 Fax: 011 425 4731
Email: etienne@envitech.co.za

Dear Sir/Madam

RE: DC22/WML/0061/2016: WASTE MANAGEMENT LICENCE FOR THE NEW ENGLAND ROAD LANDFILL SITE ON LOT NO. 1853 OF THE FARM DARVILL 15036 WITHIN MSUNDUZI MUNICIPALITY.

The KwaZulu-Natal Department of Economic Development, Tourism and Environmental Affairs has issued a revised waste management licence for the above-mentioned project to accommodate variations to the conditions of the previous permit issued in terms of the Environment Conservation Act, 1989. The varied waste management licence and reasons for the decision are attached herewith.

ENQUIRIES

Please note that:

- All queries regarding this waste management licence (including the Department's decision) must be directed to the official of this Department with contact details provided on the letterhead above.
- Only queries regarding appeals must be submitted to the Office of the MEC (details provided below).

NOTIFICATION OF DECISION ON APPLICATION

In accordance with regulation 4(2) of the EIA Regulations 2014, the applicant must in writing within 14 days of the date of this decision ensure that:

- a. All registered interested and affected parties are provided with access to this decision and the reasons for the decision; and

| | | | |
|---|---|-------------|-------------------|
| KwaZulu-Natal Department of Economic Development, Tourism and Environmental Affairs | Cover Letter for Waste Management Licence: DC22/WML/0061/2016 | Page 1 of 2 | N.C - Initials |
|---|---|-------------|-------------------|

SR

- b. The attention of all registered interested and affected parties is drawn to the fact that an appeal may be lodged against the decision in terms of the National Appeal Regulations 2014, if such appeal is available in the circumstances of the decision.

APPEALS

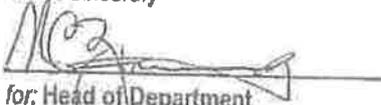
In accordance with regulation 4(1) of the National Appeal Regulations, 2014 an appellant must submit an appeal to the appeal administrator and a copy of the appeal to the applicant, any registered interested and affected party and organ of state with interest in the matter within 20 days from the date of notification of this decision.

An appellant must comply with regulation 4(2) and submit the appeal in writing and in the form obtainable from the appeal administrator by post, fax, and e-mail or hand delivery to the following address:

The Appeal Administrator,
Office of the KwaZulu-Natal MEC for Economic Development, Tourism and Environmental Affairs

| POSTAL/ FAX/ E-MAIL: | PHYSICAL: |
|---|--|
| Private Bag X001 Bishopsgate 4008, Durban Tel: 031 310 5306 Mobile: 082 570 1966 Fax: 031 310 5416 E-Mail: Haresh.Inderall@kznedtea.gov.za (Haresh Inderall) | 9 th Floor, The Marine Building, 22 Dorothy Nyembe Street, Durban 4001 |

Yours sincerely



for: Head of Department

Department of Economic Development, Tourism and Environmental Affairs

Signed by: N.C. ZUNGU

Designation: ACTING DIRECTOR: ENVIRONMENTAL SERVICES - SURUTHI

| |
|---|
| UMNAYANGO WEZOKUTHUTHUKISWA KOMNOTHO, EZOKUVAKASHA NOKONGIWA KWEMVELO KZN Private Bag X9152, Pietermaritzburg, 3200 2017 -07- 03 270 Jabu Ndlovu Street, Pietermaritzburg, 3200 DEPARTMENT OF ECONOMIC DEVELOPMENT, TOURISM AND ENVIRONMENTAL AFFAIRS |
|---|

| | | | |
|---|--|-------------|-------------------------|
| KwaZulu-Natal Department of Economic Development, Tourism and Environmental Affairs | Cover Letter for Waste Management Licence: DC22/WML0061/2016 | Page 2 of 2 | <u>N.C.</u> Initials |
|---|--|-------------|-------------------------|





edtea

Department :

**Economic Development, Tourism and
Environmental Affairs**

PROVINCE OF KWAZULU-NATAL

**VARIATION
OF
WASTE MANAGEMENT LICENCE**

**Issued in terms of section 49(1) and 54(1) of the National Environmental
Management: Waste Act, 2008 (Act No. 59 of 2008)**

**PROJECT TITLE: NEW ENGLAND ROAD LANDFILL SITE
DISTRICT MUNICIPALITY: UMGUNGUNDLOVU DISTRICT MUNICIPALITY
KWAZULU-NATAL**

| | |
|----------------------------------|--|
| Licence reference number: | DC22/WML/0061/2016 |
| Date issued: | 03 JULY 2017 |
| Duration of licence: | 10 (TEN) years |
| Licence holder: | Msunduzi Municipality |
| Location of activity: | Location of activity: Lot 1853 of the Farm Darvill15036 within Msunduzi Municipality, uMgungundlovu District Municipality |

A

N.C

SB

1. DECISION

Waste management licence holder details

Name: Msunduzi Municipality
Contact person: Municipal Manager
Alternate: Mr Cyril Naidoo (Landfill Manager)
Telephone no: 033 392 2002
Fax no: 033 392 2397
E-mail address: cyril.naidoo@msunduzi.gov.za
Postal address: Private Bag X321
 Pietermaritzburg
 3200

Location

Name of property: Lot 1853 of the Farm Darvill 15036
Physical address: New England Road, Pietermaritzburg
Local municipality: Msunduzi Local Municipality
District municipality: uMgungundlovu District Municipality

The boundary of the site is represented by the following coordinates:

| | Latitude (S) | Longitude (E) |
|----------|--------------|---------------|
| Corner A | 29° 36' 22.5 | 30° 24' 53.0 |
| Corner B | 29° 36' 27.2 | 30° 24' 56.1 |
| Corner C | 29° 36' 31.0 | 30° 25' 03.9 |
| Corner D | 29° 36' 30.1 | 30° 25' 06.1 |
| Corner E | 29° 36' 34.1 | 30° 25' 10.9 |
| Corner F | 29° 36' 25.2 | 30° 25' 24.2 |
| Corner G | 29° 36' 22.7 | 30° 25' 24.5 |
| Corner H | 29° 36' 19.3 | 30° 25' 20.2 |
| Corner I | 29° 36' 18.7 | 30° 25' 16.6 |
| Corner J | 29° 36' 11.4 | 30° 25' 07.3 |
| Corner K | 29° 36' 14.9 | 30° 25' 01.9 |
| Corner L | 29° 36' 13.4 | 30° 24' 59.2 |
| Corner M | 29° 36' 14.4 | 30° 24' 57.3 |

By virtue of the powers conferred by the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) and the Environmental Impact Assessment (EIA) Regulations, 2014, the KwaZulu-Natal Department of Economic Development, Tourism and Environmental Affairs (hereinafter referred to as the "Department") hereby grants a revised waste management licence (hereinafter referred to as the "licence") to **Msunduzi Municipality** (hereinafter referred to as the "licence holder") for the **New England Road Landfill Site** (described in section 2 and hereinafter referred to as the "activity") at the abovementioned location (hereinafter referred to as the "site"), subject to the conditions specified herein. The reasons for the decision are described in **Annexure 1** attached to this licence.

| | | |
|--|---|--------------|
| Department of Economic Development, Tourism and Environmental Affairs, KwaZulu-Natal | Waste management licence D22/WML/0061/2016 | Page 2 of 26 |
|--|---|--------------|

N.C



2. DESCRIPTION OF ACTIVITY

The New England Road landfill site is an existing facility and is operational. It was authorised under the Permit Number **16/2/7U203/D3/Z1/P64** Issued by the Department of Water Affairs dated 22 April 1998. The Msunduzi Municipality has requested that the existing Permit be varied and updated to ensure that it aligns with current legislation and is updated in accordance with the current operational procedures and best practice as outlined in the National Environmental Management: Waste Act, 58 of 2008 and associated Regulations, and Norms and Standards.

The site is owned by Msunduzi Municipality. It is located between Sobantu, Darvill Waste Water Treatment Works, and the Pietermaritzburg Golf Course, approximately 2km south of the N3 highway and is the primary landfill disposal site for the Msunduzi Municipality and greater Pietermaritzburg area.

The site is used for the disposal of general waste only which includes domestic waste; inert waste and garden waste.

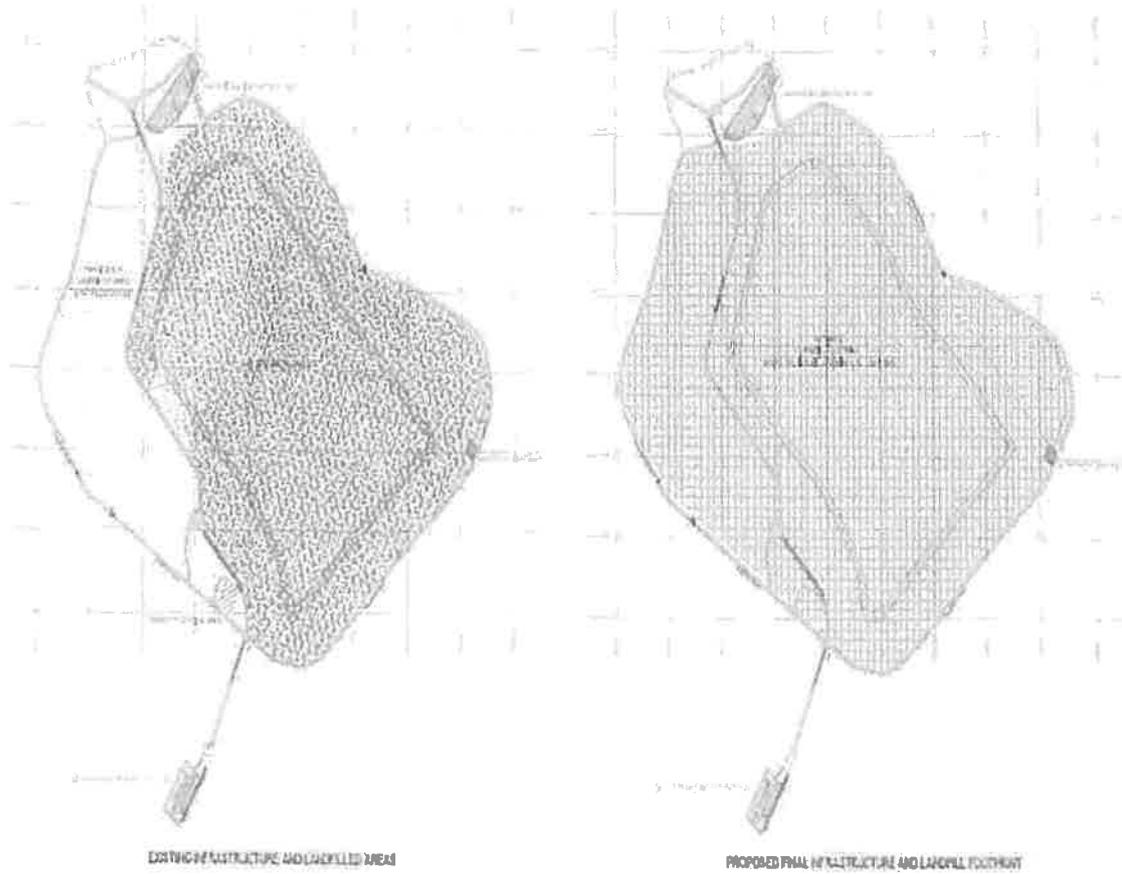
The site is fenced with vehicle access control, a weighbridge, site security, site office and ancillary supporting infrastructure.

N.C

| | | |
|--|---|--------------|
| Department of Economic Development, Tourism and Environmental Affairs, KwaZulu-Natal | Waste management licence D22/WML/0081/2016 | Page 3 of 26 |
|--|---|--------------|

SB

ANNEXURE III: CO-ORDINATED INFRASTRUCTURE LAYOUT PLAN



N.C.

SR

ANNEXURE IV: HAZARDOUS OR TOXIC MATERIALS WHICH MAY NOT BE DISPOSED OF ON A GENERAL LANDFILL SITE

1. Waste where specific control has been established in terms of the Nuclear Energy Act, 1993 (Act 131 of 1993).
2. Waste types controlled in terms of the Minerals Act, 1991 (Act 50 of 1991) and the Electricity Act, 1987 (Act 41 of 1987), unless written permission has been obtained from the Responsible Authority.
3. Waste as described in the Minimum Requirements for the Handling, Classification and Disposal of Hazardous Waste (Second Edition 1998) as published by the Department of Water Affairs and Forestry and as amended from time to time (Minimum Requirements), as an extreme hazard or Hazard Group 1 (HG1); high hazard or Hazard Group 2 (HG2); moderate hazard or Hazard Group 3 (HG3) and low hazard or Hazard Group 4 (HG4).
4. Flammable wastes, with a closed cup flash point less than 61°C.
5. Corrosive substances, as described in the Minimum Requirements as Class 8 (1998 edition: page 6-8, Diagram III).
6. Oxidising substances and organic peroxides, as described in the Minimum Requirements as Class 5 (1998 edition: page 6-8, Diagram III).
7. Any waste with a substance which is a Group A and/or Group B carcinogen/mutagen. Group A carcinogens/mutagens have been proven in humans, both clinical and epidemiological. Group B carcinogens/mutagens have been proven without doubt in laboratory animals.
8. Any waste with a substance at a concentration greater than 1% where the substance is a Group C and/or Group D carcinogen/mutagen. Group C carcinogens/mutagens have shown limited evidence in animals. Group D carcinogen/mutagen - the available data is inadequate and doubtful.
9. Any infectious waste. Infectious waste is waste which is generated during the diagnosis, treatment or immunisation of humans or animals; in the research pertaining to this; in the manufacturing or testing of biological agents including blood, blood products and contaminated blood products, cultures, pathological wastes, sharps, human and animal anatomical wastes and isolation wastes that contain or may contain infectious substances.
10. All materials which falls in Class 1 (explosives), Class 2 (compressed gases) and Class 7 (radioactive materials), as described in the Minimum Requirements.
11. Any waste with a pH less than 6 or greater than 12.
12. Any waste which is difficult to analyse and classify.
13. Any complexes of heavy metal cations, paint and paint sludge, or laboratory chemicals.
14. Organic or inorganic materials which may have a definite acute or chronic negative effect on human health and/or the environment, due to its toxic, physical, chemical or persistent characteristics and which corresponds with the UNEP definition of hazardous waste.
15. Scheduled pharmaceutical products registered in terms of the Medicines and Related Substances Control Act, 1965 (Act 101 of 1965) or associated containers.

| | | |
|--|---|---------------|
| Department of Economic Development, Tourism and Environmental Affairs, KwaZulu-Natal | Waste management licence D22/WML/0061/2016 | Page 23 of 26 |
|--|---|---------------|

N.C

SB

**ANNEXURE VI: WATER QUALITY VARIABLES REQUIRED FOR
DETECTION MONITORING AT BI-ANNUAL INTERVALS**

Monitor for:

Alkalinity (P.Aik)
Ammonia (NH₃-N)
Calcium (Ca)
Chemical Oxygen Demand (COD)
Chlorides (Cl)
Electrical Conductivity (EC)
Fluoride (F)
Iron (Fe)
Magnesium (Mg)
Nitrate (NO₃-N)
pH
Potassium (K)
Sodium (Na)
Sulphate (SO₄)
Total Dissolved Solids (TDS)

**WATER QUALITY VARIABLES REQUIRED FOR DETECTION
MONITORING ANNUALLY**

Monitor for:

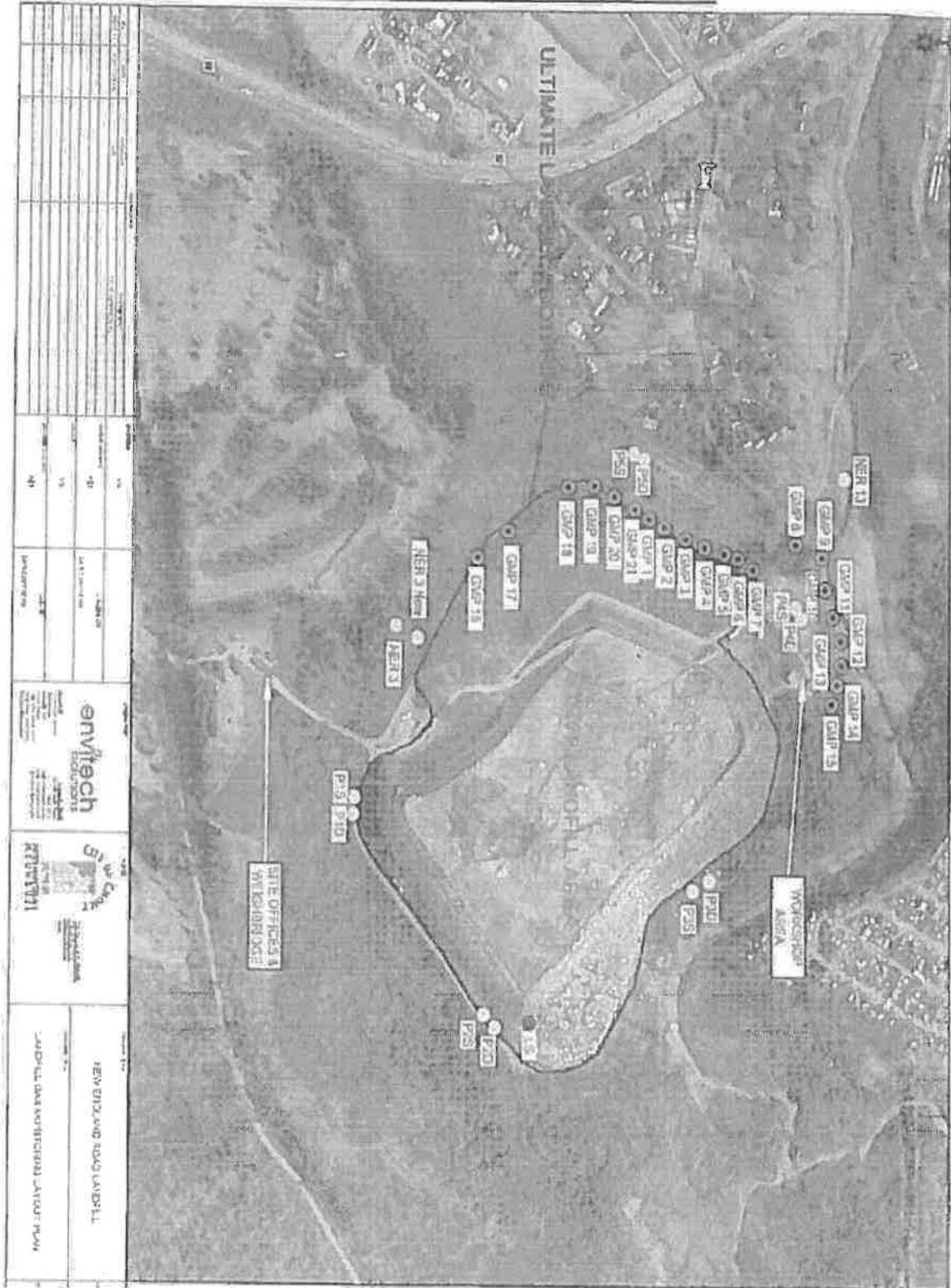
Arsenic (As)
Cadmium (Cd)
Chromium (hexavalent and total)
Cyanide (free) (CN)
Dissolved organic carbon (DOC)
E. Coll (counts per 100ml)
Lead (Pb)
Manganese (Mn)
Mercury (Hg)
Poly Aromatic Hydrocarbon (PAH)
Poly Chlorinated Hydrocarbon (PCH)
Soluble orthophosphate (PO₄-P)
Total organic carbon (TOC)
Total phenol (Phen)
Uranium (U)
Vanadium (V)

N.C



SB

ANNEXURE VII: LANDFILL GAS MONITORING PLAN



N.C

SB

Source:

Statutes and Regulations of South Africa/Regulations of South Africa, Juta's/Full_Notice/3688_full_notice

URL:[http://utastat.juta.co.za/nxt/gateway.dll/strg/sargstat/full_notice/3688_full_notice?f=templates\\$fn=default.htm](http://utastat.juta.co.za/nxt/gateway.dll/strg/sargstat/full_notice/3688_full_notice?f=templates$fn=default.htm)**National Norms and Standards for the Assessment of Waste for Landfill Disposal**

You are currently viewing the full notice.

Published under

GN R635 In ... 36784 of 23 August 2013

I, Bomo Edith Edna Molewa, Minister of Water and Environmental Affairs, hereby set national norms and standards for the assessment of waste for landfill disposal, under section 7(1) of the National Environmental Management: Waste Act, 2008 (Act 59 of 2008), in the Schedule hereto.

(Signed)

BOMO EDITH EDNA MOLEWA
Minister of Water and Environmental Affairs

SCHEDULE**TABLE OF CONTENTS**

CHAPTER 1
INTERPRETATION AND PURPOSE

- 1 Definitions
2 Purpose and Application

CHAPTER 2
STANDARD ASSESSMENT METHODOLOGY

- 3 Approach
4 Total Concentration (TC) Analysis
5 Leachable Concentration (LC) Analysis
6 LCT and TCT Limits
7 Determining Waste Types for Landfill Disposal

CHAPTER 1
INTERPRETATION AND PURPOSE (1-2)

1 Definitions

In these National Norms and Standards, any word or expression to which a meaning has been assigned in the Act has that same meaning, and unless the context indicates otherwise-

'**Leachable Concentration (LC)**' means the leachable concentration of a particular element or chemical substance in a waste, expressed as mg/l;

'**Leachable Concentration Threshold (LCT)**' means the leachable concentration threshold limit for particular elements and chemical substances in a waste, expressed as mg/l, prescribed in section 6 of these Norms and Standards;

'**putrescible waste**' means waste that contains organic matter capable of being decomposed by microorganisms, or that will readily decay under normal conditions, giving rise to offensive odours, or which is capable of providing food for birds and animals, thereby attracting vermin or disease-causing vectors such as flies and rodents;

'**Total Concentration (TC)**' means the total concentration of a particular element or chemical substance in a waste, expressed as mg/kg;

'**Total Concentration Threshold (TCT)**' means the total concentration threshold limit for particular elements or chemical substances in a waste, expressed as mg/kg, prescribed in section 6 of these Norms and Standards;

'**the Act**' means the National Environmental Management: Waste Act, 2008 (Act 59 of 2008);

'**the Regulations**' means the Waste Classification and Management Regulations, 2013.

2 Purpose and Application

These Norms and Standards prescribe the requirements for the assessment of waste prior to disposal to landfill in terms of regulation 8(1) of the Regulations.

CHAPTER 2
STANDARD ASSESSMENT METHODOLOGY (3-7)

3 Approach

(1) To assess waste for the purpose of disposal to landfill, the following are required-

- identification of chemical substances present in the waste; and
- sampling and analysis to determine the total concentrations (TC) and leachable concentrations (LC) of the elements and chemical substances that have been identified in the waste and that are specified in section 6 of these Norms and Standards.

(2) Within three (3) years of the date of commencement of the Regulations, all analyses of the TC and LC of elements and chemical substances in waste must be conducted by laboratories accredited by the South African National Accreditation System (SANAS) to conduct the particular techniques and analysis methods required.

(3) The TC and LC limits of the chemical substances in the waste must be compared to the threshold limits specified in section 6 of these Norms and Standards for total concentrations (TCT limits) and leachable concentrations (LCT limits) of specific elements and chemical substances.

(4) Based on the TC and LC limits of the elements and chemical substances in the waste exceeding the corresponding TCT and LCT limits respectively, the specific type of waste for disposal to landfill must be determined in terms of section 7 of these Norms and Standards.

4 Total Concentration (TC) Analysis

(1) The TC of all the elements and chemical substances specified in section 6 of these Norms and Standards that are known to occur, likely to occur or can reasonably be expected to occur in the waste must be determined.

(2) The TC of elements and chemical substances in waste must be determined using techniques and analysis methods that will provide reliable, accurate and repeatable results of the TC of elements and chemical substances specified in section 6 of these Norms and Standards.

5 Leachable Concentration (LC) Analysis

(1) The LC of elements and chemical substances must be determined using the Australian Standard Leaching Procedure (AS 4439.1, 4439.2 and 4439.3).

(2) The type of leaching fluid (section 5.2 and 5.3 of AS 4439.3) used in the leaching procedure must be selected as follows-

-Waste to be disposed of with, or waste that contains, putrescible wastes: Use 0.1 M acetic acid solution with altered pH 5.0 or pH 2.9 determined as per section 7.5(a-e) of AS 4439.3;
-Waste to be disposed of with non-putrescible waste: Use a basic 0.1 M sodium tetraborate decahydrate solution of pH 9.2 ±0.1, as well as an acetic acid solution with pH 5.0 or pH 2.9 determined as per section 7.5(a-e) of AS 4439.3; or
-Non-putrescible waste to be disposed of without any other wastes: Use reagent water.

(3) Existing LC results for elements and chemical substances in wastes, which have been determined in terms of the Toxicity Characteristic Leaching Procedure (TCLP) leach test criteria of the Minimum Requirements for the Handling, Classification and Disposal of Hazardous Waste (2nd Edition, 1998; Department of Water Affairs and Forestry) prior to the Regulations taking effect, may be utilised for comparison with the LCT limits in section 6 of these Norms and Standards to assess waste for the purpose of disposal of the waste to landfill, for a period not exceeding three (3) years from the date of publication of this notice.

6 LCT and TCT Limits

(1) Total Concentration Threshold (TCT) Limits (mg/kg):

| Elements & Chemical Substances in Waste | TCT0 | TCT1 | TCT2 |
|---|--------|---------|---------|
| Metal Ions | | | |
| As, Arsenic | 5.8 | 500 | 2 000 |
| B, Boron | 150 | 15 000 | 60 000 |
| Ba, Barium | 62.5 | 6 250 | 25 000 |
| Cd, Cadmium | 7.5 | 260 | 1 040 |
| Co, Cobalt | 50 | 5 000 | 20 000 |
| Cr _{Total} , Chromium Total | 460 00 | 800 000 | N/A |
| Cr(VI), Chromium (VI) | 6.5 | 500 | 2 000 |
| Cu, Copper | 16 | 19 500 | 78 000 |
| Hg, Mercury | 0.93 | 160 | 640 |
| Mn, Manganese | 1 000 | 25 000 | 100 000 |
| Mo, Molybdenum | 40 | 1 000 | 4 000 |
| Ni, Nickel | 91 | 10 600 | 42 400 |
| Pb, Lead | 20 | 1 900 | 7 600 |
| Sb, Antimony | 10 | 75 | 300 |
| Se, Selenium | 10 | 50 | 200 |
| V, Vanadium | 150 | 2 680 | 10 720 |
| Zn, Zinc | 240 | 160 000 | 640 000 |
| Inorganic Anions | | | |
| TDS | | | |
| Chloride | | | |
| Sulphate | | | |
| NO ₃ as N, Nitrate-N | | | |
| F, Fluoride | 100 | 10 000 | 40 000 |
| CN ⁻ (total), Cyanide Total | 14 | 10 500 | 42 000 |
| Organics | | | |

| | | | |
|-----------------------------|--|--------|---------|
| Benzene | | 10 | 40 |
| Benzo(a)pyrene | | 1.7 | 6.8 |
| Carbon tetrachloride | | 4 | 16 |
| Chlorobenzene | | 8 800 | 35 200 |
| Chloroform | | 700 | 2 800 |
| 2-Chlorophenol | | 2 100 | 8 400 |
| DI (2 ethylhexyl) phthalate | | 40 | 160 |
| 1,2-Dichlorobenzene | | 31 900 | 127 600 |
| 1,4-Dichlorobenzene | | 18 400 | 73 600 |
| 1,2-Dichloroethane | | 3.7 | 14.8 |
| 1,1-Dichloroethylene | | 150 | 600 |
| 1-2-Dichloroethylene | | 3 750 | 15 000 |

| Elements & Chemical Substances in Waste | TCT0 | TCT1 | TCT2 |
|---|------|--------|--------|
| Dichloromethane | | 16 | 64 |
| 2,4-Dichlorophenol | | 800 | 3 200 |
| 2,4-Dinitrotoluene | | 5.2 | 20.8 |
| Ethylbenzene | | 540 | 2 160 |
| Formaldehyde | | 2 000 | 8 000 |
| Hexachlorobutadiene | | 2.8 | 5.4 |
| Methyl ethyl ketone | | 8 000 | 32 000 |
| MTBE (Methyl t-butyl ether) | | 1 435 | 5 740 |
| Nitrobenzene | | 45 | 180 |
| PAHs (total) | | 50 | 200 |
| Petroleum H/Cs, C6 to C9 | | 650 | 2 600 |
| Petroleum H/Cs, C10 to C36 | | 10 000 | 40 000 |
| Phenols (total, non-halogenated) | | 560 | 2 240 |
| Polychlorinated biphenyls | | 12 | 48 |
| Styrene | | 120 | 480 |
| 1,1,1,2- Tetrachloroethane | | 400 | 1 600 |
| 1,1,2,2- Tetrachloroethane | | 5.0 | 20 |
| Tetrachloroethylene | | 200 | 800 |
| Toluene | | 1 150 | 4 600 |
| Trichlorobenzenes (total) | | 3 300 | 13 200 |
| 1,1,1-Trichloroethane | | 1 200 | 4 800 |
| 1,1,2-Trichloroethane | | 48 | 192 |
| Trichloroethylene | | 11 600 | 46 400 |
| 2,4,6-Trichlorophenol | | 1 770 | 7 080 |
| Vinyl chloride | | 1.5 | 6.0 |
| Xylenes (total) | | 890 | 3 560 |

| Pesticides | | | |
|-------------------|------|-----|-----|
| Aldrin + Dieldrin | 0.05 | 1.2 | 4.8 |
| DDT + DDD + DDE | 0.05 | 50 | 200 |
| 2,4-D | 0.05 | 120 | 480 |
| Chlordane | 0.05 | 4 | 16 |
| Heptachlor | 0.05 | 1.2 | 4.8 |

Notes:

- TCT1 limits, where appropriate, have been derived from the land remediation values for commercial/industrial land determined by the Department of Environmental Affairs' 'Framework for the Management of Contaminated Land', March 2010. The TCT2 limits were derived by multiplying TCT1 by a factor of 4, as used by the Environmental Protection Agency, Australian State of Victoria.
- If South African limits for TCT1 were unavailable, in general, the limits published by the Environmental Protection Agency, Australian State of Victoria have been used.
- Some TC limits have been adjusted because of various attenuation factors that are observed in landfills.
- Where available, the TCT0 limits for [sic] have been obtained from SA Soil Screening Values that are protective of water resources. If not available, the State of Victoria value for fill material (EPA Victoria, Classification of Wastes) has been selected. If limits were not available in these references a conservative value was obtained by dividing the TCT1 value by 100.

(2) Leachable Concentration Threshold (LCT) Limits (mg/l):

| Elements & Chemical Substances in Waste | LCT0 | LCT1 | LCT2 | LCT3 |
|--|-------------|-------------|-------------|-------------|
| Metal Ions | | | | |
| As, Arsenic | 0.01 | 0.5 | 1 | 4 |
| B, Boron | 0.5 | 25 | 50 | 200 |
| Ba, Barium | 0.7 | 35 | 70 | 280 |
| Cd, Cadmium | 0.003 | 0.15 | 0.3 | 1.2 |
| Co, Cobalt | 0.5 | 25 | 50 | 200 |
| Cr _{Total} , Chromium Total | 0.1 | 5 | 10 | 40 |
| Cr(VI), Chromium (VI) | 0.05 | 2.5 | 5 | 20 |
| Cu, Copper | 2.0 | 100 | 200 | 800 |
| Hg, Mercury | 0.006 | 0.3 | 0.6 | 2.4 |
| Mn, Manganese | 0.5 | 25 | 50 | 200 |
| Mo, Molybdenum | 0.07 | 3.5 | 7 | 28 |
| Ni, Nickel | 0.07 | 3.5 | 7 | 28 |
| Pb, Lead | 0.01 | 0.5 | 1 | 4 |
| Sb, Antimony | 0.02 | 1.0 | 2 | 8 |
| Se, Selenium | 0.01 | 0.5 | 1 | 4 |
| V, Vanadium | 0.2 | 10 | 20 | 80 |
| Zn, Zinc | 5.0 | 250 | 500 | 2 000 |
| Inorganic Anions | | | | |
| TDS | 1 000 | 12 500 | 25 000 | 100 000 |
| Chloride | 300 | 15 000 | 30 000 | 120 000 |
| Sulphate | 250 | 12 500 | 25 000 | 100 000 |
| NO ₃ as N, Nitrate-N | 11 | 550 | 1 100 | 4 400 |
| F, Fluoride | 1.5 | 75 | 150 | 600 |
| CN ⁻ (total), Cyanide Total | 0.07 | 3.5 | 7 | 28 |

| Organics | | | | |
|-----------------------------|--|-------|------|------|
| Benzene | | 0.01 | 0.02 | 0.08 |
| Benzo(a)pyrene | | 0.035 | 0.07 | 0.28 |
| Carbon tetrachloride | | 0.20 | 0.40 | 1.6 |
| Chlorobenzene | | 5.0 | 10 | 40 |
| Chloroform | | 15 | 30 | 120 |
| 2-Chlorophenol | | 15 | 30 | 120 |
| DI (2 ethylhexyl) phthalate | | 0.50 | 1 | 4 |
| 1,2-Dichlorobenzene | | 5 | 10 | 40 |
| 1,4-Dichlorobenzene | | 15 | 30 | 120 |
| 1,2-Dichloroethane | | 1.5 | 3 | 12 |
| 1,1-Dichloroethylene | | 0.35 | 0.7 | 2.8 |
| 1-2-Dichloroethylene | | 2.5 | 5 | 20 |
| Dichloromethane | | 0.25 | 0.5 | 2 |
| 2,4-Dichlorophenol | | 10 | 20 | 80 |
| 2,4-Dinitrotoluene | | 0.065 | 0.13 | 0.52 |

| Elements & Chemical Substances in Waste | LCT0 | LCT1 | LCT2 | LCT3 |
|--|-------------|-------------|-------------|-------------|
| Ethylbenzene | | 3.5 | 7 | 28 |
| Formaldehyde | | 25 | 50 | 200 |
| Hexachlorobutadiene | | 0.03 | 0.06 | 0.24 |
| Methyl ethyl ketone | | 100 | 200 | 800 |
| MTBE (Methyl t-butyl ether) | | 2.5 | 5.0 | 20.0 |
| Nitrobenzene | | 1 | 2 | 8 |
| PAHs (total) | | N/A | N/A | N/A |
| Petroleum H/Cs, C6 to C9 | | N/A | N/A | N/A |
| Petroleum H/Cs, C10 to C36 | | N/A | N/A | N/A |
| Phenols (total, non-halogenated) | | 7 | 14 | 56 |
| Polychlorinated biphenyls | | 0.025 | 0.05 | 0.2 |
| Styrene | | 1.0 | 2 | 8 |
| 1,1,1,2-Tetrachloroethane | | 5 | 10 | 40 |
| 1,1,2,2-Tetrachloroethane | | 0.65 | 1.3 | 5.3 |
| Tetrachloroethylene | | 0.25 | 0.5 | 2 |
| Toluene | | 35 | 70 | 280 |
| Trichlorobenzenes (total) | | 3.5 | 7 | 28 |
| 1,1,1-Trichloroethane | | 15 | 30 | 120 |
| 1,1,2-Trichloroethane | | 0.6 | 1 | 4 |
| Trichloroethylene | | 0.25 | 2 | 8 |
| 2,4,6-Trichlorophenol | | 10.0 | 20 | 80 |
| Vinyl chloride | | 0.015 | 0.03 | 0.12 |

| | | | | |
|-------------------|--|-------|------|------|
| Xylenes (total) | | 25 | 50 | 200 |
| Pesticides | | | | |
| Aldrin + Dieldrin | | 0.015 | 0.03 | 0.03 |
| DDT + DDD + DDE | | 1 | 2 | 2 |
| 2,4-D | | 1.5 | 3 | 3 |
| Chlordane | | 0.05 | 0.1 | 0.1 |
| Heptachlor | | 0.015 | 0.03 | 0.03 |

Notes:

- LCT1 limits have, where possible, been derived from the lowest value of the standard for human health effects listed for drinking water (LCT0) in South Africa (DWAF, SANS) by multiplying with a Dilution Attenuation Factor (DAF) of 50 as proposed by the Australian State of Victoria, 'Industrial Waste Resource Guidelines: Solid Industrial Waste Hazard Categorisation and Management', June 2009 (www.epa.vic.gov.au). If no standard was available in South Africa then the limits given by the WHO or other appropriate drinking water standard, such as those published in the California Regulations have been used.
- LCT2 limits were derived by multiplying the LCT1 value with a factor of 2, and the LCT3 limits have been derived by multiplying the LCT2 value with a factor of 4. The factors applied represents a conservative assessment of the decrease in risk achieved by the increase in environmental protection provided by more comprehensive liner designs in higher classes of landfill and landfill operating requirements.

7 Determining Waste Types for Landfill Disposal

(1) The specific type of waste for disposal to landfill must be determined by comparing the TC and LC of the elements and chemical substances in the waste with the TCT and LCT limits specified in section 6 of these Norms and Standards.

(2) Based on the assessment of the particular waste destined for disposal to landfill, the type of waste is determined as follows-

-Wastes with any element or chemical substance concentration above the LCT3 or TCT2 limits (LC > LCT3 or TC > TCT2) are Type 0 Wastes;
-Wastes with any element or chemical substance concentration above the LCT2 but below or equal to the LCT3 limits, or above the TCT1 but below or equal to the TCT2 limits (LCT2 < LC < LCT3 or TCT1 < TC < TCT2), are Type 1 Wastes;
-Wastes with any element or chemical substance concentration above the LCT1 but below or equal to the LCT2 limits and all concentrations below or equal to the TCT1 limits (LCT1 < LC < LCT2 and TC < TCT1) are Type 2 Wastes;
-Wastes with any element or chemical substance concentration above the LCT0 but below or equal to the LCT1 limits and all TC concentrations below or equal to the TCT1 limits (LCT0 < LC < LCT1 and TC < TCT1) are Type 3 Wastes; or
-Wastes with all element and chemical substance concentration levels for metal ions and inorganic anions below or equal to the LCT0 and TCT0 limits (LC < LCT0 and TC < TCT0), and with all chemical substance concentration levels also below the following total concentration limits for organics and pesticides, are Type 4 Wastes-

| Chemical Substances in Waste | Total Concentration (mg/kg) |
|------------------------------|-----------------------------|
| Organics | |
| TOC | 30 000 (= 3%) |
| BTEX | 6 |
| PCBs | 1 |
| Mineral Oil (C10 to C40) | 500 |
| Pesticides | |
| Aldrin + Dieldrin | 0.05 |
| DDT + DDD + DDE | 0.05 |

| Chemical Substances in Waste | Total Concentration (mg/kg) |
|------------------------------|-----------------------------|
| 2,4-D | 0.05 |
| Chlordane | 0.05 |
| Heptachlor | 0.05 |

(3) If a particular chemical substance in a waste is not listed with corresponding LCT and TCT limits in section 6 of these Norms and Standards, and the waste has been classified as hazardous in terms of regulation 4(2) of the Regulations based on the health or environmental hazard characteristics of the particular element or chemical substance, the following applies-

-the waste is considered to be Type 1 Waste; and
-the Department must be informed in writing in 30 days of the particular element or chemical substance not listed in section 6 of these Norms and Standards.

(4) Notwithstanding section 7(2) of these Norms and Standards, if the TC of an element or chemical substance is above the TCT2 limit, and the concentration cannot be reduced to below the TCT2 limit, but the LC for the particular element or chemical substance is below the LCT3 limit, the waste is considered to be Type 1 Waste.

(5) Wastes listed in Item (2) of Annexure 1 to the Regulations are considered to be Type 1 Waste, unless assessed and determined otherwise in terms of these Norms and Standards.

(6) Notwithstanding section 7(2) of these Norms and Standards, wastes with all element or chemical substance leachable concentration levels for metal ions and inorganic anions below or equal to the LCT0 limits are considered to be Type 3 waste, irrespective of the total concentration of elements or chemical substances in the waste, provided that-

.....all chemical substance concentration levels are below the following total concentration limits for organics and pesticides:

| Chemical Substances in Waste | Total Concentration (mg/kg) |
|------------------------------|-----------------------------|
| <i>Organics</i> | |
| TOC | 30 000 (= 3%) |

| Chemical Substances in Waste | Total Concentration (mg/kg) |
|------------------------------|-----------------------------|
| BTEX | 6 |
| PCBs | 1 |
| Mineral Oil (C10 to C40) | 500 |
| <i>Pesticides</i> | |
| Aldrin + Dieldrin | 0.05 |
| DDT + DDD + DDE | 0.05 |
| 2,4-D | 0.05 |
| Chlordane | 0.05 |
| Heptachlor | 0.05 |

-the inherent physical and chemical character of the waste is stable and will not change over time; and
-the waste is disposed of to landfill without any other waste.

Source:

Statutes and Regulations of South Africa/Regulations of South Africa, Juta's/Full_Notice/3687_full_notice

URL:

http://jutastat.juta.co.za/nxt/gateway.dll/strg/sargstat/full_notice/3687_full_notice?f=templates\$fn=default.htm

Waste Classification and Management Regulations, 2013

You are currently viewing the full notice.

Published under

GN R634 In GG 36784 of 23 August 2013

I, Bomo Edith Edna Molewa, Minister of Water and Environmental Affairs, hereby make regulations pertaining to waste classification and management under section 69(1)(a), (b), (g), (h), (m), (q), (r), (s), (dd), and (ee) read with section 73 of the National Environmental Management: Waste Act, 2008 (Act 59 of 2008) for implementation in the Schedule hereto.

(Signed)

BOMO EDITH EDNA MOLEWA
Minister of Water and Environmental Affairs

SCHEDULE

TABLE OF CONTENTS

CHAPTER 1
INTERPRETATION, PURPOSE AND APPLICATION OF REGULATIONS

1 Definitions
2 Purpose of Regulations
3 Application of Regulations

CHAPTER 2
WASTE CLASSIFICATION

4 Waste Classification
5 Safety Data Sheets

CHAPTER 3
WASTE MANAGEMENT

6 General
7 Waste Treatment
8 Waste Disposal to Landfill

CHAPTER 4
WASTE MANAGEMENT ACTIVITIES THAT DO NOT REQUIRE A WASTE MANAGEMENT LICENCE

9 Motivation for and consideration of listing Waste Management Activities that do not require a Waste Management Licence

CHAPTER 5
RECORD KEEPING AND WASTE MANIFEST SYSTEM

10 Records of Waste Generation and Management
11 Waste Manifest System

CHAPTER 6
GENERAL MATTERS

12 Implementation and Transitional Provisions
13 Offences and Penalties
14 Short Title and Commencement

CHAPTER 7
ANNEXURES TO REGULATIONS

Annexure 1: Wastes that do not require Classification or Assessment
Annexure 2: Waste Manifest System Information Requirements

**CHAPTER 1
INTERPRETATION AND PURPOSE OF REGULATIONS (regs 1-3)**

1 Definitions

(1) In these Regulations, any word or expression to which a meaning has been assigned in the Act has that same meaning, and unless the context indicates otherwise-

'**emergency**' means an unexpected sudden occurrence, including a major emission, fire or explosion leading to serious danger to the public or potentially serious pollution of or detriment to the environment, whether immediate or delayed;

'**SANS 10234**' means the latest edition of the South African National Standard Globally Harmonized System of Classification and Labelling of Chemicals (GHS);

'**the Act**' means the National Environmental Management: Waste Act, 2008 (Act 59 of 2008);

'**waste classification**' means establishing-

- (a) whether a waste is hazardous based on the nature of its physical, health and environmental hazardous properties (hazard classes); and
- (b) the degree or severity of hazard posed (hazard categories);

'**waste generator**' means any person whose actions, production processes or activities, including waste management activities, results in

the generation of waste;

'waste manager' means any person who re-uses, recycles, recovers, treats or disposes of waste;

'waste management facility' means a place, infrastructure, structure or containment of any kind, wherein, upon or at, a waste management activity takes place and includes a waste transfer station, container yard, landfill site, Incinerator, a lagoon, recycling or a composting facility;

'waste manifest system' means a system of control documentation, which accompanies a load of hazardous waste transported from the point of generation to the waste management facility;

'waste transporter' means any person who conveys or transfers waste-

- (a) between the waste generator and a waste management facility; or
- (b) between waste management facilities.

(2) The term waste in these Regulations has the meaning as assigned by the Act, and is deemed to include both general waste and hazardous waste.

(3) General waste and hazardous waste have the meanings as assigned by the Act, and are referred to as such in these Regulations, where specific provisions are only applicable to either general or hazardous waste.

(4) For any action contemplated in terms of these Regulations for which a timeframe is prescribed, the specified numbers of days are ordinary days.

2 Purpose of Regulations

(1) The purpose of these Regulations is to-

- (a) regulate the classification and management of waste in a manner which supports and implements the provisions of the Act;
- (b) establish a mechanism and procedure for the listing of waste management activities that do not require a Waste Management Licence;
- (c) prescribe requirements for the disposal of waste to landfill;
- (d) prescribe requirements and timeframes for the management of certain wastes; and
- (e) prescribe general duties of waste generators, transporters and managers.

3 Application of Regulations

- (1) These Regulations apply uniformly in all Provinces of the Republic of South Africa.
- (2) These Regulations do not apply to generators of domestic waste that is collected by a municipality.
- (3) Subject to subregulation (2), these Regulations apply to all waste generators, waste transporters and waste managers.

**CHAPTER 2
WASTE CLASSIFICATION (regs 4-5)**

4 Waste Classification

- (1) Wastes listed in Annexure 1 of these Regulations do not require classification in terms of SANS 10234.
- (2) Subject to subregulation (1), all waste generators must ensure that the waste they generate is classified in accordance with SANS 10234 within one hundred and eighty (180) days of generation.
- (3) Waste must be kept separate for the purposes of classification in terms of subregulation (2), and must not be mixed prior to classification.
- (4) Waste must be re-classified in terms of subregulation (2) every five (5) years, or within 30 days of modification to the process or activity that generated the waste, changes in raw materials or other inputs, or any other variation of relevant factors.
- (5) Waste that has been subjected to any form of treatment must be re-classified in terms of subregulation (2), including any waste from the treatment process.
- (6) If the Minister reasonably believes that a waste has not been classified correctly in terms of subregulation (2), he or she may require the waste generator to have the classification peer reviewed to confirm the classification.

5 Safety Data Sheets

- (1) Subject to Regulation 4(2) and subregulations (2) and (3), generators of hazardous waste must ensure that a safety data sheet for the hazardous waste is prepared in accordance with SANS 10234.
- (2) Subregulation (1) does not apply to generators of waste listed in Item (2)(b) of Annexure 1 to these Regulations provided that the safety data sheets for these wastes are prepared as follows-
 - (a) safety data sheets for waste listed in item (2)(b)(i) of Annexure 1 to these Regulations must be prepared in accordance with SANS 10234 for the product the waste originates from; and
 - (b) safety data sheets for waste listed in Item (2)(b)(ii) of Annexure 1 to these Regulations must be prepared in accordance with SANS 10234 reflecting the details of the specific hazardous waste/s or hazardous chemical/s in the waste.
- (3) Generators of waste listed in Item (2)(b)(iii) of Annexure 1 to these Regulations do not have to prepare a safety data sheet for the waste.
- (4) Every holder of hazardous waste, except waste listed in Item (2)(b)(iii) of Annexure 1 to these Regulations, must be in possession of the safety data sheet/s for the waste referred to in subregulations (1) and (2).

**CHAPTER 3
WASTE MANAGEMENT (regs 6-8)**

6 General

- (1) Waste transporters and waste managers must not accept waste that has not been classified in terms of Regulation 4 unless such waste is listed in Annexure 1 of these Regulations.
- (2) Waste must not be diluted solely to reduce the concentration of its constituents for the purposes of classification in terms of Regulation 4(2), or assessment of the waste in accordance with the Norms and Standards for Assessment of Waste for Landfill Disposal set in terms of section 7(1) of the Act.
- (3) Any container or storage impoundment holding waste must be labelled, or where labelling is not possible, records must be kept, reflecting the following-
 - (a) the date on which waste was first placed in the container;

SB

- (b) the date on which waste was placed in the container for the last time when the container was filled, closed, sealed or covered;
- (c) the dates when, and quantities of, waste added and waste removed from containers or storage impoundments, if relevant;
- (d) the specific category or categories of waste in the container or storage impoundment as identified in terms of the National Waste Information Regulations, 2012; and
- (e) the classification of the waste in terms of Regulation 4 once it has been completed.

(4) Waste generators must ensure that their waste is re-used, recycled, recovered, treated and/or disposed of within eighteen (18) months of generation.

(5) Waste managers must not store waste for more than eighteen (18) months from the date of receipt from the waste generator.

(6) The re-use, recycling, recovery, treatment or disposal of waste stored in an existing facility prior to promulgation of these Regulations must be commenced within five (5) years from the date of commencement of these Regulations.

7 Waste Treatment

(1) Waste must not be mixed or treated where this would-

- (a) reduce the potential for re-use, recycling or recovery; or
- (b) result in treatment that is not controlled and not permanent.

(2) Notwithstanding Regulations 6(2) and 7(1), waste may be blended or pre-treated to-

- (a) enable potential for re-use, recycling, recovery or treatment; or
- (b) reduce the risk associated with the management of the waste.

8 Waste Disposal to Landfill

(1) Unless otherwise directed by the Minister to ensure a better environmental outcome, or in response to an emergency so as to protect human health, property or the environment-

- (a) waste generators must ensure that their waste is assessed in accordance with the Norms and Standards for Assessment of Waste for Landfill Disposal set in terms of section 7(1) of the Act prior to the disposal of the waste to landfill;
- (b) waste generators must ensure that the disposal of their waste to landfill is done in accordance with the Norms and Standards for Disposal of Waste to Landfill set in terms of section 7(1) of the Act; and
- (c) waste managers disposing of waste to landfill must only do so in accordance with the Norms and Standards for Disposal of Waste to Landfill set in terms of section 7(1) of the Act.

(2) Subregulation (1)(a) applies to all waste generators, excluding-

- (a) generators of waste listed in items (2)(a) and (b) of Annexure 1 to these Regulations; and
- (b) generators of business waste that is collected by a municipality.

(3) Subregulation (1)(b) applies to all waste generators, excluding-

- (a) generators of waste listed in item (2)(a) of Annexure 1 to these Regulations; and
- (b) generators of business waste that is collected by a municipality.

**CHAPTER 4
WASTE MANAGEMENT ACTIVITIES THAT DO NOT REQUIRE A WASTE MANAGEMENT LICENCE (reg. 9)**

9 Motivation for and consideration of listing Waste Management Activities that do not require a Waste Management Licence

(1) Any person may submit a motivation to the Minister to list a specific waste management activity as an activity that does not require a waste management licence in terms of section 19 of the Act, but that is required to adhere to the requirements or standards determined in terms of section 19(3)(a) of the Act for that activity.

(2) A motivation to the Minister in terms of subregulation (1) must demonstrate that the waste management activity, including associated storage and handling, can be implemented and conducted consistently and repeatedly in a controlled manner without unacceptable impact on, or risk to, the environment or health.

(3) In accordance with subregulation (2), a motivation to the Minister in terms of subregulation (1) must contain the following information, as relevant to the proposed waste management activity:

- (a) basis for the motivation, including benefits of the proposed activity relating to achieving waste minimisation or diversion of waste from landfill;
- (b) description of the waste or wastes the proposed activity relates to, including quantities, classification, physical characteristics, chemical composition, sources generating the waste, and current management thereof;
- (c) description of the proposed waste management activity and processes, including the waste manager, storage and handling, infrastructure, pre-treatment activities, and other inputs or raw materials required;
- (d) description of the quantity, classification and management of any waste generated by the proposed activity;
- (e) information on the successful implementation of the proposed activity, or similar activities, locally and internationally, where available;
- (f) details of local and international specifications or standards relating to the waste and the proposed waste management activity, where available;
- (g) reference to legislation and policy applicable to the proposed activity, including relevant waste minimisation or waste management plans;
- (h) description of how the physical, biological, social, economic and cultural aspects of the environment may be adversely affected by the proposed activity, and how these would be mitigated or managed;
- (i) identification of aspects that may constrain the wide or general implementation of the proposed activity, and how these can be managed;
- (j) an assessment of the potential environmental and health impacts and risks that could result from the proposed activity, which would test the general implementation of the proposed activity at several sites with different characteristics;
- (k) proposed requirements or standards specific to the proposed waste management activity, including associated storage and handling, that would ensure that the activity can be implemented and conducted consistently and in a controlled manner, which must include the following as relevant to the proposed waste management activity:
 - (i) roles and responsibilities of the waste generator and waste manager;
 - (ii) management, monitoring and reporting procedures;
 - (iii) quality assurance and control measures, including sampling and analyses, as well as chemical concentration limits for specific components in the waste, or other characteristics of the waste, which may render it unsuitable for the proposed waste management activity;

- (iv) sources from which the waste may originate, and any other limitations to the use or prohibited uses of the waste;
- (v) locality or geographical area where the proposed activity may or may not take place;
- (vi) standard operating procedures;
- (vii) environmental management plan; and
- (viii) design specifications or standards.

- (l) discussion on the practicality of, and ability to effectively implement, the requirements or standards that the activity may be subjected to;
- (m) a description of any assumptions made and any uncertainties or gaps in knowledge; and
- (n) any other specific information that may be required by the Minister, including an independent review of information submitted in support of the motivation.

- (4) Based on the review and consideration of the information supplied in support of a motivation in terms of Regulation 9(1) the Minister may-
- (a) subject to section 19(10)(a) of the Act, list the specific waste management activity in terms of section 19(1) and (3)(a) of the Act as an activity that does not require a waste management licence;
 - (b) require additional information to be furnished within a specified timeframe; or
 - (c) reject the motivation with reasons.

- (5) A motivation in terms of Regulation 9(1) which is substantially similar to a previous motivation that had been rejected in terms of subregulation (2)(c), may only be resubmitted if-
- (a) the application contains new and material information not previously submitted to the Minister; or
 - (b) a period of three (3) years has elapsed since the application was lodged.

**CHAPTER 5
RECORD KEEPING AND WASTE MANIFEST SYSTEM (regs 10-11)**

10 Records of waste generation and management

- (1) Waste generators must keep accurate and up to date records of the management of the waste they generate, which records must reflect-
- (a) the classification of the wastes;
 - (b) the quantity of each waste generated, expressed in tons or cubic metres per month;
 - (c) the quantities of each waste that has either been re-used, recycled, recovered, treated or disposed of; and
 - (d) by whom the waste was managed.
- (2) Subregulation (1) does not apply to generators of waste listed in item (2)(a) of Annexure 1 to these Regulations.
- (3) The records contemplated in subregulation (1) must be-
- (a) retained for a period of at least five (5) years; and
 - (b) made available to the Department upon request.

11 Waste Manifest System

- (1) Every holder of waste that has been classified as hazardous in terms of Regulation 4(2) or a waste that is listed in item (2)(b) of Annexure 1 to these Regulations, must be in possession of a waste manifest document containing the relevant information specified in Annexure 2 to these Regulations.
- (2) Generators of waste classified as hazardous in terms of Regulation 4(2) or waste that is listed in item (2)(b) of Annexure 1 to these Regulations, must complete a waste manifest document containing the information specified in item (2)(a) of Annexure 2 to these Regulations for each consignment of waste transported to a waste manager.
- (3) Subregulations (1) and (2) do not apply to waste generators who are also the waste manager and manage the waste at the same premises where it was generated.
- (4) Waste transporters must not accept waste classified as hazardous in terms of Regulation 4(2) or waste that is listed in item (2)(b) of Annexure 1 to these Regulations for transport, unless the waste manifest document accompanies the waste.
- (5) All transporters of waste classified as hazardous in terms of Regulation 4(2) or waste that is listed in item (2)(b) of Annexure 1 to these Regulations must-
- (a) complete a waste manifest document containing the information specified in item (2)(b) of Annexure 2 to these Regulations for each consignment of waste transported;
 - (b) provide the information to the generator before the waste is transported from the premises of the generator; and
 - (c) provide the information to the waste manager at the time of delivery of the waste to the facility for a waste management activity.
- (6) Waste managers must not accept waste classified as hazardous in terms of Regulation 4(2) or waste that is listed in item (2)(b) of Annexure 1 to these Regulations, unless the waste manifest document accompanies the waste.
- (7) All managers of waste classified as hazardous in terms of Regulation 4(2) or waste that is listed in item (2)(b) of Annexure 1 to these Regulations, must complete the waste manifest document with the information specified in item (2)(c) of Annexure 2 to these Regulations, confirming that the waste load has been accepted and that the waste has been managed.
- (8) All waste generators, transporters and managers subjected to the requirements of subregulations (1), (2), (4), (5), (6) and (7) must-
- (a) retain copies, or be able to access copies/records, of the waste manifest documentation for a period of at least five (5) years; and
 - (b) make the waste manifest documentation available to the Department upon request.

**CHAPTER 6
GENERAL MATTERS (regs 12-14)**

12 Implementation and Transitional Provisions

- (1) All wastes that were classified in terms of the Minimum Requirements for the Handling, Classification and Disposal of Hazardous Waste (2nd Edition, 1998; Department of Water Affairs and Forestry), or waste for which an alternative classification was approved by the Department of Water Affairs or Department of Environmental Affairs, prior to these Regulations taking effect, must be-
- (a) re-classified in terms of Regulation 4(2); and
 - (b) assessed in terms of Regulation 8(1)(a) if the waste is to be disposed to landfill, within three (3) years from the date of commencement of these Regulations.
- (2) Waste that has been produced prior to these Regulations taking effect, but that has not been classified at the date of commencement of these Regulations must be-

- (a) classified in terms of Regulation 4(2); and
- (b) assessed in terms of Regulation 8(1)(a) if the waste is to be disposed to landfill, within eighteen (18) months from the date of commencement of these Regulations.

(3) Regulations 4(2) and 6(1) do not apply for a period of three (3) years from the date of commencement of these Regulations, provided that the waste has been classified in terms of the Minimum Requirements for the Handling, Classification and Disposal of Hazardous Waste (2nd Edition, 1998; Department of Water Affairs and Forestry) or an alternative classification of the waste was approved by the Department of Water Affairs or Department of Environmental Affairs prior to these Regulations taking effect.

(4) Regulation 4(2) does not apply for a period of eighteen (18) months from the date of commencement of these Regulations, provided that the waste has been generated but not classified prior to the date of commencement of these Regulations.

(5) Subject to subregulation (6), Regulation 6(3) must be complied with within one (1) year from the date of commencement of these Regulations.

(6) Regulation 6(3)(e) does not apply for a period of-

- (a) three (3) years from the date of commencement of these Regulations, provided that the waste has been classified in terms of the Minimum Requirements for the Handling, Classification and Disposal of Hazardous Waste (2nd Edition, 1998; Department of Water Affairs and Forestry) prior to these Regulations taking effect, and this classification is reflected in the labelling or records required in terms of Regulation 6(3); or
- (b) three (3) years from the date of commencement of these Regulations, provided that an alternative classification of the waste was approved by the Department of Water Affairs or Department of Environmental Affairs prior to these Regulations taking effect, and this classification is reflected in the labelling or records required in terms of Regulation 6(3).

(7) Regulation 6(6) does not apply to waste that has been or is being treated through macro-encapsulation approved by the Department of Water Affairs or the Department of Environmental Affairs.

(8) Regulation 8(1)(a) does not apply for a period of-

- (a) three (3) years from the date of commencement of these Regulations, provided that the waste has been classified in terms of the Minimum Requirements for the Handling, Classification and Disposal of Hazardous Waste (2nd Edition, 1998; Department of Water Affairs and Forestry) prior to the date of commencement of these Regulations; or
- (b) three (3) years from the date of commencement of these Regulations, provided that an alternative classification of the waste was approved by the Department of Water Affairs or the Department of Environmental Affairs prior to the date of commencement of these Regulations.

(9) Regulations 10 and 11 take effect one (1) year after the date of commencement of these Regulations.

(10) The requirements of Regulations 10 and 11 apply to waste that was classified in terms of the Minimum Requirements for the Handling, Classification and Disposal of Hazardous Waste (2nd Edition, 1998; Department of Water Affairs and Forestry) prior to the date of commencement of these Regulations.

13 Offences and Penalties

(1) A person is guilty of an offence if that person-

- (a) fails to comply with Regulations 4(2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18) or (19); or
- (b) provides incorrect or misleading information in any record or document required or submitted in terms of these Regulations.

(2) A person convicted of an offence under subregulation (1)(a) is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine or such imprisonment.

(3) A person convicted of an offence under subregulation (1)(b) is liable to a fine of R20 000 or to imprisonment for a period not exceeding 1 year or to both a fine and such imprisonment.

14 Short Title and Commencement

These Regulations are called the Waste Classification and Management Regulations, 2013.

CHAPTER 7 ANNEXURES TO REGULATIONS

Annexure 1: Wastes that do not require Classification or Assessment

(1) The wastes specified in item 2 of this Annexure do not require classification in terms of Regulation 4(1), nor assessment in terms of Regulation 8(1)(a).

(2)(a) General waste-

- (i) Domestic waste;
- (ii) Business waste not containing hazardous waste or hazardous chemicals;
- (iii) Non-infectious animal carcasses;
- (iv) Garden waste;
- (v) Waste packaging;
- (vi) Waste tyres;
- (vii) Building and demolition waste not containing hazardous waste or hazardous chemicals; and
- (viii) Excavated earth material not containing hazardous waste or hazardous chemicals.

(2)(b) Hazardous waste-

(i) Waste Products:

- Asbestos Waste;
- PCB waste or PCB containing waste (>50 mg/kg or 50 ppm); and
- Expired, spoilt or unusable hazardous products.

(ii) Mixed Waste:

- General waste, excluding domestic waste, which contains hazardous waste or hazardous chemicals; and
- Mixed, hazardous chemical wastes from analytical laboratories and laboratories from academic institutions in containers less than 100 litres.

(iii) Other:

- Health Care Risk Waste (HCRW).

Annexure 2: Waste Manifest System Information Requirements

- (1) The Information specified in Item 2 of this Annexure must be reflected in the waste manifest document required in terms of Regulation 11.
- (2)(a) Information to be supplied by the Waste Generator (Consignor)-
 - (i) Unique consignment Identification number;
 - (ii) If applicable, the SAWIS Registration number in terms of the National Waste Information Regulations, 2012;
 - (iii) Generator's contact details (contact person, physical & postal address, phone, fax, email);
 - (iv) Physical address of the site where the waste was generated (if different from (iii));
 - (v) Contact number in case of an incident or after hours;
 - (vi) Origin/source of the waste (process or activity);
 - (vii) Classification of the waste and Safety Data Sheet;
 - (viii) Quantity of waste by volume (m³) or weight (tons);
 - (ix) Date of collection/dispatch;
 - (x) Intended receiver (waste manager); and
 - (xi) Declaration (content of the consignment is fully and accurately described, classified, packed, marked and labelled, and in all respects in proper condition for transportation in accordance with the applicable laws and regulations).
- (2)(b) Information to be supplied by the Waste Transporter-
 - (i) Name of transporter;
 - (ii) Address and telephone number of transporter; and
 - (iii) Declaration acknowledging receipt of the waste.
- (2)(c) Information to be supplied by the Waste Manager (Consignee)-
 - (i) Name, address and contact details;
 - (ii) Receiving waste management facility name, address and contact details (where different);
 - (iii) Waste management facility licence number;
 - (iv) Date of receipt;
 - (v) Quantity of waste received by weight (tons), and volume (m³) if applicable;
 - (vi) Type of waste management applied (re-use, recycling, recovery, treatment, disposal);
 - (vii) Any discrepancies in information between the different holders of the waste (related to waste quantity, type, classification, physical and chemical properties);
 - (viii) Waste management reporting description and code in terms of the National Waste Information Regulations, 2012;
 - (ix) Details on any waste diverted to another waste management facility, and details of the facility; and
 - (x) Certification and declaration of receipt and final management of the waste.



KWAZULU-NATAL PROVINCE
ECONOMIC DEVELOPMENT, TOURISM
AND ENVIRONMENTAL AFFAIRS
REPUBLIC OF SOUTH AFRICA

168
"JBS6"

OFFICE OF THE HEAD OF DEPARTMENT

Tel: (033) 264 2766
Postal Address: Private Bag X9152, PIETERMARITZBURG, 3200
www.kznedtea.gov.za

Enquiries: Mrs. S Nowele
Reference: New England Road

Your Ref: KZ/1920/0363/PP

The South African Human Rights Commission
P O Box 1456
DURBAN
4000

Attention. Provincial Manager: Adv. Lotz

Dear Sir,

RE: FOLLOW-UP IN RESPECT OF RESPONSE TO THE SAHRC: ALLEGED NEGLECT, DETERIORATION AND POOR MANAGEMENT OF THE NEW ENGLAND ROAD LANDFILL SITE ("THE LANDFILL SITE") IN PIETERMARTIZBURG.

1. The correspondence from the South African Human Rights Commission [SAHRC] dated 28 September 2020, in addition to the correspondence addressed to Mr. I Felton (Grade 2 Environmental Management Inspector) an official of this Department, also dated 28 September 2020, refer.
2. The information contained within this submission should be read in conjunction with the previous submissions made by the Department and it's officials, provided to the SAHRC on the 7th September 2020.

| | | | |
|---|---|---------------------|-------------|
| Department of Economic Development, Tourism and Environmental Affairs | New England Road Landfill SAHRC 2nd Submission | Initials: SC | Page 1 of 6 |
|---|---|---------------------|-------------|

SB

3. The Department has been actively involved with the monitoring of the New England Road Landfill Site (NERLS) for a considerable period of time. During this period a number of different officials were involved in monitoring and taking relevant actions in respect of promoting environmental compliance with the NERLS. The majority of the officials involved in the period from *circa* 2001 up until December 2014 are no longer in the employ of the Department, and it must be noted that the records and files that the Department has in respect to the NERLS do not appear to be a complete or comprehensive record of events and responses during that period.
4. The information contained herein reflect all of the records available to the Department for the period from June 2001 to December 2014. No records are available prior to the year 2000. A summary of the Department interventions and engagements with the Msunduzi Municipality during the above-mentioned period is contained in this submission.
5. In respect of the specific information requested by the SAHRC, as specified in paragraph 4.1 of the correspondence dated 28 September 2020, the Department provided the following response:
 - 5.1. A comprehensive "Interim Investigation Report" has been compiled by Mr. Felton the assigned Investigating Officer ["IO"] during the period specified. This "Interim Investigation Report" is attached at **Annexure A** and provides the information requested by the SAHRC. The specific evidence and statements form part of a Docket in an ongoing criminal investigation and cannot at this stage be made available.
6. In respect of the specific information requested in paragraph 4.2 of the correspondence, the Department provides the following response:
 - 6.1. A new IO has not yet been appointed and the formal transfer of the Docket has not been completed.
7. In respect of the specific information requested in paragraph 4.3 of the correspondence, the Department provides the following response:

| | | | |
|---|---|---------------------|-------------|
| Department of Economic Development, Tourism and Environmental Affairs | New England Road Landfill SAHRC 2nd Submission | Initials: SC | Page 2 of 6 |
|---|---|---------------------|-------------|

- 7.1. In that a new IO has not been appointed and the docket transferred, no further investigation has been undertaken and the docket has remained in the safe keeping of Mr. Felton.
8. In respect of the specific information requested in paragraph 7 of the correspondence, the Department provides the following response:
- 8.1. A detailed timeline for the period from June 2001 to December 2104, of interactions, investigations and events, including dates of *inter alia*: site inspections; meetings; correspondence; fire incidents; and, responses to this matter by the Municipality is attached at **Annexure B** for referral purposes.
- 8.2. Prior to the 1st July 2009 when the National Environmental Management: Waste Act (No. 59 of 2008) came into effect, the Department and its officials undertook an number of steps and actions to monitor and promote compliance with the relevant environmental legislation enacted at that time. These actions and steps were generally undertaken in conjunction with, or in support of, those actions undertaken by the erstwhile Department of Water Affairs and Forestry.
- 8.3. During the period from 2001 until July 2009, the Department issued the Msunduzi Municipality or its predecessor, with 4 (four) warning letters on the 27th June 2001, 11th May 2006, 27th November 2006 and the 29th January 2007. These warning letters were primarily based on the failure of the Municipality to manage the landfill site in accordance with their obligations of Duty of Care contained in section 28 of the National Environmental Management Act (No. 107 of 1998). During this period there appeared to have been a deterioration of the landfill site and a number of fire incidents.
- 8.4. From the records available it appears that there was variation in response to these warnings, either positive in respect to improved management and the submission of required audit reports and the rehabilitation of the site; or, negative in that there was little, or no response received from the Municipality.

| | | | |
|--|---|---------------------|-------------|
| Department of Economic Development, Tourism and Environmental Affairs | New England Road Landfill SAHRC 2nd Submission | Initials: SC | Page 3 of 6 |
|--|---|---------------------|-------------|

- 8.5. It must be noted that the Department of Water Affairs and Forestry, who were the competent authority to issue and enforce the requirements to obtain a Waste Permit in terms of section 20 of the Environment Conservation Act (No. 73 of 1989) during this period, also issued a number of warning letters and convened various meetings site inspections, in which the Department participated and supported.
- 8.6. On the 8th May 2009 the Department conducted a site inspection and held an on-site meeting with the municipal officials responsible for the landfill site. At this meeting the Department was informed that R10 million had been secured to construct a containment berm and undertake maintenance and repairs at the site. Further to this a new weighbridge had been commissioned and that external monitoring was being done on a quarterly basis.
- 8.7. The Department has no records from the period from May 2009 and June 2010, when a significant fire incident was recorded at the NERLS. Msunduzi Municipality was placed under administration in or about 2010 and there appears to have been further deterioration and non-compliance at the landfill site. This resulted in the Department issuing Msunduzi and the Ministerial Representative, Mr. J. Mettler, with a warning letter on the 29th September 2010. No records exist of any response to this letter.
- 8.8. During September 2010, a proposal to develop a Materials Recovery Facility [MRF] at NERLS was mooted by Msunduzi and uMgungundlovu Municipalities, as a potential option to address the waste management and informal recycling challenges at the site. Various meetings and correspondence between the municipality and the Department related to the proposed MRF.
- 8.9. The Department has been a regular member of the established Landfill site monitoring committee from its establishment around April 2000. This Landfill site monitoring committee was used as a platform to monitor compliance at the landfill site and require active steps to address issues identified in the management and operation of the site.

| | | | |
|---|---|---------------------|-------------|
| Department of Economic Development, Tourism and Environmental Affairs | New England Road Landfill SAHRC 2nd Submission | Initials: SC | Page 4 of 6 |
|---|---|---------------------|-------------|

AS

SA

8.10. The Department remained active members of the Landfill site monitoring committee up until 11 October 2013, when this governance structure appeared to have failed to function effectively.

8.11. During the course of 2012 it became apparent that the Landfill Monitoring Committee, was failing to meet its objectives and the Department raised this concern with the municipality on the 14th December 2012. No record of response from the Municipality is available to this correspondence.

8.12. On the 25th February 2013, the Department was notified of a fire incident at the landfill, potentially related to informal waste pickers being active on the site.

8.13. In June 2013, it was apparent that non-compliance issues had increased at the site, including that informal waste pickers had established living structures and were residing on the landfill site. On the 21st June 2013, these non-compliances were brought to the attention of Msunduzi both through correspondence and in a meeting with the Municipal Manager and relevant officials. It is noted that a response to these issues was received from Msunduzi on the 10th July 2013.

8.14. Further interaction with the municipality occurred in August and September 2013 in respect of the proposed MRF.

8.15. On the 4th October 2013 the Department again raised the issue of the failure of the Landfill Monitoring Committee and raised this concern with the municipality, and that no response had been received from Msunduzi to the previous correspondence raising this issue. A response was received from the municipality on the 11th October 2013 indicating that the failure of the Landfill Monitoring Committee meeting, was a lack of attendance by members, including Interested & Affected Parties and councillors, which resulted in a lack of quorum as required to conduct committee.

8.16. On the 14th October 2014, the Department was again notified of a fire incident at the landfill.

| | | | |
|---|---|---------------------|-------------|
| Department of Economic Development, Tourism and Environmental Affairs | New England Road Landfill SAHRC 2nd Submission | Initials: SC | Page 5 of 6 |
|---|---|---------------------|-------------|

GA

SAB

- 8.17. During the course of 2014, the Department received an External Site Rehabilitation and Closure Report (April 2014); a Landfill Site Engineering Upgrade Report (July 2014); and, a Leachate Monitoring Report (December 2014). On the 19th November 2014 the Department conducted a comprehensive audit of the landfill site and identified non-compliance issues that were raised with municipal officials.
- 8.18. No further written records could be located within the Department's files, related to the NERLS. While the records are not complete, it is apparent that the Department has taken various actions and steps in relation to the NERLS. These actions and steps have not always achieved the desired outcomes and there appears to have been phases when the landfill site was upgraded/rehabilitated and run effectively, and periods wherein the landfill site was allowed to deteriorate by the waste licence holder, and which then impacted on the environment and on human health and wellbeing.
9. My Department remains committed to ensuring that the landfill site is effectively managed and operated by Msunduzi Municipality until such time as the lifespan of the landfill site is reached.

Yours sincerely,

Signed by: Siphesihle Ceswell Mkhize
Signed at: 2020-10-02 17:57:16 +02:00
Reason: I approve this document

MR SIHLE MKHIZE
ACTING HEAD OF DEPARTMENT
ECONOMIC DEVELOPMENT, TOURISM
AND ENVIRONMENTAL AFFAIRS

DATE: October 2, 2020

| | | | |
|---|---|---------------------|-------------|
| Department of Economic Development, Tourism and Environmental Affairs | New England Road Landfill SAHRC 2nd Submission | Initials: SC | Page 6 of 6 |
|---|---|---------------------|-------------|

SB

**IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG**

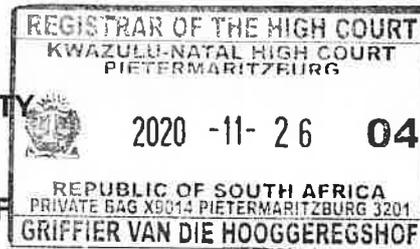
Case No: 8407/20P

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

Applicant

and

MSUNDUZI LOCAL MUNICIPALITY



First Respondent

**HEAD OF THE DEPARTMENT OF
ECONOMIC DEVELOPMENT,
TOURISM AND ENVIRONMENTAL AFFAIRS,
KWAZULU-NATAL PROVINCIAL GOVERNMENT**

Second Respondent

**MEMBER OF THE EXECUTIVE COUNCIL
FOR ECONOMIC DEVELOPMENT,
TOURISM AND ENVIRONMENTAL AFFAIRS,
KWAZULU-NATAL PROVINCIAL GOVERNMENT**

Third Respondent

INDEX BUNDLE 3

| | | |
|----|--|---------|
| 10 | 'JBS7' - Inspection Report dated 10 March 2015 | 174-219 |
| 11 | 'JBS8' - Second Respondent's correspondence dated 7 September 2020 | 220-241 |

Environmental Compliance inspection: GENERAL LANDFILL SITE



Department of Economic Development, Tourism & Environmental Affairs
PROVINCE OF KWAZULU-NATAL

Inspection Report: NEW ENGLAND ROAD LANDFILL SITE, PIETERMARITZBURG, KWAZULU-NATAL

| | | | |
|---|--|-------------|---|
| 1. FACILITY INSPECTED | | | |
| Exact geographic location of the site | 29° 36'22.21"S ; 30° 25'09.78"E Lot 1853 of the Farm Darvill No. 15036, New England Road, Pietermaritzburg 10 March 2015 | | |
| 2. OBJECTIVES AND SCOPE OF INSPECTION | | | |
| Type of inspection | A comprehensive, joint inspection to monitor compliance with the applicable environmental legislation and authorisations issued in terms of such legislation, with a particular focus on the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) ("NEM:WA"), the National Environment Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the National Water Act, 1998 (Act No. 38 of 1998) ("NWA"). | | |
| Site or activity name | NEW ENGLAND ROAD LANDFILL SITE | | |
| Inspection scope, particularly identification of the organisational and functional units or processes inspected and the time period covered | A comprehensive inspection to determine compliance with permit conditions and applicable legislation related to the classification, storage and disposal of waste at the facility. The inspection included the documentation held by the facility and all operational areas of the facility. | | |
| 3. INSPECTION TEAM | | | |
| Team leader | Name | Institution | Position |
| | Ian Felton | DEDETA | Assistant Manager: Environmental Planning |
| Team members | Annexure A | | |
| 4. FACILITY REPRESENTATIVES PRESENT AT OPENING MEETING - REFER TO ANNEXURE A | | | |
| 5. BACKGROUND TO INSPECTION | | | |
| Compliance history, where applicable | Current criminal enforcement action is being undertaken by DEA for the unlawful disposal of electronic waste at the New England Road Landfill Site (CAS 233/9/2014 - Investigating Officer: Mr Ryno Sarrontein) | | |
| Notification of inspection | Msunduzi Municipality (New England Road Landfill Site) was not notified on the inspection as it was an unannounced routine inspection | | |
| Mandated legislation and permits | Refer to Annexure B | | |

JK
AS

| 6. GENERAL INTRODUCTION | |
|---|--|
| Date, time and venue | 10 March 2015 at 9h30 - New England Road Landfill site office |
| Attendance register | Refer to Annexure C |
| What was discussed | The team leader gave standard introduction of the scope, intention and objectives of the routine inspection. |
| Describe if entry was granted or denied | Entry was granted with full cooperation |
| Problems/restrictions | None |

AS

| 7 INSPECTION ACTIVITIES | | |
|-----------------------------|--|---|
| Team A: Documents/Office | Areas/sections visited Staff who accompanied us to each area/section Key observations, questions and answers regarding each area/section | Main Landfill site office Mr Cyril Naidoo- Landfill Site Manager |
| | | <p>The inspection team asked Mr. Cyril Naidoo, the Landfill Site Manager, at the main landfill site office the following questions:</p> <ul style="list-style-type: none"> • How are waste types disposed and classified on site? Mr Naidoo informed the inspection team that Pivot tables are used as an electronic database and that the database records the vehicle registration number, weight of the vehicle, calculations are done for variations and a visual inspection is done. He further stated that there are three steps taken to ensure that permissible waste is being classified, namely at the security gate, the weighbridge and by an on-site supervisor overseeing all disposal on site. • Please provide clarity on the amendment application for the Waste permit for the site? Mr Naidoo indicated that he was unsure as to what the amendment application was for. Furthermore, the facility could not provide the inspection team with a copy of any amendment application. The activities could not be verified. • Has the facility conducted any site stability analyses prior to construction? Mr Naidoo informed the investigation team that a baseline stability study would have been done and that annual testing is conducted. The facility could not provide the inspection team with documents to verify that this has or is occurring. • Has there been any further development of residential and/ or light Industrial areas close to the site within the defined buffer areas? Mr Naidoo stated that a 50 meter extension was applied for approximately 10 years ago, however, the application was turned down • Is air quality monitoring conducted on site? Mr Naidoo informed the inspection team that air quality monitoring is conducted internally on an annual basis. • What material is used to cover and compact the waste at the end of the day? Mr Naidoo informed the inspection team that imported cover material is being used to compact and cover the site and that this material was approved by the Regional Director. However, proof of this approval was not provided. Furthermore the source of imported cover material was not identified. |

| | | |
|--|--|--|
| | | <ul style="list-style-type: none"> • Is there any reclamation of waste taking place on site? Mr Naidoo informed the inspection team that the facility is not reclaiming waste from the site. However there are informal waste pickers on site reclaiming waste and security at the facility is unable to prevent the waste pickers from entering the site. • What dust control measures are being used on site, and what measures are in place for the control of wind-blown waste? Mr Naidoo stated that water tankers are used on a daily basis at 10h00 and 14h00. Water is currently being used from the fire hydrants outside of the site. Mr Naidoo also stated that the site is densely vegetated and therefore wind-blown waste is not a concern. • Is methane gas being monitored and have there been any exceedances in methane gas recorded? Mr Naidoo stated that the facility is currently passively venting and that four (4) additional gas valves were installed. The facility has been in liaison with the Department of Energy regarding a closed loop system for the methane gas. Monitoring of methane gas is conducted once every two years by EnvITech Solutions. Mr Naidoo further stated that there have been no exceedances thus far. • Is there a Contingency Plan in place and has it been approved by the Regional Director? Mr Naidoo indicated that there is a Contingency plan in place, however the Plan was not approved by the Regional Director. • Where is contaminated water discharged? Mr Naidoo indicated that contaminated water is not treated on site and is discharged into Umgeni Water Wastewater Treatment Plant. He further stated that there would have been a contract between the site and Umgeni Water for the disposal of leachate and contaminated water to the sewer. However, this contract was not provided. • Is water quality monitoring being conducted on site and how often it is being undertaken? Mr Naidoo informed the inspection team that water quality monitoring is conducted annually by EnvITech Solutions. • Is the washing of vehicles, containers etc taking place at the Wash Bay area? Mr Naidoo stated that the Wash Bay was decommissioned. |
|--|--|--|

| | | |
|--|--|--|
| | | <ul style="list-style-type: none"> • Is groundwater monitoring conducted and are there any additional boreholes on site that were not initially approved? Mr Naidoo informed the inspection team that EnvITech Solutions conduct annual monitoring and that there were no additional boreholes on site. He further indicated that there is an annual landfill upgrade that takes place which includes infrastructure upgrades, access roads, ramps, leachate collection system and containment berms. The inspection team requested a copy of the contract document which includes what these upgrades entail. • Is surface water/ background monitoring being conducted? Mr Naidoo indicated that monitoring is conducted upstream and downstream within the Msunduzi and Blackburrow Spruit Rivers. • Is flammable gas is being monitored? Mr Naidoo indicated that the air monitoring station has been decommissioned and that an external company, EnvITech Solutions conducted testing twice year. • Which Laboratory is used for testing and analysis? Mr Naidoo indicated that Talbot & Talbot is used and is accredited. • Is there a Landfill Monitoring Committee in place? Mr Naidoo stated that there is a Monitoring Committee in place and they used to meet every six (6) weeks, however due to lack of I&AP's interest, people do not attend the meetings. The inspection team requested a copy of the minutes of the meetings and meeting agendas. • Are any Internal and external audits conducted? Mr Naidoo indicated that internal audits are not conducted on a quarterly basis as required by the permit. External audits are conducted on an annual basis and not bi-annually as required by the permit • Have there been any notifiable incidents on site? Mr Naidoo stated that there have been fire incidents on site and they were all reported to the Municipality and DEDTEA. The inspection team requested copies of these reports and proof of submission and associated action plans. |
|--|--|--|

Handwritten signatures and initials at the bottom of the page, including a large signature on the left and several smaller initials on the right.

| | | |
|--|---|--|
| | <p>Copies of documents removed from site</p> <p>Documents requested and not received</p> | <p>Refer to Annexure D</p> <p>Refer to Annexure D</p> |
| <p>Team B: Waste types, classification, sorting</p> | <p>Areas/sections visited</p> | <p>• Is there any system in place to prevent fluorescent tubes and Compact Fluorescent Lights (CFLs) being disposed of at the landfill site?</p> <p>Mr. Naidoo stated that there was previously a service provider that was employed at the landfill to remove fluorescent tubes before entering the site, but this contract was no longer in place. Mr. Naidoo further stated that there is no way to prevent the fluorescent tubes and CFLs from being disposed of on the landfill site in black bags disposed of as general waste.</p> <ol style="list-style-type: none"> 1. Main access gate; 2. Main waste disposal area; 3. Informal waste reclamation area; 4. Waste transfer area; 5. Wash bays and maintenance area; 6. Secondary access gate; 7. Perimeter fence <p>N/A</p> |
| | <p>Staff who accompanied us to each area/section (name and title)</p> | <p>1. Two African male security guards from KSA Security at the main entrance gate.</p> |
| | <p>People interviewed</p> | <p>2. Ms. Nohawethu Zilwa (weigh bridge controller) and Ms. Zakithi Gumade (weighbridge assistant) in weigh bridge and waste assessment/classification office</p> <p>3. Vehicle occupants at working face were interviewed</p> <ul style="list-style-type: none"> • NP 133 705 blue Isuzu double cab bakkie - mixed waste; • ND 355748 Nissan single cab vehicle - builders rubble • NP 18276 Isuzu single cab - builders rubble • NP 103351 Isuzu single cab white - garden refuse. |
| <p>Key questions and answers regarding each area/section</p> | <p>4. Mr. Vishen Singh and Mr. Proeper Bopoto of Envitech who were undertaking water quality monitoring</p> | <p>1. <u>Security Guards at main entrance</u></p> <p>The inspection team asked the security guards at the main access gate the following questions:</p> |

Handwritten initials/signature

| | |
|--|---|
| | <ul style="list-style-type: none"> • What are the operational hours during the week and during the weekend? The security guards responded that during the week the landfill site was open from 07h00 to 16h00 and from 08h00 to 15h00 on weekends. Municipal waste collection vehicles access the site 24 hours a day. • Do the waste pickers stay on site as there are structures with beds inside? The security guards responded that the waste pickers leave the site at 15h30 and that they have to go up and ensure people leave. • Is the back entrance gate controlled by security and who uses it? The security guards responded that the back entrance is monitored by a security guard but he has other tasks and is not always at the gate. The entrance is used by Municipal vehicles and was open today because the water tanker was obtaining water from the nearby fire hydrant. • Are there toilet facilities available on the landfill site for the waste pickers (waste disposal area) and at the entrance gate for the security guards? The security guards responded that there are no toilet facilities for the informal waste pickers. There are no toilet facilities provided for the security staff as the toilets at the main entrance gate may only be used by staff employed by the municipality. • Are the main gates locked after work hours? The security guards responded that the gates are locked and have padlocks. • What happens if people bring waste to dispose after working hours? The security guards responded that they explain that the site is closed and they must come back the following day. Some people understand and other people do dump the waste outside the entrance of the site. • What happens to this waste that is dumped outside of the landfill site? The security guards responded that the municipal vehicles on site must come and clear the waste and dispose of it on site. <p>2. Weigh bridge and waste assessment/classification office The inspection team asked Ms. Nomawethu Zilwa (weigh bridge controller) and Ms. Zakhithi Gumede (weighbridge assistant) in weigh bridge and waste assessment/classification office the following questions:</p> |
|--|---|

Handwritten signature and initials, possibly 'SR' and a stylized name.

| | | |
|--|--|---|
| | | <ul style="list-style-type: none"> • Please explain the process that is used at the weighing bridges? Ms. Nomawethu Ziliwa (weigh bridge controller) responded that when a new user comes in an account is created based on the information given to them including the postal address, cell phone and telephone numbers. The account is mailed to the address provided by the user and no money is received on site. Vehicle registration numbers and waste types are checked. If the vehicle is covered and weigh bridge officers are not sure of the contents, then the vehicle is manually checked. The site is not allowed to accept hazardous waste (medical waste), computers. • What problems you experience with the weighing and classification of waste? Ms. Nomawethu Ziliwa (weigh bridge controller) responded that people provide incorrect postal details. Some do not own the vehicles but are disposing of waste on behalf of the vehicle owner. Some vehicles do not want to be weighed as it takes too much time. • In an event like today where the weigh bridge is not working, what do you do? Ms. Nomawethu Ziliwa (weigh bridge controller) responded that they are recording the number of vehicles coming in, their registration number and the waste type being carried. Some companies require a receipt and they will provide them the next day with an estimate weight. • Do you know what type of waste is allowed and not allowed on site? Ms. Nomawethu Ziliwa (weigh bridge controller) responded that they know that they are not allowed to accept tyres, computers and hazardous waste like medical waste. • What do you do when someone brings hazardous waste or computers? Ms. Nomawethu Ziliwa (weigh bridge controller) responded that they refer the person to the Landfill site Manager or supervisor who will inform them of the correct place to dispose of their waste. • We can see cameras at the weigh bridge area. Do you use them? Ms. Nomawethu Ziliwa (weigh bridge controller) responded that the cameras have worked only once and are not used. When it is very hot the weigh bridge machine doesn't work. <p>3. Waste disposal area The inspection team asked four separate people disposing of waste at the site the following questions:</p> <ul style="list-style-type: none"> • Did you receive a waste acceptance note at the weigh bridge? All of the people interviewed responded that they did not receive an acceptance note when entering the site. |
|--|--|---|

Handwritten signature and initials at the bottom of the page.

| | | |
|--|--|--|
| | | <ul style="list-style-type: none"> • Was the waste that you are disposing of checked or assessed at the gate? All of the people interviewed responded that the waste was not checked. 4. Envitech Staff at monitoring boreholes The inspection team asked Mr. Vishen Singh and Mr. Prosper Bopoto from Envitech a company that has been employed to undertake the water quality monitoring at the site the following questions: <ul style="list-style-type: none"> • What are you doing on the site? Mr. Vishen Singh responded that they were from Envitech a company that has been employed to undertake the water quality monitoring at the site and were taking water and leachate samples for analysis. • How many boreholes and water quality testing sites are you sampling? Mr. Vishen Singh responded that there are 10 (ten) boreholes within the landfill site and one outside the site. One of the monitoring boreholes is blocked and is being re-drilled. There are surface water sampling points on the Msunduzi and Blackburrow Spruit rivers, upstream and downstream of the landfill site. • How often is the water quality monitoring done and where are the samples analysed? Mr. Vishen Singh responded that sampling is done every three months and sent to Talbot & Talbot for analysis. • Are the boreholes fitted with lockable caps? Mr. Vishen Singh responded that that there were lockable caps on the boreholes. |
| | <p>Copies of documents removed from site</p> <p>Documents requested and not received</p> <p>Key non-compliances identified</p> | <p>None</p> <p>n/a</p> <p>1. Observations were made that hazardous chemical containers, paint containers and paint products, whole tyres, motor oil containers have been disposed of at the site indicating that the waste assessment and classification system was not adequate.</p> <p>2. Large numbers of people using the disposal area in circumstances that pose significant health hazards. Observations were made that people have access to and are using stagnant and contaminated surface water on the site. Structures have been erected on the disposal area that include beds and sleeping areas which indicated that people may</p> |

| | | |
|--|-------------------------------|---|
| | | <p>be permanently living within the waste disposal site, being exposed to extremely hazardous situations.</p> <p>3. There was limited to no access control to the Site and an unmanned gate at the rear of the landfill site. Vehicles and pedestrians entering the site through this gate and the numerous pedestrian accesses, were unchecked and no record of waste entering or leaving the site through these gates/openings was taken.</p> <p>4. The vehicle maintenance area is being used for the servicing and repair of vehicles and plant. Extensive areas of oil contaminated soil exist within this area. Stormwater washing off the area flows directly to the Msunduzi River.</p> <p>5. Leachate was seeping into the environment from the dysfunctional leachate area and the toe of the landfill area.</p> |
| <p>Team C: Working face, leachate, storm water management</p> | <p>Areas/sections visited</p> | <ol style="list-style-type: none"> 1. Leachate management area; 2. Main waste disposal area; 3. Informal waste reclamation area; 4. Waste transfer area; 5. Wash bays and maintenance area; 6. Secondary access gate; 7. Monitoring boreholes <p>Mr. Innocent P. Mhlongo - Landfill Site supervisor Staff from EnvITech Solutions (found at the monitoring boreholes)</p> <p>The inspection team asked Mr. Mhlongo the Landfill Site Supervisor at the site the following questions:</p> <ul style="list-style-type: none"> • Where is the leachate from the landfill site being discharged to? Mr. Mhlongo stated that the leachate was discharged to the sewer, as they had a contract with Umgeni Water for the treatment of the leachate. Mr. Mhlongo further stated that there was previously a sump that was used to collect the leachate for pumping to the municipal sewerline. However the landfill manager found that the sump was leaking (discovered early 2014) and removed the sump in 2014 as part of the upgrade and repair to the leachate management system. Mr. Mhlongo also stated that the leachate was currently not going to the sewer line as the system was being repaired and that leachate was being landfilled to Danyill Sewage Treatment Works |
| <p>Key questions and answers regarding each area/section</p> | | |

| | |
|--|--|
| | <ul style="list-style-type: none"> • How was the leak in the sump of the leachate management system discovered? Mr. Mhlongo stated that the landfill management had noticed that despite the pump system being inactive the leachate level in the sump was not rising, despite the continued flow of leachate into the sump from the landfill site. • Are the monitoring boreholes are locked? Mr. Mhlongo stated that some of the boreholes are covered with lids, but are not locked. • Is there any re-circulation of leachate onto the landfill site? Mr. Mhlongo stated that there was no re-circulation of leachate onto the landfill. • Is there security provided on the site? Mr. Mhlongo stated that there is security at the landfill, but the security company did not have the capacity to stop the influx of people reclaiming waste from the landfill. • Why was waste collected and lying on the ground away from the working face in areas that had already been rehabilitated? Mr. Mhlongo stated that this was waste that was collected by the people reclaiming waste on the landfill and stored for later collection. • Is there an alien invasive eradication programme implemented at the landfill site? Mr. Mhlongo stated that there was not such eradication taking place other than the vegetation clearing and maintenance of the site, which began in February 2015. • When was the fence surrounding the landfill site constructed? Mr. Mhlongo stated that the fence construction began in 2013 and was being rolled out in phases. Mr. Mhlongo further stated that the fence was not yet completed and the people reclaiming waste from the landfill have already damaged the fence to gain access to the site. • Where did the oil spill at workshop adjacent the wash bays come from? Mr. Mhlongo stated that the oil had come from plant and vehicles that were serviced there as the plant and vehicles were old. • Where is the spilled oil at the workshop being disposed of? Mr. Mhlongo stated that the spilled oil was not cleaned up but rather that sand was spread over the oil spill and left that way. |
|--|--|

| | |
|--|--|
| | <ul style="list-style-type: none"> • Why are there oil and grease in containers left near the change room near the wash bays? Mr. Mhlongo stated that the grease and oil was from the contractor that serviced the plant and vehicles on site. • What is the height of the fence surrounding the landfill site? Mr. Mhlongo stated that the fence was 2.5 metres in height • Why is the working face of the landfill not covered? Mr. Mhlongo stated that the landfill management has had problems with the reliability of the plant and machinery for the covering and compaction of the waste disposed at the working face of the landfill. Mr. Mhlongo further stated that this had been a problem for four weeks prior to the inspection. Mr. Mhlongo also stated that the landfill had been without an operating compactor up until 6 March 2015 and that due to heavy rains areas of the working face could not be accessed until the areas dry out. • What is the soil material that is stockpiled adjacent to the transfer station being used for? Mr. Mhlongo stated that this material was going to be used for cover material to cover waste on the working face. • Why are there two working faces on the landfill site? Mr. Mhlongo stated that the one area was being filled because of the level of the landfill in that area being required to be built up for the construction of the berm for the control of waste and stormwater on the landfill as part of the landfill upgrade. • What is being disposed of on the landfill site? Mr. Mhlongo stated that there is only general waste being accepted on the landfill. Mr. Mhlongo also stated that general waste was being accepted from Msunduzi, Mkhambathini and uMshwathi Local Municipalities. • Does the landfill site accept condemned meat and how this waste is disposed of on site? Mr. Mhlongo stated that the landfill did accept condemned meat from the slaughter houses as well as stomach contents. Mr. Mhlongo further stated that this waste is only accepted on appointment and that a trench is dug in the waste before that waste is delivered to the landfill and is covered immediately thereafter. Mr. Mhlongo further stated that no medical waste or dead domestic animals were accepted at the landfill. |
|--|--|

SR
A

| | | |
|--|--|---|
| | | <ul style="list-style-type: none"> • Are batteries or fluorescent tubes accepted at the landfill site? Mr. Mhlongo stated that batteries and fluorescent tubes are not accepted, however they had no control over what waste was delivered in black bags as general waste. • is there a protocol in place for screening the waste that comes into the landfill site? Mr. Mhlongo stated that there is a protocol for screening waste coming into the site and that the weighbridge operator assistant checks the waste being delivered to the landfill. • How many waste reclaimers frequent the landfill site working face? Mr. Mhlongo stated that there were approximately 400 reclaimers on the working face • What is the approximate airspace of the landfill site? Mr. Mhlongo stated that the airspace is approximately seven years without any recycling taking place, but with recycling of the waste this would extend the life of the landfill. • Is the transfer station within the landfill site lined? Mr. Mhlongo stated that the waste material stored at the transfer station is on bare soil and the area is not lined. • Are empty oil containers ever disposed of at the landfill by the fuel stations? Mr. Mhlongo stated that the fuel stations do not dispose of at the landfill working face or transfer station, but there is a Rose Foundation station at the landfill site for the disposal of oil and grease. Mr. Mhlongo further stated that the Rose Foundation collects the oil and grease as soon as the collection receptacle is full. • Does the landfill accept industrial sludge? Mr. Mhlongo stated that the landfill did accept industrial sludge from bakeries. Mr. Mhlongo further stated that the industrial sludge being disposed of is by appointment only and that a trench is dug in the waste before that waste is delivered to the landfill and is covered immediately thereafter. • Why is the access gate at the rear of the landfill site open and not controlled and who uses this gate? Mr. Mhlongo stated that the gate is used by municipal staff for the collection of water from the fire hydrant for dust suppression. Mr. Mhlongo further stated that there was a guard that patrols the gate, but he patrols between the gate and the wash bay. |
|--|--|---|

Handwritten signature and initials at the bottom of the page.

| | | |
|---|---|---|
| | <p>Copies of documents removed from site</p> <p>Documents requested and not received</p> <p>Key non-compliances identified</p> | <p>Why were the stock piles of soil and construction rubble stored adjacent to the transfer station?</p> <p>Mr. Whlongo stated that the stock piles are disposed of as waste material and that the landfill management intended to make use of this material as cover material on the working face of the landfill. Mr. Whlongo further stated that the landfill management would ordinarily import cover material from an external source</p> <p>The inspection team asked the staff from EnvITech Solutions who were at the monitoring boreholes the following question:</p> <ul style="list-style-type: none"> • Are you monitoring the boreholes and what is the frequency of the monitoring? <p>The representatives from EnvITech stated that they are monitoring the boreholes on a quarterly and an annual basis. Furthermore the representatives from EnvITech stated that they monitor groundwater, surface water, leachate and the landfill gas levels.</p> <p>See Annexure D</p> <p>See Annexure D</p> <ol style="list-style-type: none"> 1. No effective leachate management system is in place within the landfill site. The leachate collection and disposal system are currently dysfunctional. 2. No repair or maintenance work was currently taking place on the leachate system in spite of the system being in a state of disrepair. 3. There is inadequate operation of the site in accordance with the Minimum Requirements. The working face of the landfill was not being effectively compacted and covered. 4. Excessive waste is stored at the transfer station which was providing condition for flies and odour arising from the landfill site. The transfer station area is not lined and there is no stormwater management or management of contaminated water. 5. Informal waste recovery and recycling is taking place on the site and this is posing significant human health and safety risks. |
| <p>B. RECORDS REVIEWED AND GATHERED</p> <p>Records copied and taken</p> <p>Where were the records kept, and who was in charge of them?</p> <p>See Annexure D. A receipt for this list, in handwritten/typed form, was signed by Mr Cyril Naidoo on 10 March 2015</p> <p>Records were kept in the Landfill site office under the control of Mr Cyril Naidoo, the Landfill site manager.</p> | | |

| | |
|---|--|
| What selection method was used to review records? | Documents related to key issues and impacts were selected for review. These records selected were primarily related to the monitoring of the potential impacts of the landfill site. |
| 9. SUPPORTING DOCUMENTS AND PHOTOS | |
| Documents | Annexure A: Inspection Teams Annexure B: List of mandated legislation and authorisations Annexure C: Opening Meeting Attendance Register Annexure D: Documentation copied at New England Road Landfill Site 10 and 11 March 2015 Annexure E: Photographs |
| Photographs | TEAM B: Annexure E1: "Photo 12", "Photo 61" TEAM C: Annexure E2: "Photo 62", "Photo 129" |

SB

10. FINDINGS OF NON-COMPLIANCE, IF ANY

| Legislative provision/authorisation condition | Details of non-compliance |
|--|---|
| <p>Authorisations (applicable to the site) Section 20(1) ECA Waste Permit: [Waste Management Permit for the New England Road Landfill site, dated 22 April 1996, Ref No. 16/217/U203/D3/Z1/P84]</p> <p>Condition 2.1 on page 2 of the permit requires that any portion of the site which has been constructed or developed according to condition 3 of the permit may be used for the disposal of all waste types which are classified according to the latest "Minimum Requirements" series of documents as published by the Department, as suitable for disposal at a general disposal facility, excluding those waste types listed in Annexure 1.</p> <p>Condition 2.2 on page 2 of the permit requires that the permit holder must also take all reasonable steps to ensure that- 2.2.1: no organic or inorganic elements or compounds which may have a definite acute or chronic negative effect on human health and/or the environment, due to its toxic, physical, chemical or persistent characteristics and which correspond with the UNEP definition of hazardous wastes is disposed of on</p> | <p>The inspection team observed that waste being accepted at the disposal site garden refuse (tree cuttings, lawn cuttings), builder's rubble (broken bricks/ cut up boards, renovation rubble), mixed waste and domestic waste. The team was informed that no hazardous waste (medical), computers or tyres are accepted however observations were made that hazardous chemical containers, paint containers and paint products, whole tyres, motor oil containers have been disposed of at the site. In some locations at the working face there were prominent odours of paint and thinners. Refer to photo No.s: 10, 11, 12, 13, 14, 15, 16, 17, 21, 22, 23, 28, 27 and 51 in Annexure E1.</p> <p>The inspection team observed that that hazardous chemical containers, paint containers and paint products, whole tyres, motor oil containers have been disposed of at the site. In some locations at the working face there were prominent odours of paint and thinners. Refer to photo No.s: 10, 11, 12, 13, 14, 15, 16, 17, 21, 22, 23, 26, 27 and 51 in Annexure E1.</p> <p>Mr Naidoo informed the inspection team that waste entering the site was screened at three locations to prevent unauthorised wastes from being disposed of at the Site. This was by the security officials at the security office at the main gate, by the weigh bridge controllers at the weigh bridge and by the on-site foreman at the working face.</p> <p>The inspection team however observed that the security guards were not stationed at the gate and were not screening waste before entering the site. Furthermore the security guards do not have training in waste assessment or classification. The staff within the weigh bridge office were undertaking rudimentary waste classification from a distance within the weigh bridge office and making assumptions on the types of waste being brought to the site. The on-site foreman did not appear to be screening or assessing waste being disposed of at the working face.</p> |

AS

| | |
|---|--|
| <p>the Site; 2.2.2: no medical waste is disposed of on the Site; and 2.2.3: no scheduled pharmaceutical products registered in terms of the Medicines and Related Substances Control Act, 1965 (Act 101 of 1965) or associated containers, are disposed of on the Site.</p> | |
| <p>Condition 3.1 on page 2 of the permit requires that the construction of further development within the site must be in accordance with the approved plan number WMD4L, dated June 1996.</p> | <p>A copy of the plan was not provided to the inspection team, therefore compliance to the condition could not be verified.</p> |
| <p>Condition 3.2 on page 3 of the permit requires that construction of further development within the site which are not shown on the approved plan, as described in condition 3.1, may only be undertaken by the permit holder, after specified engineering plans have been sighted to and approved in writing by the Regional Director.</p> | <p>Mr Naidoo informed the inspection team that there has been no further development on the site. It must be noted that the permit is an amended version. The inspection team requested a copy of the initial amendment application to verify what was amended and if said condition applies. A copy of documentation dated 20 July 1998 submitted by the Pietermaritzburg-Msunduzi Transitional Local Council (now the Msunduzi Municipality) to the Department of Water Affairs & Forestry; and, a copy of a Permit application and environmental impact control report produced by Lombard & Associates dated 11 December 1991 was submitted electronically after the audit. No approved amendment permit or written approval from the Regional Director could not be provided and compliance to the condition could not be verified.</p> |
| <p>Condition 3.3 on page 3 of the permit requires that the construction of further development within the site must be carried out under the supervision of a professional civil engineer, registered under the</p> | <p>Mr Naidoo informed the inspection team that there has been no further development on the site. Observations on the Site indicate additional phases of the disposal site and upgrades are being undertaken on the site. No proof of approval of these further developments or proof of the working being carried out by professional civil engineers could not be provided. Compliance to the condition could not be verified.</p> |

82

| | | |
|--|---|--|
| <p>Engineering Profession of South Africa, 1990 (Act 114 of 1990) as proposed by the permit holder and approved by the Regional Director.</p> | <p>Condition 3.4 on page 3 of the permit requires that after construction of further development within the site is completed by the person referred to in condition 3.3 according to plans for which approval has been obtained in terms of condition 3.1, the permit holder must notify the Regional Director thereof before disposal may commence on that portion within the site.</p> | <p>The inspection teams were informed by Mr Naidoo, there has been no further development on the site. Observations on the site indicate additional phases of the disposal site and upgrades are being undertaken on the site. No proof of notification of the Regional Director could not be provided. Compliance to the condition could not be verified.</p> |
| <p>Condition 3.6 on page 3 of the Permit requires that works constructed in compliance with condition 5 must be of such a capacity as to maintain a freeboard of half a metre and to accommodate - (a) all stormwater runoff, which could be expected as a result of the estimated maximum precipitation during a period of 24 hours with an average frequency of once in one hundred years; and, (b) all expected leachate.</p> | <p>The inspection team observed that there was no effective leachate management system within the landfill site, but rather an unlined pit dug in the ground into which the leachate was being discharged. The inspection team was informed that the landfill site management became aware that the leachate collection sump was leaking in early 2014. The sump was removed in late 2014. The leachate collection and disposal system are dysfunctional. Observations were made that the leachate is seeping out below the leachate collection area potentially contaminating surface and ground water. Refer to photo No.s: 4, 49 & 50 in <u>Annexure E1</u>. Refer to photo No.s: 62, 63, 64, 65, 66, 68 & 69 in <u>Annexure E2</u>.</p> | |
| <p>Condition 3.7 on page 3 of the permit requires that works constructed in compliance with condition 3.6 must, on a</p> | <p>The inspection team observed that there was no repair work currently taking place on the leachate system in spite of the system being in a state of disrepair. Refer to photo No.s: 62, 63, 64, 65, 66, 68 & 69 in <u>Annexure E2</u>.</p> | |

Handwritten signature and initials at the bottom of the page.

| | |
|--|---|
| <p>continuous basis, be properly maintained.</p> | <p>Mr Naidoo informed the inspection team that a baseline stability test would have been conducted when the Site was established, however said analysis/testing was not provided. Compliance to the condition could not be verified.</p> |
| <p>Condition 3.8 on page 3 states that the site must be constructed in accordance with recognised civil engineering practice, with special consideration to stability.</p> | <p>Mr Naidoo informed the inspection team that the landfill site has approximately 7 years of airspace left. Mr Naidoo presented the team with a document produced in 2007 that has been used to calculate the remaining airspace of the Site. This however did not include the current or potential maximum height above mean sea level of the Site. Compliance to the condition could not be verified.</p> |
| <p>Condition 3.9 on page 3 of the permit requires that the maximum height of the Site must not exceed 654 metres above mean sea level.</p> | <p>The inspection team observed that there were no abatement facilities provided for the large number of waste recyclers that are on the site. The security guards questioned at the main entrance gate informed the inspection team that they do not have access to toilet facilities as these were reserved for the municipal staff working at the site. Adequate sanitation facilities were not available on site</p> |
| <p>Condition 3.11 on page 3 of the permit requires that the Permit Holder must make provision for adequate sanitation facilities on the site.</p> | <p>The inspection team observed that there was inadequate operation of the site in accordance with the Minimum Requirements. It was observed that there was not sufficient plant on site as the waste was being stock piled in large quantities at the transfer station reportedly due to a lack of operational plant. Also the inspection team observed that the working face of the landfill was not being covered reportedly due to the lack of plant. Refer to photo No.s: 28 in Annexure E1. Refer to photo No.s: 96, 97, 98, 99, 100, 116, 117, 118, & 119 in Annexure E2.</p> |
| <p>Condition 4.1.1 on page 3 of the permit requires that waste disposal and operation of the Site must be done in accordance with the Minimum Requirements, the Reports, the conditions of this permit and any other written direction issued by the Regional Director to the Permit Holder.</p> | <p>Insufficient cover material was available at the working area of the site to ensure that waste can be covered after disposal.</p> <p>The inspection team observed that there was no effective leachate management system within the landfill site, but rather a unlined pit dug in the ground into which the leachate was being discharged. No repairs were being undertaken to the dysfunctional leachate collection system.</p> <p>It was observed that inadequate classification and assessment of waste was being undertaken. Rudimentary classification of waste was undertaken at a distance from the weigh bridge office however no physical verification was undertaken. Cameras that could be used to take an overhead picture of the waste and the vehicle registration are available however are not working.</p> |

| | |
|--|--|
| <p>Condition 4.2.1 on page 4 of the permit requires that the Permit Holder must take all reasonable steps, such as suitable zoning, written agreements with adjacent landowners, buying out land and/or obtaining a servitude to prevent the development of further residential and/or light industrial areas closer to the site than -</p> <ul style="list-style-type: none"> (a) 165 metres to the north-west, which is the distance to Moon Market garden at the date of the permit; (b) 180 metres to the north, which is the distance to Sobantu Village at the date of this permit; and, (c) 800 metres to the east, south and west, during the operative life of the site. | <p>The inspection team was informed that non-permitted waste types are rejected. However waste classified as hazardous waste or non-permitted wastes were observed on site. Refer to photo No.s: 10, 11, 12, 13, 14, 15, 16, 17, 21, 22, 23, 26, 27 and 51 in Annexure E1.</p> <p>Mr Naidoo informed the inspection team that he was not aware of any encroachments into the defined buffer areas. Observations within the buffer area and with Google Earth images indicate that a housing development has been approved and developed within the buffer area to the south-east of the Site. Refer to photo No.s: 129 in Annexure E2.</p> |
| <p>Condition 4.2.2 on page 4 of the permit requires that the Permit Holder must submit written proof to the Regional Director of the steps taken according to condition 4.2.1, within one year from the date of this Permit.</p> | <p>A copy of written proof was not provided to the inspection team, therefore compliance to the condition could not be verified.</p> |
| <p>Condition 4.3.1 on page 4 of the permit requires that waste disposed of on the site must be compacted and covered at the</p> | <p>The inspection team observed that there was no cover material being placed on the working face and that there had not been any cover material placed on the working face for an extended period of time Refer to photo No.s: 96, 97, 98, 99, 100 in Annexure E2.</p> |

| | |
|--|---|
| <p>end of each working day with a minimum of 150 millimetres of soil or other material approved by the Regional Director.</p> | |
| <p>Condition 4.3.2 on page 4 of the permit requires that waste disposed of on the Site may not be reclaimed.</p> | <p>Mr Naldao informed the inspection team that there are informal waste pickers on site. According to page 20 of the External Audit for the New England Road Landfill Site, dated September 2014, informal reclaimers were present. Furthermore a recommendation to inhibit and discourage reclamation from the site and upgrade and maintain access control to the site was made by EnviTech Solutions. This however, was not done.</p> <p>Observations made on site are that there is extensive informal waste reclamation occurring on site. The inspection team was informed by Mr Mhlongo that there are approximately 400 informal waste collectors active on the site. Refer to photo No.s: 79, 81, 103, 104, 105, 106, 107, 108, 109, 111, 112, 113 & 114 in Annexure E2.</p> |
| <p>Condition 4.3.3 on page 4 of the permit requires that the Permit Holder must take all reasonable steps to ensure that the Site is operated in such a manner that that nuisance conditions or health hazards, or the potential creation of nuisance conditions or health hazards, are prevented.</p> | <p>The inspection team observed that there was excessive waste stored at the transfer station which was providing condition for the breeding of flies. Also it was observed that the waste on the landfill site had not been covered for an extended period of time adding to the breeding of flies and odour arising from the site. It was observed that there were excessive flies and odour arising from the landfill site.</p> <p>The inspection team observed numbers of people using the disposal area in circumstances that pose significant health hazards. Observations were made that people have access to and are using stagnant and contaminated surface water on the site. Structures have been erected on the disposal area that include beds and sleeping areas which indicated that people may be permanently living within the waste disposal site, being exposed to extremely hazardous situations. Refer to photo No.s: 8, 9, 18 & 19 in Annexure E1.</p> |
| <p>Condition 4.3.4 on page 4 of the permit requires that the Permit Holder must use moveable fences to control wind-blown waste.</p> | <p>The inspection team observed that there were no moveable fences or collection of windblown waste on the entire landfill site.</p> |
| <p>Condition 4.3.5 on page 5 of the permit requires that indigenous trees must be established on the screening berm around the Site to effectively screen the Site from the nearby roads and residential areas.</p> | <p>The inspection team observed that there is no tree screening at the boundary of the landfill adjacent the Sobantu Village</p> |

| | |
|--|---|
| <p>Condition 4.3.10 on page 5 of the permit states that the permit holder must prepare a contingency plan to be followed when measured levels of flammable gas reaches the levels as referred to in condition 7.1.3. This plan must be submitted to the Regional Director within four (4) months from the date of this Permit.</p> | <p>Mr Nalidoo provided the inspection team with a Contingency Management Plan, undated and unsigned. The inspection team noted that flammable gas has not been addressed within this Contingency Management Plan. Furthermore this Plan has not been approved by the Regional Director as required.</p> |
| <p>Condition 4.4.1 on page 5 of the permit requires that the Permit Holder must prepare a weatherproof area, as close to the entrance gate as possible and within the Site, where waste arriving at the Site after operational hours, can be temporarily stored. Waste stored in this area must be removed to the active working area on the Site before 10h00 the next morning.</p> | <p>The inspection team observed that there are excessive amounts of waste stored at the transfer station, which is reportedly stored due to the lack of operating plant and machinery to compact and cover the working face. It was observed by the inspection team that this transfer station area is not lined and there is no stormwater management or management of contaminated water. Refer to photo No.s: 28, 29, 30, 31, 32, 33 and 34 in <u>Annexure E1</u>. Refer to photo No.s: 116, 117, 118 & 119 in <u>Annexure E2</u>.</p> |
| <p>Condition 4.4.2 on page 5 of the permit requires that the permit holder shall accept waste on the active working area of the site only between 07h00 and 17h00 during weekdays and between 07h00 and 14h00 on Saturdays.</p> | <p>Mr Nalidoo informed the inspection team that the site operates between 07h00 and 18h00 on weekdays and from 08h00 to 15h00 on weekends and public holidays. Upon review of page 25 of the External Audit for the New England Road Landfill Site, dated September 2014, no written approval from the Department has been obtained to extend the operating hours.</p> |
| <p>Condition 4.4.3 on page 5 of the permit requires that waste disposed of on the active working area of the Site must be compacted and covered before 18h00 on weekdays and before</p> | <p>The inspection team observed that waste disposed of at the site is not being adequately covered every day. Refer to photo No.s: 98, 97, 98, 99, 100 in <u>Annexure E2</u>.</p> |

| | |
|---|--|
| <p>15h00 on Saturdays. No heavy machinery shall be in operation on the Site on Sundays, or between 18h00 on weekday evenings; or 15h00 on Saturday afternoons and 6h00 the following mornings, except at the area described in condition 4.4.1.</p> | |
| <p>Condition 4.5.1 on page 5 of the permit requires that weatherproof, durable and legible notices in two official languages applicable in the area, must be displayed at each entrance to the Site. These notices must prohibit unauthorised entry and state the hours of operation, the name, address and telephone number of the Permit Holder and the person responsible for the operation of the Site.</p> | <p>The inspection team notes that signage was available at the main entrance gate. Signage was however not available at all entrance gates, including the numerous pedestrian access areas that have been established. Refer to photo No.s: 35, 48, 54, 56, 57, 58, 59 & 60 in <u>Annexure E1</u>.</p> |
| <p>Condition 4.5.2 on page 5 of the permit requires that the Site must be fenced to a minimum height of 1.8 metres, with gates at the same height at all entrances, to reasonably prevent unauthorised entry and to curtail the spreading of wind-blown and plastic material.</p> | <p>The inspection team observed that the majority of the Site is fenced with concrete palisade fencing that extends approximately 2.5 metres high. A small section at north east of the site is fenced with barbed wire. There a numerous access points for pedestrian access that have been purposefully left unfenced, and portions of the fence have been broken to allow access or have been damaged by flooding. Refer to photo No.s: 35, 48 & 54 in <u>Annexure E1</u>. Access control was only observed at the main gate and the alternative access at the back of the site was left open unattended. Refer to photo No.s: 36 in <u>Annexure E1</u>, Refer to photo No.s: 82 in <u>Annexure E2</u>.</p> |
| <p>Condition 4.5.4 on page 5 of the permit requires that the Permit Holder must ensure that all entrance gates are manned during the hours of operation and locked outside of the hours of operation.</p> | <p>The inspection team observed that there was an unmanned gate at the rear of the landfill site. The inspection team further observed that there were vehicles and pedestrians entering the site through this gate and numerous pedestrian accesses unchecked and no record of waste entering or leaving the site through these gates/openings was taken by the landfill management. Refer to photo No.s: 35, 48 & 54 in <u>Annexure E1</u>. Refer to photo No.s: 80, 82 & 103 in <u>Annexure E2</u>.</p> |

| | |
|--|---|
| | <p>The inspection team was informed that the main access gate is locked every day outside of the operating hours. Only municipal waste collection vehicles are allowed to enter after these hours</p> |
| <p>Condition 4.5.5 on page 5 of the permit requires that the Permit Holder must ensure effective access control.</p> | <p>The inspection team observed that there is very limited access control to the site, as it can be accessed by foot and vehicle without access control. Refer to photo No.s: 38, 48, 54 in Annexure E1. Refer to photo No.s: 80, 82 & 103 in Annexure E2.</p> |
| <p>Condition 4.5.8 on page 5 of the permit requires that the Permit Holder must take all reasonable steps to prevent the disposal of waste on the Site for which the Site has not been approved.</p> | <p>The inspection team observed that there is inadequate screening and assessment of waste entering the site. Mr Naidoo informed the inspection team that waste is screened at three locations before being disposed of. Observations made on site were that there was only a rudimentary screening process at the weigh bridge and reasonable measures are not being taken to prevent the disposal of waste at the site for which approval has not been approved.</p> |
| <p>Condition 4.5.7 on page 6 of the permit requires that notices prohibiting unauthorised persons from entering the Site, as well as an internationally accepted sign indicating the risks involved in unauthorised entry must be displayed at 100-metre intervals along the boundary of the Site.</p> | <p>The inspection team observed that there was a sign at the main entrance gate, but nothing at the rear entrance gate of the landfill site or at 100 metre intervals along the fence of the site indicating unauthorised access to the site and risks involved with access to the site. Refer to photo No.s: 35, 48, 56, 57, 58, 59 & 60 in Annexure E1. Refer to photo No.s: 82 in Annexure E2.</p> |
| <p>Condition 5.2.5, on page 7 of the permit requires that runoff water arising from operational actions, for example the washing of vehicles and containers, must be regarded as contaminated runoff and must be treated according to condition 5.3.1.</p> | <p>The inspection team observed that the vehicle maintenance area is being used for the servicing and repair of vehicles and plant. Extensive areas of oil contaminated soil exist within this area. Stormwater washing off this area flows directly to the Msunduzi River. Refer to photo No.s: 37, 38, 39, 40, 42, 43 & 44 in Annexure E1. Refer to photo No.s: 80, 94, 95 in Annexure E2.</p> |
| <p>Condition 5.3.1 on page 7 of the permit requires that all leachate from the Site, including contaminated runoff water, must be collected in works constructed according to condition 3.8 and -</p> | <p>The inspection team observed that there was no effective leachate management system within the landfill site, but rather a unlined pit dug in the ground into which the leachate was being discharged. Mr Naidoo informed the inspection team that the leachate sump was leaking and that it had been removed. Work had been done to repair the system. Observations were made that the sump had been removed for some time and currently the leachate was flowing into an unlined pit. Refer to photo No.s: 4, 49 & 50 in Annexure E1. Refer to photo No.s: 62, 63, 64, 66, 66, 68 & 69 in Annexure E2.</p> |

| | |
|--|--|
| <p>5.3.1.1 5.3.1.2 5.3.1.3 discharged into any convenient sewer, provided that written proof has been supplied to the Regional Director that the authority in control of that sewer will accept that leachate and bear responsibility for the impact it may have on the operation of this sewerage works.</p> | <p>Mr Naidoo informed the inspection team that the facility is currently discharging their leachate into the Umgeni Wastewater Works. Proof of the contract between the facility and Umgeni Water and/ or approval from Umgeni Water allowing for said discharge dated 11 May 1997 was provided.</p> |
| <p>Condition 6.1.2 on page 7 of the permit requires that as part of the groundwater monitoring network the permit holder must within the financial year starting 1 April 1998, construct-</p> <p>(a) An additional borehole to be used as a background monitoring point; and</p> <p>(b) Additional boreholes as proposed by the permit holder in the letter dated 28 October 1992 from Lombard and Associates</p> <p>The location of these boreholes must be determined in consultation with the Regional Director</p> | <p>The facility was requested to provide documentary proof of the letter dated 28 October 1992 as mentioned above, and this could not be provided. Furthermore Mr Naidoo informed the inspection team that the boreholes were not determined in consultation with the Regional Director.</p> |
| <p>Condition 6.1.4 on page 8 of the permit requires that groundwater monitoring of the network described in condition 6.1.1 must be conducted during each monitoring occasion in terms of</p> | <p>Observations were made by the team that groundwater monitoring samples were being collected from the borehole network. Refer to photo No.s: 92 & 93 in <u>Annexure E2</u>.</p> <p>Upon review of page 15 of the Monitoring of Gas, Water Quality and Leachate Monitoring report dated June 2013, Reference 453-2013, the inspection team noted that the shallow aquifer is being impacted upon by contamination from landfill leachate. Alkalinity, ammonia, chemical oxygen demand and electrical conductivity</p> |

| | |
|--|---|
| <p>condition 6.3, starting in July 1998.</p> | <p>show a substantial increase in these parameters. The impact originate from boreholes P1S, P2S and P3S. Boreholes P1D and P2D also show contamination in the deep aquifer. The E. coli level in borehole P4D suggest contamination of the deep aquifer and may be the result of an overflowing sewer manhole in the vicinity.</p> |
| <p>Condition 6.1.5 on page 8 of the permit requires that monitoring boreholes must be equipped with lockable caps.</p> | <p>The inspection team observed that there were no lockable caps on any of the boreholes inspected. Refer to photo No.s: 73, 74, 76, 78 & 77 in Annexure E2.</p> |
| <p>Condition 6.2.1 on page 8 of the permit states that background monitoring of surface water must be conducted during each monitoring occasion in terms of condition 6.3-</p> <ul style="list-style-type: none"> (a) In the Msunduzi River at the monitoring point numbered K5 (b) In the Blackburrow Spruit at the monitoring point numbered B5; and (c) At any other locations identified by the Regional Director, which will be upstream of the Site | <p>The inspection team was informed by Mr Naidoo and EnvTech officials that surface water monitoring was being undertaken at the points specified.</p> <p>According to pages 16-18 of the Monitoring of Gas, Water Quality and Leachate Monitoring report dated June 2013, Reference: 453-2013, surface water samples are taken at Blackborough Stream and Msunduzi River. Results show downstream exceedances of ammonia at Blackborough Stream; upstream and downstream exceedances of E. coli at Blackborough Stream and Msunduzi River; and, exceedances in total phenols downstream in the Msunduzi River.</p> |
| <p>Condition 6.3.1 on page 9 of the permit require that monitoring of the ground and surface water quality network must be conducted at the locations specified in conditions 6.1.1, 6.2.1, 6.2.2, 6.2.3 and 6.2.4-</p> <ul style="list-style-type: none"> (a) quarterly (handwritten as quarterly) for the variables listed in Annexure III; as well as (b) bi-annually during the months of September and | <p>The inspection team requested copies of the quarterly and bi-annual monitoring reports. Mr Naidoo could only provide reports at an inconsistent frequency. Compliance to the condition could not be verified.</p> |

SP

| | |
|--|--|
| <p>March for the additional variables listed in Annexure IV.</p> | <p>Mr. Naideo provided the inspection team with Monitoring of Gas, Water Quality and Leachate monitoring reports.</p> |
| <p>Condition 7.1.3 states that the atmospheric levels in the atmosphere of (a) Carbon dioxide must not exceed 0.5%; and (b) Methane must not exceed 1% by volume in air at the monitoring locations specified in condition 7.1.1.</p> | <p>According to page 9 of the "Supplies and Services Contract" No 46 of 2014, Reference:507-2014, dated December 2014, methane levels were in excess of the permit condition of 1%v/v and were detected in boreholes P1S, P2S and P1D. Carbon dioxide levels were also in excess of the permit condition of 0.5% detected in GMP1, GMP2, GMP3, GMP4, GMP5, GMP8, GMP9, GMP12, GMP14, GMP15 and boreholes P1S, P2S, P1D, P2D and P3S. Page 10 of said report states that elevated CO² levels in landfill gas probes to the west and north of the site have suggested possible landfill gas migration in this area.</p> <p>According to the Monitoring of Gas, Water Quality and Leachate monitoring report dated June 2013, Reference: 453-2013, page 21 states that methane was exceeded in P1S and P1D and CO² levels were exceeded in GMP1, GMP4, GMP5, GMP6, GMP7, GMP8, GMP9, GMP10, GMP11, GMP13, GMP14, GMP15 and boreholes P1S, P1D, P2S, P3S and P4S.</p> <p>There have been numerous exceedences identified within the monitoring of landfill gas within the boreholes and probes. The landfill gas monitoring shows evidence of landfill gas migration to the north and west of the site. There are no buildings or enclosed spaces in this area and Methane levels are well below the 5% v/v in air (below the explosive range), which indicates that the landfill gas migration poses limited risk. A higher frequency of landfill gas monitoring is recommended and that new landfill gas monitoring probes be installed.</p> <p>There are currently no measures in place to prevent or reduce the levels of methane and CO² levels on site.</p> |
| <p>Condition 7.1.5 on page 10 of the permit requires that should measurements of the gas monitoring network at any time exceed the limits specified in condition 7.1.3 the Permit Holder must report this as an incident according to condition 13.1.</p> | <p>No documents indicating that an incident was reported in accordance with condition 13.1 could be provided to the inspection team, therefore compliance to the condition could not be verified.</p> |
| <p>Condition 7.2.1 on page 10 of the permit states that the permit holder must within 60 days from the date of the permit, submit a</p> | <p>No Air quality, gas and dust monitoring programme could be provided to the inspection team, therefore compliance to the condition could not be verified.</p> |

| | |
|--|--|
| <p>proposal for a comprehensive air quality, gas and dust monitoring program to the Department for approval by the regional director, which must address the following aspects:</p> <ul style="list-style-type: none"> (a) A monitoring procedure for the site (b) Monitoring of flammable gas according to condition 7.1 (c) On and off-site monitoring of additional air quality variables not described in condition 7.1 including dust; and (d) Post – closure monitoring. | |
| <p>Condition 9.1.1 on page 11 of the permit requires that Internal audits must be conducted quarterly by the Permit Holder and on each audit occasion an official report must be compiled by the relevant auditor to report the findings of the audit (and that meets conditions 9.2.2 and 9.2.3), which must be made available to the external auditor specified in condition 9.2.1 and the Department according to condition 9.3.2 and 13.2.2.</p> | <p>The inspection team requested copies of the quarterly internal audit reports. Mr Naidoo could only provide reports at an inconsistent frequency. Compliance to the condition could not be verified.</p> |
| <p>Condition 9.2.1 on page 11 of the permit requires that the Permit Holder must appoint an independent external auditor to audit the Site bi-annually and this auditor must compile an audit</p> | <p>The inspection team requested copies of the external audit reports. Mr Naidoo could only provide reports at an inconsistent frequency. Compliance to the condition could not be verified.</p> |

| | |
|--|---|
| <p>report documenting the findings of his audit, which must be submitted by the Permit Holder according to condition 13.2.3</p> | |
| <p>Condition 13.3.1 on page 13 of the permit requires that the information required in terms of condition 12.1 must be submitted to the Regional Director within a period of one year from the date of issuing of this permit and annually thereafter.</p> | <p>Proof of submission of said information could not be provided to the inspection team. Compliance to the condition could not be verified.</p> |
| <p>Condition 13.2.3 on page 13 of the permit requires that each external audit report referred to in condition 9.2 must be submitted to the Regional Director and the Monitoring Committee within 30 days from the date on which the external auditor finalised the audit.</p> | <p>Proof of submission of this could not be provided to the inspection team. Compliance to the condition could not be verified.</p> |
| <p>Condition 13.3.2 on page 13 of the permit requires that the information in terms of condition 6 and 7 must be reported to the Regional Director, in the format specified in condition 12.2 where applicable within a period of 30 days following the analysis of the samples. The information must also be included into a trend report, which must contain a graphical presentation of all results obtained previously at any specific sampling point, as well as an interpretation and discussion of the results of each monitoring occasion.</p> | <p>Mr Naidoo informed the inspection team that this information is not submitted to the Regional Director.</p> |

| | |
|---|---|
| <p>Condition 16.5 on page 14 of the permit states that unless otherwise specified elsewhere in this permit, this permit will be completely reviewed 5 (five) years from the date on which this permit was issued.</p> | <p>Mr Naidoo informed the inspection team that the permit has not been reviewed from the date of issue.</p> |
| <p>NATIONAL WASTE INFORMATION REGS, 2012</p> | |
| <p>Regulation 8: Landfill sites must submit quarterly waste information within 60 days of the end of each quarter.</p> | <p>These records were not provided to the inspection team and compliance to this regulation could not be verified.</p> |
| <p>Regulation 9: Quarterly Waste Information records must be retained for at least 5 years, and be available for inspection.</p> | <p>These records were not provided to the inspection team and compliance to this regulation could not be verified.</p> |
| <p>WASTE CLASSIFICATION & MANAGEMENT REGS, 2013</p> | |
| <p>Does the landfill system have records of assessment of waste received for landfill disposal?</p> | <p>The landfill site records the types of waste received at the Site. Observations by the inspection team were that the assessment and classification system for waste being disposed on the Site were not adequate to screen and classify waste.</p> |
| <p>Landfill site must have records of the classification in terms of the 'Minimum Requirements for Classification of Hazardous Waste' or the assessment in terms of the 'National Norms and Standards for the Assessment of Waste for Landfill Disposal' for each waste stream.</p> | <p>These records were not provided to the inspection team and compliance to this regulation could not be verified.</p> |
| <p>If any hazardous waste is going on to a general landfill site then there must be proof of delisting of the hazardous waste (this will be a document from the DEA)</p> | <p>Mr Naidoo informed the inspection team that no Hazardous waste is disposed of at the site. No proof of delisting of hazardous waste that was being disposed of at the Site were observed and Compliance with this requirement could not be verified.</p> |

Copies of the waste manifest document for each consignment of waste (see Regulation 11). The waste manifest document must include all the information listed in Annexure 2 of the Regulations.

Waste manifest documents are issued for each consignment of waste when the weigh bridge is functioning. During the inspection it was observed that waste manifests were not being issued to consignments of waste being disposed of at the Site, and the inspection team was informed that these would only be issued the following day on request to companies that require these. Compliance with this requirement could not be verified.

[Handwritten signature]
31

| UNAUTHORISED ACTIVITIES | | |
|---|---|---|
| <p>Section 26 (1)(a)(b) of NEM:WA: Prohibition of unauthorised disposal in terms of section 26(b) of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) ("NEM:WA") which came into effect on 3 July 2009</p> | <p>The inspection team observed that there was no effective leachate management system within the landfill site, but rather a unlined pit dug in the ground into which the leachate was being discharged</p> <p>The inspection team observed that leachate was seeping into the environment from the dysfunctional leachate area and the toe of the landfill area.</p> <p>The inspection team observed that waste has been disposed of at the site for which the facility is not authorised by law to dispose of.</p> | <p>Section 26 (1) No Person may— (a) dispose of waste, or knowingly or negligently cause or permit waste to be disposed of, in or on any land, water body or at any facility unless the disposal of that waste is authorised by law; or (b) dispose of waste in a manner that is likely to cause pollution of the environment or harm to health and well-being.</p> |
| <p>Section 21 of the NWA Undertaking activities listed as water uses in terms of section 21 of the NWA <i>Criminal offence in terms of Section 15(2) of the NWA</i></p> | <p>The inspection team observed that there was no effective leachate management system within the landfill site, but rather a unlined pit dug in the ground into which the leachate was being discharged.</p> <p>The inspection team observed that leachate was seeping into the environment from the dysfunctional leachate area and the toe of the landfill area.</p> <p>The inspection team observed that oil from vehicle servicing and repairs has been allowed to drain freely onto unprotected surfaces causing a significant area of oil contaminated land which can impact on both ground and surface water resources.</p> | <p>Section 21(g) disposing of waste in a manner which may detrimentally impact on a water resource;</p> <p>Section 19 (1) An owner of land, a person in control of land or a person who occupies or uses the land on which— (a) any activity or process is or was performed or undertaken; or (b) any other situation exists, which causes, has caused or is likely to cause pollution of a water resource must take all reasonable measures to prevent any such pollution from occurring, continuing or recurring.</p> |

| ENVIRONMENTALLY HARMFUL ACTIVITIES | | | |
|--|---|---|---|
| Activities/situations that have or may have a major detrimental environmental impact | Non-Compliances identified in terms of Section 28 of NEMA and/or Section 31A of ECA | Criminal Offence in terms of Section 49A of the NEMA | |
| <p>1) There is no effective leachate management system within the landfill site. Leachate is collected in an unlined pit dug in the ground and when the pump is functional it is discharged into a nearby sewer.</p> | <p>Groundwater monitoring results in the Monitoring of Gas, Water Quality and Leachate Monitoring report dated June 2013, Reference :453-2013 (page 15), indicate that the shallow aquifer is being impacted upon by contamination from landfill leachate. Alkalinity, ammonia, chemical oxygen demand and electrical conductivity show a substantial increase in these parameters. The impact originate from boreholes P1S, P2S and P3S.</p> | <p>Boreholes P1D and P2D also show contamination in the deep aquifer. The <i>E. coli</i> level in borehole P4D suggest contamination of the deep aquifer and may be the result of an overflowing sewer manhole in the vicinity.</p> | <p>Mr Naidoo informed the inspection team that the leachate sump was leaking and that it had been removed. Work was being done to upgrade the system. Observations were made that the sump had been removed for some time and currently the leachate was flowing into an unlined pit.</p> |
| | <p>The Monitoring of Gas, Water Quality and Leachate Monitoring report dated June 2013, Reference :453-2013 (pages 16-18), indicates surface water contamination in respect of downstream exceedances of ammonia at Blackborough Spruit Stream; upstream and downstream exceedances of <i>E. coli</i> at Blackborough Spruit Stream and Msunduzi River, and</p> | | <p>No reasonable measures are being implemented to address the significantly detrimental environmental impacts</p> |

AS

| | | | | |
|--|--|--|--|---|
| | | <p>exceedances in total phenols downstream in the Msunduzi River.</p> <p>The inspection team observed that leachate was seeping into the environment from the dysfunctional leachate area and the toe of the landfill area. Refer to photo No.s: 4, 49 & 50 in Annexure E1. Refer to photo No.s: 62, 63, 64, 65, 66, 68 & 69 in Annexure E2.</p> | <p>Mr Naidoo and Mr Mhlongo informed the inspection team that the oil was from the servicing of vehicles and plant used on the Site and that when necessary sand is used to cover the oil spills and contaminated soils.</p> | <p>No reasonable measures are being implemented to address the significantly detrimental environmental impacts</p> |
| | <p>2) Oil from vehicle servicing and repairs has been allowed to drain freely onto unprotected surfaces causing a significant area of oil contaminated land which can impact on both ground and surface water resources.</p> | <p>The inspection team observed that the vehicle maintenance area is being used for the servicing and repair of vehicles and plant. Extensive areas of oil contaminated soil exist within this area. Stormwater washing off this area flows directly to the Msunduzi River. Refer to photo No.s: 37, 38, 39, 40, 42, 43 & 44 in Annexure E1. Refer to photo No.s: 90, 94, 95 in Annexure E2.</p> | <p>Landfill management stated that the removal of this material to the landfill working face was imminent. Removal was observed by the inspection team during the inspection, however additional waste material was being added to the Transfer station at the same time</p> | <p>No reasonable measures are being implemented to address the significantly detrimental environmental impacts.</p> |
| | <p>3) The inspection team observed that there are excessive amounts of waste stored at the transfer station.</p> | <p>It was observed by the inspection team that this transfer station area is not lined and there is no stormwater management or management of contaminated water. Refer to photo No.s: 28, 29, 30, 31, 32, 33 and 34 in Annexure E1. Refer to photo No.s: 116, 117, 118 & 119 in Annexure E2.</p> | | |

| | | | | | |
|--|---|---|--|--|--|
| <p>Section 67 of NEM:WA Offences</p> | <p>The facility is currently committing the following offences due to its contravention of and failure to comply with the following provisions or sections provided for in the NEM:WA</p> | <p>4) Landfill gas monitoring results indicate that there have been numerous exceedences of Methane and Carbon dioxide identified within the monitoring boreholes on the Site</p> | <p>The "Supplies and Services Contract" No 46, of 2014, Reference:507-2014, dated December 2014 (page 9 and 10), indicates that Methane levels were in excess of the permit condition of 1%v/v and were detected in boreholes P1S, P2S and P1D. Carbon dioxide levels were also in excess of the permit condition of 0.5% detected in GMP1, GMP2, GMP3, GMP4, GMP5, GMP8, GMP9, GMP12, GMP14, GMP15 and boreholes P1S, P2S, P1D, P2D and P3S.</p> <p>Elevated CO² levels in landfill gas probes to the west and north of the site have suggested possible landfill gas migration in this area.</p> <p>The Monitoring of Gas, Water Quality and Leachate monitoring report dated June 2013, Reference: 453-2013, (page 21) indicates that Methane was exceeded in P1S and P1D and CO² levels were exceeded in GMP1, GMP4, GMP5, GMP6, GMP7, GMP8, GMP9, GMP10, GMP11, GMP13, GMP14, GMP15 and boreholes P1S, P1D, P2S, P3S and P4S.</p> | <p>There were no measures observed in order to prevent or reduce the levels of Methane and Carbon dioxide levels on site. Mr. Naidoo indicated that a landfill gas collection system was proposed to be installed to utilise the landfill gas.</p> | <p>No reasonable measures are being implemented to address the significantly detrimental environmental impacts</p> |
|--|---|---|--|--|--|

| | | | |
|---|---|--|---|
| <p>Section 18(1)(c) of the NEM:WA requires that: A holder of waste must, within the holder's power, take all reasonable measures to where waste must be disposed of, ensure that waste is treated and disposed of in an environmentally sound manner.</p> | <p>Activity/situation that indicates that the facility is not taking all reasonable measures to ensure that the waste is treated and disposed of in an environmentally sound manner</p> | <p>Is the facility implementing any measures to deal with the real or potential environmental impact</p> | <p>Are these measures reasonable and/or sufficient to prevent or deal with the detrimental impact</p> |
| | <p>1. No effective leachate management system is in place at the Landfill site</p> | <p>The landfill site management informed the inspection team that they had detected a leak in the leachate sump in early 2014. The sump had been removed in late 2014 with the intention of upgrading the collection sump.</p> | <p>No reasonable measures in place</p> |
| | <p>2. Disposed waste is compacted and spread but not covered with a suitable material on a daily basis.</p> | <p>Potential cover material is being stock piled near the transfer station and plant is being repaired.</p> | <p>No reasonable measures in place</p> |
| | <p>3. The waste transfer station is unlined and overflowing, causing the contamination of stormwater, the breeding of pests, odours and nuisance and associated impacts.</p> | <p>The transfer station was observed to be being cleared during the inspection, however additional waste was being added to this site during the day.</p> | <p>No reasonable measures in place</p> |
| | <p>4. There is inadequate classification and assessment of waste entering the site resulting in hazardous wastes and unauthorised wastes being disposed of at the Site</p> | <p>The inspection team was informed that waste is screened and assessed at three locations. An all weather cover is going to be erected over the weigh bridge to assist in the monitoring of waste being disposed of.</p> | <p>No reasonable measures in place</p> |

| | | | |
|--|--|---|--|
| <p>Section 87(1)(b) of the NEM:WA requires that: A holder of waste must, within the holder's power, take all reasonable measures to reduce, re-use, recycle and recover waste</p> | <p>Activity/situation that indicates that the facility is not taking all reasonable measures to reduce, re-use, recycle and recover waste</p> | <p>Is the facility implementing any measures to deal with the real or potential environmental impact</p> | <p>Are these measures reasonable and/or sufficient to prevent or deal with the detrimental impact</p> |
| <p>Section 18(1)(d) of the NEM:WA requires that: A holder of waste must, within the holder's power, take all reasonable measures to manage waste in such a manner that it does not endanger health or the environment or cause a nuisance through noise, odour or visual impacts.</p> | <p>Activity/situation that indicates that the facility is not taking all reasonable measures to ensure that the waste does not endanger health or the environment or cause a nuisance through noise, odour or visual impacts</p> | <p>Is the facility implementing any measures to deal with the real or potential environmental impact</p> | <p>Are these measures reasonable and/or sufficient to prevent or deal with the detrimental impact</p> |
| | <p>5. This requirement is in conflict with the conditions of the Permit that prevent reclamation of waste at the site. Informal waste recovery and recycling is taking place on the site however this is posing significant human health and safety risks.</p> | <p>Funding was earmarked for the development of a Materials Recovery Facility at the Site. The implementation of this facility has been delayed and hindered by local level political interference.</p> | <p>No reasonable measures in place to ensure that the Permit is brought into line with the requirements of the NEM:WA or to ensure that waste reclamation is done in a safe and environmentally acceptable manner.</p> |
| | <p>6. Informal waste recyclers are exposed to significant human health and safety risks</p> | <p>The inspection team was informed that waste recyclers are removed from the site every afternoon. No other measures were advanced to reduce this health risk</p> | <p>No reasonable measures in place</p> |
| | <p>7. People have access to and are using contaminated and stagnant water</p> | <p>The facility was aware that waste recyclers use the contaminated water and leachate on the site, apparently for adding weight to cardboard being sold. No measures were advanced to reduce this health risk.</p> | <p>No reasonable measures in place</p> |

| | | | |
|---|--|--|---|
| <p>Section 16(1)(e) of the NEM:WA requires that: A holder of waste must, within the holder's power, take all reasonable measures to prevent any employee or any person under his or her supervision from contravening this Act.</p> | <p>8. The storage of waste for prolonged periods in the transfer station and the practice of inadequate covering of the waste results in odour, vector, nuisance and health impacts.</p> | <p>The waste transfer site is currently being cleared however is being used on a regular extended basis due to rainfall events limiting access to the disposal working area.</p> | <p>No reasonable measures in place</p> |
| <p>Section 16(1)(e) of the NEM:WA requires that: A holder of waste must, within the holder's power, take all reasonable measures to prevent any employee or any person under his or her supervision from contravening this Act.</p> | <p>Activity/situation that indicates that the facility is not taking all reasonable measures to prevent any employee or any person under his or her supervision from contravening this Act</p> | <p>Is the facility implementing any measures to deal with the real or potential environmental impact</p> | <p>Are these measures reasonable and/or sufficient to prevent or deal with the detrimental impact</p> |
| <p>Section 16(1)(f) of the NEM:WA requires that: A holder of waste must, within the holder's power, take all reasonable measures to prevent the waste from being used for an unauthorised purpose</p> | <p>Activity/situation that indicates that the facility is not taking all reasonable measures to prevent the waste from being used for an unauthorised purpose</p> | <p>Is the facility implementing any measures to deal with the real or potential environmental impact</p> | <p>Are these measures reasonable and/or sufficient to prevent or deal with the detrimental impact</p> |
| | <p>9. There is uncontrolled access to the site by informal waste collectors on site. The permit prohibits reclamation of waste from the site.</p> | <p>The inspection team was informed that waste recyclers are removed from the site every afternoon. No other measures are in place to manage the informal and unauthorised use of waste.</p> | <p>No reasonable measures in place</p> |

| | | | |
|--|--|--|--|
| <p>Section 21 of the NEM:WA provides for the general requirements for the storage of waste and requires that: Any person who stores waste must at least take steps, unless otherwise provided by the Act, to ensure that:</p> | <p>Activity/situation that indicates that the facility is not taking all reasonable measures to fulfil the general requirements for the storage of waste</p> | <p>Is the facility implementing any measures to deal with the real or potential detrimental impact of the failure to comply with the general requirements for the storage of waste</p> | <p>Are these measures reasonable and/or sufficient to prevent or deal with the detrimental impact</p> |
| <p>a) the containers in which any waste is stored, are intact and not corroded or in any other way rendered unfit for the safe storage of waste</p> | <p>Not applicable</p> | | |
| <p>b) adequate measures are taken to prevent accidental spillage or leaking</p> | <p>10. The inspection team observed that there was no leachate pond within the landfill site, but rather a unlined pit dug in the ground into which the leachate was being discharged.</p> | <p>Landfill management indicated that there is intervention in place to rectify this, however there were no measures observed by the inspection team.</p> | <p>No reasonable measures in place</p> |
| <p>c) the waste cannot be blown away</p> | <p>11. The inspection team observed that there were no moveable fences or collection of windblown waste on the entire landfill site.</p> | <p>No there are no measures in place for the collection of wind-blown waste</p> | <p>No reasonable measures in place</p> |
| <p>d) nuisances such as odour, visual impacts and breeding of vectors do not arise</p> | <p>12. The inspection team observed that there was excessive waste stored at the transfer station which was providing condition for the breeding of flies. Also it was observed that the waste on the landfill site had not been covered for an extended period of time adding to the breeding of flies and odour arising from</p> | <p>The landfill management had undertaken repairs to plant and machinery on site to ensure that the waste on the landfill working face is covered and that the waste at the transfer station is moved to the working face.</p> | <p>Reasonable measures in place but yet to be effectively implemented.</p> |

| | | | | |
|--|--|---|--|---|
| <p>e) <i>pollution of the environment and harm to health are prevented</i></p> | <p>the site. It was observed that there were excessive flies and odour arising from the landfill site.</p> | <p>13. The inspection team observed that there was no effective leachate management system within the landfill site, but rather a unlined pit dug in the ground into which the leachate was being discharged.</p> | <p>Landfill management indicated that there is intervention in place to rectify this, however there were no measures observed by the inspection. This has the potential to cause significant pollution and degradation of the environmental as this leachate is entering the environment and potentially a nearby watercourse untreated.</p> | <p>No reasonable measures in place</p> |
| <p>Section 151 of NWA Offences Section 21 of the National Water Act, 1998 (Act No. 36 of 1998) Water uses that require water use licence in terms of section 21 of NWA Criminal offence in terms of section 151.</p> | <p>The facility is currently committing the following provisions or sections provided for in the NWA</p> | <p>Activity/situation that indicates that the facility is not taking all reasonable measures to fulfil the requirements for the adherence to Section 21 of NWA.</p> | <p>Is the facility implementing any measures to deal with the real or potential detrimental impact of the failure to comply with the requirements of section 21 of NWA?</p> | <p>Are these measures reasonable and/or sufficient to prevent or deal with the detrimental impact</p> |
| <p>Section 151 (j) and (j) read with Section 19(1) of the National Water Act, 1998 (Act No. 36 of 1998) No person may unlawfully and intentionally or negligently commit any act or omission which pollutes or is likely to pollute; or, which detrimentally affects or is likely to affect a water resource.</p> | <p>None detected during the inspection</p> | <p>Activity/situation that indicates that the facility is not taking all reasonable measures to fulfil the general requirements for preventing pollution or detrimental impacts on water resources.</p> | <p>Is the facility implementing any measures to deal with the real or potential detrimental impact of the failure to comply with Section 151 (j) and (j) read with Section 19(1) of the NWA?</p> | <p>Are these measures reasonable and/or sufficient to prevent or deal with the detrimental impact</p> |

| Criminal offence in terms of section 181. | | | No reasonable measures in place |
|--|--|---|---------------------------------|
| <p>Other contraventions NEMA Section 34A(1) <i>Hindering or interfering with an EMI in the execution of that inspector's official duties; furnishing false or misleading information when complying with a request of an EMI; failing to comply with a request of an EMI.</i></p> | <p>14. The inspection team observed that there was no effective leachate management system within the landfill site, but rather a unlined pit dug in the ground into which the leachate was being discharged. Seepage of leachate from below the leachate pit and at the toe of the landfill site was observed.</p> <p>The waste transfer station is unlined and overflowing, causing the contamination of stormwater and surface water resources.</p> <p>Oil from vehicle servicing and repairs has been allowed to drain freely onto unprotected surfaces causing a significant area of oil contaminated land which can impact on both ground and surface water resources.</p> | <p>The landfill site management informed the inspection team that they had detected a leak in the leachate sump in early 2014. The sump had been removed in late 2014 with the intention of upgrading the collection sump.</p> <p>The landfill management had undertaken repairs to plant and machinery on site to ensure that the waste on the landfill working face is covered and that the waste at the transfer station is moved to the working face.</p> | |
| <p>The Facility offered full cooperation.</p> | | | |

SR ~~A~~

| | |
|---|--|
| <p>11. GENERAL HOUSEKEEPING</p> | <p>The Site allows for uncontrolled access and there is a lack of appropriate signage at all entrances which poses significant human health and welfare risks. Refer to photo No.s: 38, 48, 54 in <u>Annexure E1</u>. Refer to photo No.s: 80, 82 & 103 in <u>Annexure E2</u>.</p> <p>Informal waste recyclers have access to and are using contaminated and stagnant water and are exposed to significant human health and safety risks. Refer to photo No.s: 8, 9 in <u>Annexure E1</u>.</p> <p>Informal waste recyclers appear to be residing on the waste disposal site within informal structures which exposes them to human health and safety risks. Food is being cooked on open fires which poses a risk to the landfill site being burnt which would release harmful pollutants into the atmosphere. Mr Naidoo informed the inspection team that there are frequent fires experienced at the landfill site. Refer to photo No.s: 18 & 19 in <u>Annexure E1</u>.</p> <p>The waste transfer station is unlined and overflowing, causing the contamination of stormwater, the breeding of pests, odours and nuisance and associated impacts. The working face is not appropriately compacted and covered with suitable material.</p> <p>An open sewer manhole on the main sewer line leading to the Darvill WWTW was observed on site which pose a risk to people potentially falling into the manhole and the risk of exposure to pathogens and other harmful diseases. Refer to photo No.s: 46 & 47 in <u>Annexure E1</u>. Refer to photo No.s: 85 in <u>Annexure E2</u>.</p> <p>Poor stormwater management is resulting in stagnant and contaminated water being able to enter the environment and/or posing a human health and safety risk. Refer to photo No.s: 1, 2, 8, 9, 29, 31, 32, 33 & 34 in <u>Annexure E1</u>. Refer to photo No.s: 118 in <u>Annexure E2</u>.</p> <p>Recycled waste is being stored in various locations around the Site, including the rehabilitated area of the disposal area, resulting in a number of uncontrolled waste storage areas. Refer to photo No.s: 70, 71 & 72 in <u>Annexure E2</u>.</p> <p>Blocked drainage systems and overflowing taps within the washbay area were observed. Water was being sourced by the informal waste recyclers at the facility. Refer to photo No.s: 45 in <u>Annexure E1</u>. Refer to photo No.s: 86 & 87 in <u>Annexure E2</u>.</p> |
| <p>12. OPERATORS' AWARENESS OF PERMITS AND PERMIT CONDITIONS</p> | <p>In general the staff that were interviewed by the inspection team demonstrated a general understanding of the requirements and obligations of the permit and associated conditions. The facility representatives, Mr. Naidoo and Mr. Mhlongo were aware of the permit and of most of the requirements contained within the permit.</p> |

13. DOCUMENTATION SYSTEMS
 Documentation systems to support demonstration of compliance with legislation and permits
 The documents that were available were accessible, however most of the documents that were requested could not be provided by the facility.

14. SUMMARY OF INSPECTION PROCESS
 Uncertainties or obstacles encountered
 No uncertainties or obstacles were encountered

15. CLOSING MEETING
 Date, time and venue
 10 March 2015 at 11h30 - New England Road Landfill office
 Who was present?

| Name | Designation | Institution |
|----------------------|---|-----------------------|
| Ian Felton | Assistant Manager: Environmental Planning (EMI Grade 2) | DEDTA |
| Varsha Naidoo | Enforcement (EMI Grade 2) | DEA |
| Reka B-Kallicharan | Assistant Manager: EIA(EMI Grade 2) | DEDTA |
| David Maritz | Assistant Manager: CME (Lembe) (EMI Grade 2) | DEDTA |
| Lindo Sithole | Environmental Officer: CME | DEDTA |
| Nontlekelele Mbanjwa | Environmental Officer: CME (Lembe) (EMI Grade 2) | DEDTA |
| Ricky James | Environmental Officer: P&W | DEDTA |
| Nazmeera Ismail | Environmental Officer: P&W (Lembe) | DEDTA |
| Cyril Naidoo | Landfill Site Manager | Msunduzi Municipality |
| Innocent Mhlongo | Landfill Site Supervisor | Msunduzi Municipality |

Was further information requested, from whom and by what date?
 The outstanding documentation that was requested in the inspection was to be provided by Mr. Naidoo by 12h00 on the 11th March 2015. Additional information was supplied by Mr. Naidoo either electronically or copies were collected by the inspection team on the 11th March 2015 from the New England Road Landfill site.

16. FOLLOW-UP LETTER
 By the 27th March 2015 a warning letter will be sent to the Municipal Manager Msunduzi Municipality highlighting authorities' key concerns after the inspection.

17. OUTSTANDING ISSUES/FOLLOW-UP ACTIONS
 Warning letter to be sent to Municipal Manager highlighting non-compliance issues identified and requesting remedial action plan and interventions to ensure compliance with Permit and legislative requirements.

Ian Felton
 INSPECTION TEAM LEADER
 Assistant Manager: Environmental Planning (Grade 2 EMI)
 Department of Economic Development, Tourism & Environmental Affairs

DATE: 20 March 2015

ANNEXURE D: Documentation

| No. | Document | Date of document/ document reference | Author | Hardcopy/electronic copy |
|-----|---|--|------------------------|-----------------------------|
| 1. | Permit application and environmental impact control report for the existing operation and extension to the existing Class II Municipal Sanitary Landfill Site on Lot 1853 of Pietermaritzburg | 11 December 1991 | Lombard and Associates | Electronic / Hardcopy |
| 2. | Report from Louden and Partners | 25 October 1991 | Louden and Partners | Document not received |
| 3. | Report from Hill Kaplen Scotts | August 1991 | Hill Kaplen Scotts | Document not received |
| 4. | Plan WMD41 | June 1996 | | Document not received |
| 5. | Amended application for permit | 1998 | Msunduzi Municipality | Document not received |
| 6. | Stability plan/ analysis baseline | Not available | Not available | Document not received |
| 7. | Approval for the use of cover material | 04 March 2014 | Msunduzi Municipality | Hardcopy |
| 8. | Gas monitoring report Reference 439-2012 | March 2013, December 2014 | Envitech Solutions | Hardcopy |
| 9. | Contingency Plan and proof of submission | Undated | Msunduzi Municipality | Hardcopy |
| 10. | Landfill site leachate acceptance | 11 May 1997 / 10.1.2./PMB WASTE SITE | Umgenti Water | Electronic / Hardcopy |
| 11. | External Audit reports | September 2014 | Envitech Solution | Hardcopy |
| 12. | Contract documents for landfill upgrade | 2013 2014 | Msunduzi Municipality | Documents not received |
| 13. | Proof that boreholes were done in consultation with the regional director | Not available | Msunduzi Municipality | Documents not received |
| 14. | Letter confirming additional boreholes | Not available | Msunduzi Municipality | Document not received |
| 15. | Quarterly reports for variables of annexure II | Not available | Not available | Document not received |
| 16. | Bi-annual reports for additional variables IV | Not available | Not available | Document not received |
| 17. | Air quality monitoring report | March 2013 | Envitech Solutions | Hardcopy |
| 18. | Minutes for past year of landfill monitoring committee | 20 November 2013 07 August 2014 | Msunduzi Municipality | Hardcopy |
| 19. | Contract with Talbot | Not available | Not available | Document not received |
| 20. | Water quality reports and proof of | 2013, 2014 | Envitech Solutions | 2013 Hardcopy |

| | | | | | | |
|-----|--|----------------------------|--|---|-----------------------|-----------------------------------|
| | submission | | | | | 2014 Document not received |
| 21. | Monitoring programme for air quality, gas and dust | June 2013 | | EnvITech Solutions | Hardcopy | |
| 22. | Internal audit reports | 2013, 2014 | | Msunduzi Municipality | Document not received | |
| 23. | Proof that external audit were submitted to Department | Not available | | EnvITech Solutions | Document not received | |
| 24. | Proof of accreditation of Lab used | Various | | EnvITech Solutions | Document not received | |
| 25. | All incidents and proof reported and reports | 10 March 2015 | | Msunduzi Municipality | Hardcopy | |
| 26. | Incidents and complaints register | January to December 2014 | | Msunduzi Municipality | Hardcopy | |
| 27. | Proof of SAWC registration | 13 October 2010 | | Environmental Affairs | Hardcopy | |
| 28. | Zoning of disposal site | 9 October 2013 | | Msunduzi Municipality | Hardcopy | |
| 29. | Operational Plan | Undated | | Msunduzi Municipality | Hardcopy | |
| 30. | Procedure Manual | Undated | | Msunduzi Municipality | Hardcopy | |
| 31. | Internal Audit | 15.08.2014 | | Msunduzi Municipality | Hardcopy | |
| 32. | Tow Planning information | 09 October 2013 | | Msunduzi Municipality | Hardcopy | |
| 33. | Correspondence to Department of Water Affairs & Forestry | 20 July 1998 / CE: 4/33/13 | | Pietermaritzburg- Msunduzi Transitional Local Council | Electronic / Hardcopy | |
| 34. | New England Road Landfill Pivot Table | August 2014 | | Msunduzi Municipality | Electronic | |
| 35. | New England Road Landfill Pivot Table | September 2014 | | Msunduzi Municipality | Electronic | |
| 36. | New England Road Landfill Pivot Table | October 2014 | | Msunduzi Municipality | Electronic | |
| 37. | New England Road Landfill Pivot Table | November 2014 | | Msunduzi Municipality | Electronic | |
| 38. | New England Road Landfill Pivot Table | January 2015 | | Msunduzi Municipality | Electronic | |
| 39. | New England Road Landfill Pivot Table | February 2015 | | Msunduzi Municipality | Electronic | |



OFFICE OF THE HEAD OF DEPARTMENT

Tel: (033), Fax: (033)
Postal Address: Private, PIETERMARITZBURG, 3200
www.kznedtea.gov.za

Enquiries: Ms. L Govender
Reference: New England Road

The South African Human Rights Commission
P O Box 1456
DURBAN
4000

Attention: Provincial Manager: Adv. L Lotz

Dear Adv. Lotz,

REQUEST FOR A RESPONSE: ALLEGED NEGLECT, DETERIORATION AND POOR MANAGEMENT OF THE NEW ENGLAND ROAD LANDFILL SITE IN PIETERMARTIZBURG; YOUR REFERENCE: KZ/1920/0363/PP

The letters received from the South African Human Rights Commission, dated 14 July 2020 and the subsequent letter dated 2 September 2020, in addition to the letters addressed to Ms. K van Heerden (Grade I Environmental Management Inspector) and Mr. I Felton (Grade 2 Environmental Management Inspector) dated 2 September 2020, in respect of the above-mentioned matter refer.

At the outset, I wish to extend my sincerest apology for the delay in providing this detailed response, which is due to a variety of reasons, including my unavailability for the whole of July 2020, and the massive volume of documents that had to be sourced and scanned in support of this response. Due to the volume of the Annexures and supporting documents, which exceed 6 Lever Arch files, the said Annexures will be delivered separately on a USB Memory Stick.

| | | | |
|--|--|----|--------------|
| Department of Economic Development, Tourism and Environmental Affairs | New England Road Landfill response SAHRC | sc | Page 1 of 13 |
|--|--|----|--------------|

SB A

CONTEXT

1.(1) To provide the South African Human Rights Commission (SAHRC) with relevant information as contained in the letter of request addressed to the Acting Head of the Department for Economic Development, Tourism and Environmental Affairs ("the Department") dated 14 July 2020 and, in respect of the requirements outlined in the subsequent letters addressed individually to officials of the Department Ms K van Heerden and Mr I Felton dated 2 September 2020.

(2) The information contained herein, and the reports and documents attached hereto, or provided electronically, are provided for the period Mid-June 2015, when the Department first initiated corrective action and enforcement measures in respect of the New England Road Landfill Site ("NERLS"), to the current situation in respect of the NERLS. The Department has been actively involved with the monitoring of the NERLS for a considerable period of time, and while there is other documentation and records available for the preceding period, it is the Department's view that this is not relevant to the current request and circumstance. These records however can be made available if required.

(3) A summary of the Department interventions and engagements with the Msunduzi Municipality is contained in this submission. A detailed timeline of interactions, investigations and events, including dates of *inter alia*: site inspections; meetings; correspondence; fire incidents; and, responses to this matter by the Municipality are attached at Annexure A to assist in respect of the electronic records provided.

(4) Given the voluminous nature of the supporting documentation, electronic copies of the documents on the USB Memory Stick have been arranged into separate folders under the following headings:

- (a) Permit - Waste licence;
- (b) Administrative Enforcement notices and responses thereto;
- (c) Communication and interaction with Msunduzi Municipality;
- (d) Compliance monitoring audits;
- (e) External audit reports;
- (f) Investigation reports including site visit reports and investigations;

| | | | |
|---|---------------------------------|----|--------------|
| KwaZulu-Natal Department of Economic Development, Tourism and Environmental Affairs | New England Road Landfill SAHRC | JC | Page 2 of 13 |
|---|---------------------------------|----|--------------|

JA
SR

- (g) Municipal responsibilities; and
- (h) Msunduzi Municipality Reports in respect of the Revised Compliance Notice.

HISTORY OF THE MATTER

2.(1) Following a comprehensive audit undertaken by the Department on 10 March 2015 it had become evident to the Department that the management and operation of the landfill site was not meeting several of the requirements of the landfill permit dated 22 April 1998 issued in terms of the Environmental Conservation Act in 1998, Reference No. 16/2/7/U203/D3/Z1.

(2) Accordingly, the Department issued the Msunduzi Municipality (the Municipality) and relevant municipal officials a warning letter, dated 2 June 2015, documenting the areas of non-compliance and requesting that urgent actions be undertaken to address these non-compliance issues.

(3) Following the issuing of the warning letter the Municipality took active steps to address most of the identified non-compliance. These actions included, the removal of waste pickers and recyclers that were living on the working face; improving security and access; installing concrete palisade fencing around the site; revising and establishing stormwater controls; upgrading and repairing the leachate system; undertaking annual external audits; and, increasing the external berm and ensuring that waste was covered and compacted.

(4) As part of these steps to improve management at the landfill site, the Municipality appointed a service provider to make an application to revise and vary the waste Permit issued in terms of the Environment Conservation Act, 1989 (Act No. 73 of 1989). Through this process a Variation Waste Management Licence ("WML") was issued by the Department on the 3rd July 2017, which substituted the former landfill site permit with a WML in terms of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) ("the Waste Act").

| | | | |
|---|---------------------------------|----|--------------|
| KwaZulu-Natal Department of Economic Development, Tourism and Environmental Affairs | New England Road Landfill SAHRC | SC | Page 3 of 13 |
|---|---------------------------------|----|--------------|



(5) These corrective actions substantively improved the management and operation of the landfill site, although the site still required continued financial and human resource capital investment by the Municipality to move towards and achieve compliance with its WML.

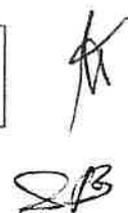
(6) On 25 October 2017, a comprehensive joint compliance audit by the Compliance Monitoring and Enforcement Units and Pollution and Waste Management Units of the Department, together with officials from the Municipality, was undertaken at the NERLS in order to monitor compliance with applicable environmental legislation and with the requirements and the conditions of the WML issued in terms of such.

(7) The audit revealed that the Msunduzi Municipality failed to comply with a substantial number of conditions contained in the WML issued for the operation and management of the NERLS. The areas of concern identified were that waste disposal and recycling activities continued to be undertaken in an uncontrolled manner in unauthorized areas; leachate from the workface had entered the receiving environment; there were holes in the fences facilitating unauthorised access; the workface was not adequately covered or compacted and remained as a fire hazard; there was limited control of access on the workface; and, there was mixing of domestic and garden waste.

(8) The Department initiated a series of meetings; issued instructions; and, held engagements and site inspections with the Municipality and the various Municipal officials responsible for the NERLS. The aim of these interactions was to promote and enforce compliance with the relevant legislation and the WML in the manner prescribed by the relevant legislation governing inter-governmental relations.

(9) Following the poor response in respect of lack of corrective measures and in the light of a series of significant fires at the landfill site, the Department was of the view that it had exhausted all cooperative governance mechanisms and had no option but to issue the Municipality and individuals responsible for waste management at the NERLS with a Notice of intention to issue a Compliance Notice (Pre-Compliance Notice) on 22 February 2019.

| | | | |
|---|---------------------------------|----|--------------|
| KwaZulu-Natal Department of Economic Development, Tourism and Environmental Affairs | New England Road Landfill SAHRC | SC | Page 4 of 13 |
|---|---------------------------------|----|--------------|



(10) In accordance with co-operative governance prescripts a meeting was held on the 06 March 2019 together with senior representatives from Msunduzi Municipality (Ms. Boniwe Zulu and Mr. Cyril Naidoo) and senior management of EDTEA (Ms. Siphumelele Nowele (Chief Director), Mr. Sabelo Ngcobo (Director) and Ms. Kim van Heerden, EMI) to outline the Pre-Compliance Notice and the consequences of non-compliance, including potential criminal prosecution.

(11) During March of that year, the municipal waste collection trucks and waste collection companies deposited significant amount of waste outside of the landfill site blocking the entrance and the New England Road. The Department was informed that once again machinery had been broken and that non-payment of fees for out-sourced waste collection trucks had resulted in waste being deposited outside the site. Machinery was hired and the site was accepting waste by the 28 March 2019.

(12) The Municipality and the officials cited in the Pre-Compliance Notice, failed to submit appropriate representation or respond to the Pre-Compliance Notice, despite the Department requesting that a response be provided on more than one occasion. In the premises the Department had no option but to issue the Administrator, Mr. Sibusiso Sithole, the Former Acting Municipal Manager: Ms. Nelisiwe Ngcobo, the General Manager: Community Services, Ms. Boniwe Zulu, the Former Manager Waste Management: Mr. Cyril Naidoo, the Landfill Foreman: Mr. Innocent Mhlongo and the then current Landfill Site Manager: Mr. Mandla Zuma with a Compliance Notice ("the Compliance Notice") in terms of section 31L of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") on 15 May 2019.

(13) There was no response from the Municipality or from the officials to the issuing of the Compliance Notice. The Department then requested, in accordance with co-operative governance best practice, to meet with the newly appointed Administrator and municipal officials on 20 June 2019 in order to request a response to the Compliance Notice. Mr. Sibusiso Sithole stated that capacity and financial constraints were a challenge, however, committed to supplying the response to the Compliance Notice to the Department by 28 June 2019. This response did not materialise.

| | | | |
|---|---------------------------------|----|--------------|
| KwaZulu-Natal Department of Economic Development, Tourism and Environmental Affairs | New England Road Landfill SAHRC | SC | Page 5 of 13 |
|---|---------------------------------|----|--------------|

K

SB

(14) Mr. Siphos Dubazana was then appointed as the Acting Manager for Waste Management at Msunduzi Municipality and a response was received from Mr. Dubazana on 26 July 2019, together with a draft Action Plan detailing how the Municipality planned to address the current operational and management challenges at NERLS. The draft Action Plan was however not effectively implemented by the municipality and significant fires occurred at the landfill site on the 8th and 24 and 25th of August 2019.

(15) Notwithstanding the issuing of the Compliance Notice and the proposed interventions as outlined in the Action Plan provided on 26 July 2019, the Department did not see any improvement at the landfill site, in fact the situation had deteriorated to a point where the site was inaccessible at times with no management in place at all.

(16) Given the continued failure to comply with the requirements of the Compliance Notice; the continued deterioration of the landfill; repeat events of fires; and the lack of improvement in the daily operations and management of the site; the Department was left with no other alternative but to open a criminal case in respect of the Municipality's apparent disregard of the requirements of the Waste Management License and the non-compliance with the Compliance Notice. On the 27th August 2019 a criminal case was opened at the Alexandra Road police station, under reference number CAS 58/09/2019 Alexandra Road, PMB, in respect of the alleged non-compliance with the WML conditions; the Compliance Notice; the requirements of the Waste Act; and the requirements of NEMA.

(17) During 5-9 October 2019 a further significant fire occurred at the landfill site, which compromised air quality in the city, and which resulted in the closure of schools and which posed a health and safety risk to surrounding communities. An urgent co-operative governance meeting was convened between this Department; COGTA; Msunduzi Municipality; the uMgungundlovu District Municipality and the then Administrator. Municipal officials responsible for waste management, including those parties referenced above, were again, served with a copy of the Compliance Notice.

| | | | |
|---|---------------------------------|----|--------------|
| KwaZulu-Natal Department of Economic Development, Tourism and Environmental Affairs | New England Road Landfill SAHRC | SC | Page 6 of 13 |
|---|---------------------------------|----|--------------|



(18) The Department again requested a report and action plan to address the repeat occurrences of fires and for the Municipality and to address the non-compliances at the landfill site. Whilst a draft Action Plan was received by the Department following these interactions, this Action Plan did not address the requirements of the Compliance Notice or meet the Department's requirements. Two further reports of fires at the NERLS were received and the Department consequently issued a Warning letter to the Municipality and relevant officials responsible for waste management on the 31st January 2020.

(19) The non-compliance with the WML and Compliance Notice was then raised at the Provincial Executive Council for intervention, and the potential to apply for a court Interdict was considered. Engagements with Senior Counsel and the State Attorney and the National Department of Environmental Affairs, Forestry and Fisheries ensued.

(20) On the advice of Senior Counsel, the pursuit of an Interdict was abandoned due to the Municipality being under administration in terms of section 139(1)b of the Constitution of the Republic of South Africa, 1996. Furthermore, it was advised that based on the fact that the situation at the NERLS had substantially deteriorated and that additional urgent actions were required, that the Compliance Notice be revised and re-issued.

(21) The Department issued the Municipality and relevant officials a Revised Notice of intention to issue a Compliance Notice (Revised Pre-Compliance Notice) on 7 February 2020. This Revised Pre-Compliance Notice was subsequently varied on 13 February 2020, on request, to allow the Municipality additional time in which to make representation, which it duly did.

(22) The Department subsequently issued the Municipality and relevant officials in the Municipality with a Revised Compliance Notice in terms of section 31L of NEMA (Revised Compliance Notice) on 18 February 2020.

| | | | |
|---|---------------------------------|----|--------------|
| KwaZulu-Natal Department of Economic Development, Tourism and Environmental Affairs | New England Road Landfill SAHRC | SC | Page 7 of 13 |
|---|---------------------------------|----|--------------|

(23) The Department has been monitoring compliance against this Revised Compliance Notice with the purpose of ensuring that the landfill site is managed appropriately. The Municipality has requested three variations in respect of the Compliance Notice which has resulted in Variations to the Revised Compliance Notice being issued on 5 March 2020; 23 March 2020; and, 17 August 2020. Most of the requests to vary the Compliance Notice have been in respect of the inability of the Municipality to meet the timeframes for various actions contained therein, predominantly due to limitations being experienced emanating from the Covid-19 lockdown.

(24) During the period from when the Revised Compliance Notice was issued, to date, there have been extensive meetings; engagements and a number of site inspections and investigations undertaken by the Department to ensure that the Municipality meets its obligations in terms of the Revised Compliance Notice and adheres to the Waste Management License for the NERLS.

(25) During the course of monitoring compliance with the Revised Compliance Notice, the Department has held a number of engagements with municipal officials to inform them of the non-compliance issues identified in respect of the Revised Compliance Notice and issued a warning letter on 10 March 2020, to the Municipality and relevant officials, where demonstrable evidence was not available to show that the Municipality had taken the necessary steps provided in the Revised Compliance Notice.

(26) Since issuing the Revised Compliance Notice in February 2020 (and particularly the warning letter issued in March 2020) significant progress has been made by the Msunduzi Municipality in addressing the non-compliance issues identified by the Department. The Municipality has instituted interventions aimed at rectifying the poor management and non-compliance with the WML, as well as measures to comply with the actions specified in the Revised Compliance Notice. The Department is closely monitoring these responses and interventions, although it must be noted that full compliance and effective management of the landfill site will take a considerable period of time and extensive intervention due to the poor state of the landfill site.

| | | | |
|---|---------------------------------|----|--------------|
| KwaZulu-Natal Department of Economic Development, Tourism and Environmental Affairs | New England Road Landfill SAHRC | SC | Page 8 of 13 |
|---|---------------------------------|----|--------------|



Handwritten signature and initials, possibly 'SB'.

(27) Since the issuing of Revised Compliance Notice, Environmental Management Inspectors of the Department have conducted more than 15 (fifteen) unannounced and announced site inspections at the landfill site and compiled 3 (three) comprehensive compliance reports to monitor compliance with the Notice.

(28) Further to this, more than a dozen meetings have been held with the Municipality and its representatives in order to enforce, monitor and promote compliance in a cooperative manner. The Environmental Management Inspectors have also issued the Municipality and its officials with written warnings informing them of aspects where there has been failure to comply with the Revised Compliance Notice and the required actions.

(29) The Department has continued to receive weekly updated reports from the Municipality to track progress. Please note however that these have not been included in the attached electronic submission. These may be made available if required.

(30) Monitoring of the current progress towards achieving compliance with the Revised Compliance Notice for the New England Road Landfill site, is documented in the Compliance Audit Reports, the latest dated 2 September 2020.

(31) It must be acknowledged that considerable effort has been made by the Municipality and its officials to meet key actions identified in the Revised Compliance Notice. These key actions are that security and access control at the site has been substantially improved; waste being disposed of at the landfill site being covered and compacted on a daily basis; and, the large volume of waste unlawfully disposed of outside of the working cell has been removed and re-disposed of inside the lined waste cell. These are substantive milestones in achieving compliance, however numerous additional actions are required to achieve compliance.

(32) The following actions have currently not been met by the Municipality and/or its officials, and constitute non-compliance with the Revised Compliance Notice:

| | | | |
|---|---------------------------------|----|--------------|
| KwaZulu-Natal Department of Economic Development, Tourism and Environmental Affairs | New England Road Landfill SAHRC | SC | Page 9 of 13 |
|---|---------------------------------|----|--------------|

Handwritten signature and initials, possibly 'SB', located at the bottom right of the page.

| Action Required | Finding |
|---|---|
| <p>Ensure that appropriate landfill plant, required to cover and compact the disposed waste, is functioning and serviced <u>and submit a contingency plan</u> to addresses the measures that will implemented to ensure that the appropriate landfill plant for covering and compacting is repaired and/or replaced within a maximum of 48 hours of a failure;</p> | <p>While emergency procurement processes have been initiated to purchase a new landfill plant and equipment and/or repair equipment, a contingency plan has not been submitted and problems still persist with insufficient and defective municipal equipment on site and/or the full-time availability of competent operators of the equipment, which is impacting the effective management of the site.</p> |
| <p>Provide written confirmation of the measures which have been taken to ensure proper on-site security and access to the landfill site and, to prevent uncontrolled access and dumping outside of the workface;</p> | <p>Site security and access control has been improved and disposal outside of the working cell has been prevented. Access control of waste pickers however remains problematic and breaches of the boundary fence occur frequently.</p> |
| <p>Provide a detailed and comprehensive Action Plan that addresses all the other non-compliances noted in the table contained in section 3.1 of the Compliance Notice</p> | <p>A detailed Action Plan that meets this objective has not been submitted.</p> |
| <p>Appoint a suitably qualified specialist/engineer to assess the stormwater management system and provide recommendations to ensure that all leachate emanating from the</p> | <p>No verification has been received that a suitably qualified engineer appointed to assess stormwater and leachate management.</p> |

| | | | |
|---|---------------------------------|----|---------------|
| KwaZulu-Natal Department of Economic Development, Tourism and Environmental Affairs | New England Road Landfill SAHRC | SC | Page 10 of 13 |
|---|---------------------------------|----|---------------|

| | |
|--|---|
| site including contaminated runoff water treated and disposed lawfully | |
| Submit specialist storm water/ leachate report and recommendations and associated timeframes for implementation compiled by the specialist/engineer | No verification has been received that a specialist stormwater / leachate management plan has been submitted |
| Identify and demarcate an appropriate designated area , in consultation with DWS and this Department, for the recycling/reclamation of waste to take place | An area for recycling/reclamation has been demarcated and actions are being undertaken to regulate and formalise waste pickers on site. However currently waste recycling and reclamation is being undertaken at the working face and throughout the landfill in an un-controlled manner. |
| Appoint an independent and suitably qualified landfill site specialist , registered with a relevant professional body, to develop a Decommissioning and Rehabilitation plan for the landfill site | No verification received that a suitably qualified specialist was appointed to develop the Decommissioning and Rehabilitation Plan. |

(33) In respect of the criminal case, the docket was being carried by an Environmental Management Inspector, Grade 2, Mr. I Felton, of the uMgungundlovu District office. During the period from the opening of the criminal case and 6 February 2020, Mr. Felton conducted investigations and has gathered evidence and statements in respect of the alleged offences occurring at the NERLS and non-compliance with relevant legislation and authorisations.

| | | | |
|---|---------------------------------|----|---------------|
| KwaZulu-Natal Department of Economic Development, Tourism and Environmental Affairs | New England Road Landfill SAHRC | SC | Page 11 of 13 |
|---|---------------------------------|----|---------------|

(34) In February 2020, Mr. Felton was requested to take over the administrative enforcement related to the NERLS. Given Mr. Felton's involvement in the administrative enforcement process and due to a perceived conflict of interest, the criminal docket will be transferred to another Investigating Officer within the Province to complete the investigation.

(35) It is also recorded that the matter has been elevated to the Provincial Executive Council for attention at the highest level and an intervention team comprising various MEC's, led by Honourable MEC for Finance, Mr. R Pillay and the Honourable MEC For EDTEA, Ms. N Dube-Ncube, together with senior officials, have been actively engaging on the matter towards finding a sustainable and long-term solution to the matter. This has also included engagements with the directly affected Sobantu Community and, engagements with attorneys representing the rights and interests of a group of schools and businesses who have been directly affected by air quality and health risks associated with each fire at the landfill.

(36) Following the most recent fire of 21 July 2020, the Department issued the Msunduzi Municipality with a Directive on 29 July 2020, in terms of section 30(6) of the NEMA, to submit a section 30 Incident Report, with a more detailed assessment of the impacts and/or effects of the incident on the environment and on public health and safety. This Incident Report must be submitted to the Department within 60 (sixty) days of receipt of this Directive.

(37) Further to the above Incident Report, my Department has initiated an independent Air Impact Report in terms of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004) to assess the impact of the last significant fire on air quality and the associated socio-economic and human health and well-being impacts.

(38) My Department is committed to ensuring that the landfill site is effectively managed and operated in a manner that does not compromise the health and safety of the citizens of Msunduzi Municipality, until such time as the lifespan of the landfill site is reached.

| | | | |
|---|---------------------------------|----|---------------|
| KwaZulu-Natal Department of Economic Development, Tourism and Environmental Affairs | New England Road Landfill SAHRC | SC | Page 12 of 13 |
|---|---------------------------------|----|---------------|



In compliance with the letters addressed to Mrs. Kim van Heerden and Mr. Ian Felton on 2 September 2020, their responses are attached hereto respectively as Annexure B and C.

I trust that you will find the above in order, and undertake to provide whatever additional information you may require.

Yours sincerely,

Signed by: Siphesihle Ceswell Mkhize
Signed at: 2020-09-07 13:30:28 +02:00
Reason: I approve this document



MR SIHLE MKHIZE
ACTING HEAD OF DEPARTMENT
DEPARTMENT OF ECONOMIC DEVELOPMENT,
TOURISM AND ENVIRONMENTAL AFFAIRS

| | | | |
|---|---------------------------------|----|---------------|
| KwaZulu-Natal Department of Economic Development, Tourism and Environmental Affairs | New England Road Landfill SAHRC | SC | Page 13 of 13 |
|---|---------------------------------|----|---------------|



233
"A"

NEW ENGLAND ROAD LANDFILL: TIMELINE

| | Audit | Enforcement | Inspection | Meeting | Fire |
|----------------------|---------------|---|------------|---------|------|
| DATE | ACTION | RESPONSE/REPORT | | | |
| 22/4/1998 | | Permit issued by DWAF for New England Landfill (Permit No. 16/2/7/U203/D3/21/P64) | | | |
| 2010-2015 | | Numerous interactions with Msundzui / UMDM re: New England Road landfill including: development of an MRF; Gas to energy project; landfill monitoring committee's; internal and external audit reports; air space evaluation; site closure cost determination; landfill site upgrade reports; site inspections etc) | | | |
| 10/3/2015 | Audit | Comprehensive audit undertaken by EDTEA and DEA of landfill site against Permit | | | |
| April 2015 | | Received and reviewed external audit report: Water Quality and Leachate Monitoring | | | |
| 2/6/2015 | Enforce | Warning Letter issued to Msunduzi Municipality: Non-compliance's of landfill site against Permit requirements. Requested detailed action plan be submitted within 21 days. Meeting with MM Mr. M. Nkosi to discuss non-compliance issues needing to be addressed | | | |
| 9/6/2015 | | Detailed action plan submitted. | | | |
| June 2015 - Oct 2017 | | Msunduzi Municipality implemented action plan including upgrade of leachate system; fencing of the site; establishment of berm; removal of people living on the site; recycling moved off working face; storm water system upgrade. | | | |
| Sept 2015 | | Received and reviewed external audit report: Gas Monitoring | | | |
| 4/10/2015 | Inspect | Site inspection undertaken by EDTEA | | | |
| 19/10/2015 | | Received confirmation that NERLFS is uploading data to SAWIS | | | |
| 2/12/2015 | Inspect | Site inspection to leachate system | | | |
| 4/12/2015 | Inspect | On site meeting: Process requirements to amend and vary Permit. Independent consultant - Envitech- appointed to undertake review process | | | |
| 2/2/2016 | | Request to amend Permit submitted by Msunduzi Municipality | | | |
| 9-10/3/2016 | Audit | Audit of Landfill site undertaken by EDTEA | | | |
| 6/6/2016 | | Received application, motivation and report for the amendment of the Permit to a WML | | | |
| 8/8/2016 | | Received report of a fire at the landfill site | | | |
| 8/9/2016 | | Informed the Ramu Raghunandan no longer responsible for the Landfill site | | | |
| 29/9/2016 | | EDTEA provided guidance on WML review process and amendment consultation with I&AP's | | | |
| Oct 2016 | | Service provider - Emzanzi engineers - appointed to upgrade leachate and storm water systems | | | |
| 14/10/2016 | Inspect | Site inspection by EDTEA and DWS with Municipality and Emzanzi regarding upgrades to storm water and leachate systems | | | |
| 4/11/2016 | | Received and reviewed Conformance Upgrade Report and engineering drawings for storm water and leachate upgrade works | | | |
| 19/11/2016 | | Received report of a fire at the landfill site | | | |
| April 2017 | | Received and reviewed External Audit Report: Water Quality, Leachate and gas monitoring | | | |

Handwritten signature and initials, possibly 'SB'.

| | | |
|----------------|---------|---|
| 3/7/2017 | | Revised and Varied Waste Management Licence [WML] issued by EDTEA |
| 10 - 13/8/2017 | | Received report of a major fire at the landfill site |
| 16/8/2017 | Inspect | Site inspection undertaken by EDTEA |
| 25/10/ 2017 | Audit | Comprehensive audit undertaken by EDTEA of landfill site against WML |
| 12/2/2018 | Inspect | Site inspection undertaken by EDTEA |
| 9/3/2018 | Meeting | Meeting with Riaz Jogiat (Acting Senior Manager: Waste - seconded to Msunduzi) |
| 28-29/7/2018 | | Report of fire at landfill site |
| 14/8/2018 | Inspect | Inspection and meeting with Municipality re: compliance |
| 30/8/2018 | Inspect | Inspection and meeting with Municipality re: compliance |
| 13/12/2018 | Inspect | Inspection and meeting with Municipality re: compliance |
| 13 - 18/1/2019 | | Report of fire at the landfill site |
| 15/1/2019 | Inspect | Inspection and meeting with Municipality |
| 18/1/2019 | Inspect | Inspection and meeting with Municipality |
| 8/2/2019 | Meeting | Meeting with municipality regarding life span of the landfill and finding alternatives |
| 22/2/2019 | Enforce | Pre-Compliance Notice issued to Municipality and officials responsible |
| 12/3/2019 | | Representation on Pre-Compliance notice received only from Cyril Naidoo (Landfill manager) |
| 6/4/2019 | Meeting | Cooperative governance meeting between senior managers EDTEA and senior managers Msunduzi to request submission of representation by Msunduzi and officials |
| 8/4/2019 | | Sent a request for representation to be submitted to the Department |
| 27/4/2019 | Inspect | Site inspection and on site meeting confirmed waste being disposed of outside of landfill and blocking road. |
| 15/5/2019 | Enforce | Compliance Notice issued to Msunduzi and relevant officials |
| 22/5/2019 | | Sent request to Msunduzi and relevant officials to respond to Compliance Notice |
| 20/6/2019 | Meeting | Cooperative governance meeting with Administrator, Acting MM, relevant municipal officials and EDTEA regarding non-compliance and non response to Compliance Notice |
| 2/7/2019 | | Sent request to Msunduzi and relevant officials to respond to Compliance Notice |
| 19/7/2019 | | Informed that Mandla Zuma replaced by Sipho Dubizane as acting senior manager waste |
| 24/7/2019 | Inspect | Site inspection and meeting with Msunduzi officials regarding non-compliance to Compliance Notice. Informed response to be received by 26/7/2019 |
| 30/7/2019 | | Draft Action Plan submitted to EDTEA to address non-compliance |
| 8/8/2019 | | Report of a fire at the Landfill site |
| 24-26/8/2019 | | Report of major fire at Landfill site |
| 26/8/2019 | Inspect | Site inspection and meeting with Msunduzi officials |
| 27/8/2019 | Enforce | Criminal case opened in respect of non-compliance with Compliance Notice and WML |
| 5-9/10/2019 | | Report of a major fire at the Landfill site |
| 7/10/2019 | Meeting | Urgent cooperative governance meeting between EDTEA, CoGTA, Msunduzi, UMDM and Administrator |
| 8/10/2019 | Inspect | Hon. MEC inspection of Landfill site |

| | | |
|------------|----------------|---|
| 9/10/2019 | | Cabinet memo submitted |
| 9/10/2019 | Enforce | Copy of Compliance Notice resubmitted to Municipality and relevant officials |
| 11/10/2019 | | Received s30 Incident Report from Msunduzi |
| 17/10/2019 | | Report of fire at the Landfill site |
| 17/10/2019 | Inspect | Site inspection at Landfill site |
| 18/10/2019 | | Requested report and action plan to address fires and non-compliance |
| 22/10/2019 | | Received an operational plan that did not address non-compliance issues |
| 28/10/2019 | | Report of minor fire at Landfill site |
| 23/12/2019 | | Report of fire at Landfill site |
| 23/1/2020 | Enforce | Warning Letter issued to municipality and Acting MM, Administrator and officials |
| 31/1/2020 | | Cabinet resolution for EDTEA to pursue an Interdict; Executive intervention; and, Cabinet to instruct Municipality |
| 1/2/2020 | | Report of fire at Landfill site and major failures of the landfill site resulting in waste being disposed of outside the landfill area |
| 3/2/2020 | Inspect | Site inspection at Landfill site with DEFF |
| 4/2/2020 | Inspect | Site inspection at Landfill site with DEFF |
| 5/2/2020 | | Msunduzi submitted report to Premier regarding fire and landfill site turnaround |
| 6/2/2020 | Meeting | Meeting with Senior Council, DEFF and State Attorney regarding obtaining an interdict |
| 7/2/2020 | Enforce | Revised Pre-Compliance Notice issued to Municipality and relevant officials |
| 10/2/2020 | Meeting | Cooperative governance meeting convened by MEC Pillay with EDTEA, CoGTA, Msunduzi, UMDM |
| 10/2/2020 | Inspect | Site inspection with Senior Council |
| 11/2/2020 | Inspect | Site inspection with DEFF |
| 11/2/2020 | | Request made to hand criminal docket to DEFF due to perceived conflict of interest with municipality placed in administration |
| 12/2/2020 | | Received representation on Pre-Compliance Notice and request for variance on time to respond |
| 13/2/2020 | Inspect | Site inspection with specialists to collect water quality samples |
| 13/2/2020 | Enforce | Varied Pre-Compliance Notice issued to allow additional time for submission of representation to the 14th February 2020 |
| 14/2/2020 | | Received urgent Senior Council opinion that an Interdict is not suitable in the current circumstances in that Msundui is under administration and that DEFF be requested to assist with enforcement/technical input |
| 14/2/2020 | | Received representation from Msunduzi regarding Revised Pre-Compliance Notice |
| 14/2/2020 | | Hon. MEC updated on issues |
| 18/2/2020 | Enforce | Revised Compliance Notice issued to Msunduzi and relevant officials |
| 19/2/2020 | | Notification received that the SAHRC is investigating the New England Road landfill |
| 28/2/2020 | | Received request to vary Revised Compliance Notice |
| 4/3/2020 | Inspect | Site inspection and meeting with Municipality to discuss variation request |
| 4/3/2020 | | Received amended request to Vary Revised Compliance Notice |
| 5/3/2020 | Enforce | Issued Varied Revised Compliance Notice based on motivation |

| | | |
|-----------|---------|---|
| | | submitted |
| 7/3/2020 | | Report of small fire at landfill site |
| 9/3/2020 | Inspect | Site inspection to Landfill site |
| 10/3/2020 | Enforce | Warning Letter issued to Municipality and relevant officials to comply with Revised Compliance Notice |
| 13/3/2020 | Meeting | Meeting held with service providers of Msunduzi - Surg Sut - regarding the landfill site management |
| 16/3/2020 | | Received response from Msunduzi to warning letter, and another request to vary the Revised Compliance Notice |
| 16/3/2020 | Meeting | Meeting held with service providers of Msunduzi - Surg Sut - regarding the landfill site plans |
| 23/3/2020 | Enforce | 2nd Variation to Revised Compliance Notice issued based on motivations submitted |
| 25/3/2020 | Inspect | Site inspection undertaken at Landfill site |
| 26/3/2020 | | Raised issued of non-compliance with Municipality and relevant officials, especially regarding cover material and equipment |
| 8/4/2020 | Inspect | Site inspection undertaken at Landfill site |
| 21/4/2020 | | Requested urgent response to issued raised previously with Municipality and relevant officials |
| 24/4/2020 | | Requested meeting with MM and MR for Msunduzi to discuss non-compliance issued |
| 29/4/2020 | Meeting | Meeting with MM, MR and municipal officials to raise issued of a lack of cover material, equipment on site and outstanding requirements of Compliance Notice |
| 29/4/2020 | | Provided a breakdown of outstanding compliance issues to MM and MR |
| 30/4/2020 | | Received report that delays being experienced with procurement of cover material and that there will be a delay in providing a report on obtaining plant for the site |
| 13/5/2020 | Inspect | Site inspection undertaken at Landfill site |
| 19/5/2020 | | Msunduzi officials informed of new Covid Directions issued by Minister that allows waste pickers back on site under specific conditions |
| 26/5/2020 | Inspect | Site inspection undertaken at Landfill site |
| 2/6/2020 | | Received airspace evaluation plan, bulk waste excavation plan, and action plan to remove waste disposed of outside of the waste cell |
| 17/6/2020 | Meeting | Meeting held with MR for Msunduzi regarding outstanding non-compliance issues; conflicting contracts awarded to service providers and the potential to obtain cover material from Camps Drift |
| 17/6/2020 | | Received 3rd request to Vary the Revised Compliance Notice |
| 30/6/2020 | | Requested a meeting with Municipality and relevant officials to discuss request to vary and the outstanding compliance issues |
| 8/7/2020 | Inspect | Site inspection undertaken at Landfill site |
| 9/7/2020 | Meeting | Virtual meeting held with Municipality and relevant officials to discuss request to vary and the outstanding compliance issues |
| 21/7/2020 | | Report of major fire at Landfill |
| 21/7/2020 | Inspect | Inspection of fire undertaken at 9h00. Fire contained within an area and cut off from spreading. |
| 21/7/2020 | Inspect | Inspection of fire undertaken at 15h00. Fire had been spread outside of contained area. |
| 22/7/2020 | | Received s30 incident notification report |

x

8/5

| | | |
|-----------|---------|---|
| 22/7/2020 | Inspect | Site inspection undertaken by senior management (no record) |
| 23/7/2020 | Inspect | Inspection of fire undertaken at 8h00. Fire had been spread to additional areas suggesting purposeful acts of arson. |
| 23/7/2020 | Meeting | Meeting of Joint Operations Committee: New England Landfill site |
| 24/7/2020 | Inspect | Site inspection undertaken at 9h00. Visibility on site to less than 2m and N3 closed. Fire fighters unable to work in dangerous situation |
| 24/7/2020 | Meeting | Environmental portfolio committee meeting on site. |
| 25/7/2020 | Meeting | Environmental portfolio committee meeting with Sobantu community. |
| 27/7/2020 | Inspect | Site inspection undertaken. |
| 29/7/2020 | Enforce | S30 directive issued to Msunduzi for incident report |
| 4/8/2020 | Inspect | Site inspection undertaken. |
| 6/8/2020 | Meeting | Internal meeting to discuss enforcement and criminal case, and waste recycling formalisation. |
| 13/8/2020 | | Compliance audit report |
| 14/8/2020 | Meeting | MEC meeting with stakeholders |
| 14/8/2020 | | Fire incident reported. Alleged that Willowton waste had ignited. Fire contained. |
| 17/8/2020 | Enforce | 3rd Variation of Revised Compliance Notice issued |
| 19/8/2020 | Inspect | Compliance inspection undertaken by EDTEA |
| 24/8/2020 | Meeting | Meeting with municipal representatives to update compliance report to Cabinet |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

| Interventions (2015 - present) | Number |
|--------------------------------|--------|
| Inspections | 37 |
| Comprehensive Audits | 3 |
| Meetings | 18 |
| Enforcement Actions | 15 |
| Fires | 14 |

x

238



KWAZULU-NATAL PROVINCE

**ECONOMIC DEVELOPMENT, TOURISM
AND ENVIRONMENTAL AFFAIRS**
REPUBLIC OF SOUTH AFRICA

"B"

ENVIRONMENTAL SERVICES : UMGUNGUNDLOVU DISTRICT OFFICE

Tel: (033) 3471820, Fax: (033) 3471826
Postal Address: Private, X07, PIETERMARITZBURG, 3202
www.kznded.gov.za

Enquiries: K van Heerden
Reference: New England Road

Your Ref: KZ/1920/0363/PP

DATE: 4 September 2020

**The South African Human Rights Commission
P O Box 1456
DURBAN
4000**

Attention. Provincial Manager : Adv. Lotz

Dear Sir

**REQUEST FOR A RESPONSE : ALLEGED NEGLECT, DETERIORATION AND POOR
MANAGEMENT OF THE NEW ENGLAND ROAD LANDFILL SITE ("THE LANDFILL
SITE") IN PIETERMARTIZBURG.**

The letter received from the South African Human Rights Commission dated 2 September 2020 addressed to me in my capacity as Grade I Environmental Management Inspector in respect of the above-mentioned matter refers.

I advise that I concur with the content of the matter as set out in the letter signed by the Acting Head of Department, attached. The timeline attached as Annexure A to that letter provides the level of detail in respect of the various interventions made by the Department in accordance with the powers granted to Environmental Management Inspectors. This information has been provided in electronic format given its voluminous nature.


SB

Also incorporated in the letter, in tabular format, is a summary of the outstanding matters which require further attention by the Municipality and which the Departmental officials, including myself, continue to monitor through the carrying out of regular site inspections and through engagements and/or correspondence addressed to the Municipality.

I remain firmly committed to continuing to take the steps necessary towards ensuring that the New England Road Landfill site is managed and operated in accordance with the requirements of the Varied Waste Management License and in a manner which does not pose unacceptable risk to human health and well being.

Should you require additional information or require clarity in respect of the information provided, please do not hesitate to contact me.

Yours sincerely



Kim van Heerden

District Manager : uMgungundlovu

Grade 1 Environmental Management Inspector



240
"C"



KWAZULU-NATAL PROVINCE

**ECONOMIC DEVELOPMENT, TOURISM
AND ENVIRONMENTAL AFFAIRS**
REPUBLIC OF SOUTH AFRICA

ENVIRONMENTAL SERVICES : UMGUNGUNDLOVU DISTRICT OFFICE

Tel: (033) 3471820, Fax: (033) 3471826
Postal Address: Private, X07, PIETERMARITZBURG, 3202
www.kznded.gov.za

Enquiries: Ian Felton
Reference: New England Road

Your Ref: KZ/1920/0363/PP

DATE: 4 SEPTEMBER 2020

**The South African Human Rights Commission
P O Box 1456
DURBAN
4000**

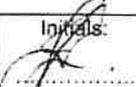
Attention. Provincial Manager : Adv. Lotz

Dear Sir

**REQUEST FOR A RESPONSE: MR I FELTON: ALLEGED NEGLECT,
DETERIORATION AND POOR MANAGEMENT OF THE NEW ENGLAND ROAD
LANDFILL SITE ("THE LANDFILL SITE") IN PIETERMARTIZBURG.**

The letter received from the South African Human Rights Commission dated 2 September 2020 addressed to me in my capacity as Grade 2 Environmental Management Inspector within the Department of Economic Development, Tourism & Environmental Affairs, in respect of the above-mentioned matter refers.

I have been employed within the Department since 2001 and have been based in the uMgungundlovu District office since 2003. During my employment within the Department I have had numerous interactions in relation to the New England Road Landfill site. Most notably, and relevant to your investigation, I was:

| | | | | |
|---|--|--|--|-------------|
| Department of Economic Development, Tourism and Environmental Affairs | | New England Road Landfill response SAHRC: I Felton | Initials:  | Page 1 of 2 |
|---|--|--|--|-------------|


S/S

- the team leader on a comprehensive audit that was undertaken at the New England Road Landfill on the 10th March 2015 and a drafted the June 2015 warning letter;
- a team member of the comprehensive audit undertaken on the 25th October 2017;
- the Investigating Officer for the criminal case (CAS 58/09/2019) - for the period 27 August 2019 - 6 February 2020; and,
- leading the administrative enforcement for the New England Road Landfill site for the period 6 February 2020 to present; drafted the Revised Pre-Compliance and Compliance Notices; and, have been monitoring and enforcing compliance with the Notice.

The submission made by the Acting Head of Department provides the detail in respect of the various interventions made by the Department, including those steps that I have taken in accordance with the powers granted to me as an Environmental Management Inspector. Relevant information, in support of the steps that I have taken, have been provided in electronic format. I concur with the content of the submission made by the Acting Head of Department in respect of the actions taken by the Department and myself in this matter.

I remain committed, as both an Environmental Management Inspector and an employee of the Department, to take appropriate steps within my mandate and powers to ensure compliance with the requirements of the Varied Waste Management License and the Revised Compliance Notice.

Should you require clarity or additional information please feel free to contact me.

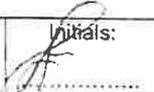
Yours sincerely



Ian Felton

Control Environmental Officer: Environmental Planning: uMgungundlovu
Grade 2 Environmental Management Inspector



| | | | | |
|---|--|--|---|-------------|
| Department of Economic Development, Tourism and Environmental Affairs | | New England Road Landfill response SAHRC: I Felton | Initials:  | Page 2 of 2 |
|---|--|--|---|-------------|



**IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG**

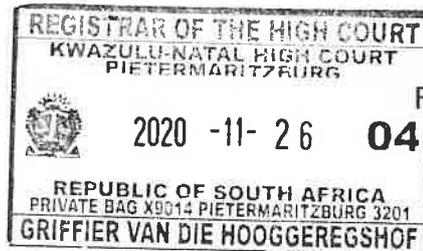
Case No: 8407/20P

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

Applicant

and

MSUNDUZI LOCAL MUNICIPALITY



First Respondent

**HEAD OF THE DEPARTMENT OF
ECONOMIC DEVELOPMENT,**

TOURISM AND ENVIRONMENTAL AFFAIRS,

KWAZULU-NATAL PROVINCIAL GOVERNMENT

Second Respondent

MEMBER OF THE EXECUTIVE COUNCIL

FOR ECONOMIC DEVELOPMENT,

TOURISM AND ENVIRONMENTAL AFFAIRS,

KWAZULU-NATAL PROVINCIAL GOVERNMENT

Third Respondent

INDEX BUNDLE 4

| | | |
|----|---|---------|
| 12 | 'JBS9' - Inspection Report dated 25 October 2017 | 242-287 |
| 13 | 'JBS10' - The Witness newspaper article detailing the occurrence of a fire at the Dump on 10 October 2019 | 288-290 |
| 14 | 'JBS11' - Newspaper Reports revealing that fires are commonplace at the Dump | 291-306 |
| 15 | 'JBS12' - Email from Ms. Hardman including a copy of the preamble to the Love PMB petition | 307-312 |

| | | |
|----|--|---------|
| 16 | 'JBS13' - Statement from <i>groundWork</i> dated 01 October 2020 | 313-317 |
|----|--|---------|

242
"JBS9"

**Operation
Landfill Site-
New England
Road Landfill
Site Inspection**



environmental affairs
Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA



**Department:
Economic Development, Tourism and
Environmental Affairs
PROVINCE OF KWAZULU-NATAL**



Inspection Report: - New England Road Landfill Site

| | |
|---|---|
| <p>1. FACILITY INSPECTED Exact geographic location of the site</p> | <p>Lot No. 1853 of the Farm Darvill 15036 within the Msunduzi Local Municipality in the Kwa-Zulu Natal Province 25th October 2017</p> |
| <p>2. OBJECTIVES AND SCOPE OF INSPECTION Type of inspection</p> | <p>Compliance monitoring inspection with applicable environmental legislation and a waste management license issued in terms of the National Environmental Management Waste Act 2008. The methodology followed, as evident from the report, was to assess compliance with every condition in applicable license and with relevant legislative provisions by way of interviews, document review and on-site activities. New England Road Landfill Site</p> |
| <p>3. INSPECTION TEAM</p> | <p>The inspection focused on the New England Road Landfill Site located on Lot 1853 of the Farm Darvill 15036 within the Msunduzi Local Municipality. Spreading, compacting and covering of waste were being undertaken on site. The Recycling Area, Temporary Waste Storage Area, Change Rooms, Wash Bay, Stormwater Attenuation Pond, Leachate Pond, Wet Weather Cells, boreholes and gas wells were inspected.</p> |

| | | | | |
|--|---|---|------------------------------------|-----------------|
| Team leader | Name | Institution | Position | Contact details |
| | Ms. Kershia Govender | Department of Economic Development, Tourism & Environmental Affairs | Environmental Management Inspector | (035) 780 0328 |
| Team members | Annexure A | | | |
| 4. FACILITY REPRESENTATIVES | | | | |
| Name | Position/title | Contact Details | | |
| Mr. Cyril Naidoo | Landfill Manager | Cell: 083 577 9220 E-mail: cyril.aidoo@msunduzi.gov.za | | |
| Mr. Innocent Mhlongo | Foreman | Cell: 083 274 7277 E-mail: innocent.mhlongo@msunduzi.gov.za | | |
| 5. OPENING MEETING | | | | |
| Date, time and venue | 25 October 2017, 08.30am, Boardroom, New England Road Landfill Site | | | |
| Attendance register | Refer to Annexure C | | | |
| Any specific arrangements made with the facility | None | | | |
| Describe if entry was granted or denied | Entry was granted | | | |
| Problems/restrictions | No problems or restrictions | | | |
| 6. BACKGROUND TO INSPECTION | | | | |
| Compliance History | As part of the General Landfill Site Blitz, an inspection was conducted at the New England Road Landfill site during March 2015. A warning letter was issued to the facility following the inspection. A response letter was also received. A Waste Management License was issued to the facility on the 13th of July 2017. | | | |
| Ownership and Background | The New England Road Landfill site is owned and managed by the Msunduzi Local Municipality located within the uMgungundlovu District. Permit Number 16/27U203/D3/Z1/P64 was issued by The Department of Water Affairs on the 22 nd of April 1998. The Msunduzi Local Municipality requested that the permit be varied and updated with standard operational procedures and best practices as outlined in the National Environmental Management: Waste Act, 58 of 2008 and associated Regulations, and Norms and Standards. The Waste Management License was issued the 03 rd of July 2017. The site is used for the disposal of general waste only which includes domestic waste, inert waste and garden waste. | | | |
| 7. RECORDS REVIEWED AND GATHERED | | | | |





| | | | |
|---|---|--|--|
| Records copied and taken | See Annexure D | | |
| 8. SUPPORTING DOCUMENTS AND PHOTOS | | | |
| Documents | Annexure A: Inspection Teams Annexure B: List of mandated legislation and authorisations Annexure C: Opening meeting register Annexure D: Documents Annexure E: A1 to A11 | | |
| Photographs | | | |
| 9. INSPECTION FINDINGS | | | |
| Condition | Compliance status | Comment | |
| 4.2 Amendments to the waste management activities undertaken | | | |
| Any changes to, or deviations from, the activity as described in section 2 of this licence must be approved, in writing, by the licensing authority before such changes or deviations may be implemented. | Compliant | Mr. Cyril Naidoo informed the inspection team that no charges or deviations to the activities approved have been undertaken. | |
| 4.6 Contact details of the licence holder | | | |
| It is the responsibility of the licence holder to ensure that the licensing authority is made aware of any changes to the contact details of the licence holder as soon as is reasonably practicable. | Compliant | Mr. Cyril Naidoo informed the inspection team that no changes to the contact details have occurred. | |
| 5.1 GENERAL | | | |
| Scope of License | | | |
| 5.1.1 The activity which is authorised by this licence may only be carried out at the site indicated in section 1 above, in | Compliant | Mr. Cyril Naidoo informed the inspection team that Phase 1 of the infrastructure plan had been initiated and completed, and that Phase 2 was due to commence shortly. Phase 1 included | |

(Handwritten mark)

(Handwritten initials)

| | | |
|---|----------------------|--|
| <p>accordance with the infrastructure plans indicated on Annexure II and III, attached to this licence.</p> | | <p>the installation of a storm water dam and the reshaping of the site in accordance with the engineering drawing.</p> |
| <p>5.1.3 A copy of this licence must be kept by the licence holder and made available to any authorised official of the Department on request.</p> | <p>Compliant</p> | <p>A copy of the license was provided to the inspection team.</p> |
| <p>5.1.5 The licence holder must notify every registered interested and affected party (including State departments identified during the application) in writing and within 14 (fourteen) days of the date that this licence was issued.</p> | <p>Non-Compliant</p> | <p>Mr. Cyril Naidoo informed the inspection team that Envitec indicated that it was not in their brief to notify I &APs. Mr. Cyril Naidoo further informed the inspection team that he had placed a notice on the Municipal Website.</p> |
| <p>5.1.6 The notification referred to in 5.1.5 must –</p> <ul style="list-style-type: none"> • indicate the decision of the Department; • specify the date on which the licence was issued; • advise the interested and affected party that a copy of the licence, including reasons for the decision, will be provided on request; • inform the public where the decision can be accessed; and • advise the interested and affected party that the prescribed appeal forms can be obtained from the Department, the licence holder, or the Environmental Assessment Practitioner. | <p>Non-Compliant</p> | <p>Mr. Cyril Naidoo informed the inspection team that the conditions contained in 5.1.5 and 5.1.6 of the permit was not fulfilled.</p> |
| <p>5.1.7 The licence holder must publish a notice, within 14</p> | <p>Non-Compliant</p> | <p>Mr. Cyril Naidoo informed the inspection team that Envitec</p> |

| | | |
|---|------------------|--|
| <p>(fourteen) days of the date that this licence was issued, in the newspaper/s which were used for the placing of notices as part of the public participation process.</p> | | <p>had indicated that it was not in their brief to notify I & A P's. Mr Cyril Naidoo further informed the inspection team that he had placed a notice on the Municipal Website.</p> |
| <p>5.2 CONSTRUCTION</p> | | |
| <p>5.2.1 Continued or further development and construction of the landfill site must take place in accordance with the Plan entitled: General Existing Infrastructure Layout Plan No. 525-2015-003 and the Co-ordinated Infrastructure Layout Plan 525-2015-004 prepared by Envitech Solutions attached as Annexure II and III.</p> | <p>Compliant</p> | <p>The inspection team requested Mr. Cyril Naidoo to provide copies of the General Existing Infrastructure Layout Plan: Plan No. 525-2015-003 and the Co-ordinated Infrastructure Layout Plan 525-2015-004 prepared by Envitech Solutions. Mr. Cyril Naidoo informed the inspection team that the plans were not kept at the Landfill site. The layout plan was not provided to the inspection team.</p> |
| <p>5.2.2 Further development at the site must be designed with an appropriate containment barrier or liner as described in the National Norms and Standards for Disposal of Waste to Landfill GNR 636 of 23 August 2013. This requirement is also applicable to the leachate collection dam.</p> | <p>Compliant</p> | <p>Mr. Innocent Mhlongo informed the inspection team that the entire site was lined with geosynthetic liner. Mr. Cyril Naidoo informed the inspection team that the site was originally lined during 1998. He confirmed that the footprint of the working area of the landfill had not been extended and new cells "piggy back" on the existing liner.</p> |
| <p>5.2.3 The licence holder must notify this Department and the Engineering Section of the Department Water and Sanitation (DWS) in writing, should any further development within the site be proposed. The Department must confirm in writing that it is satisfied that the construction is in accordance with recognised civil engineering practice and requirements, prior to waste disposal commencing in the cell(s).</p> | <p>Compliant</p> | <p>Mr. Cyril Naidoo informed the inspection team that no further development within the site was proposed. Mr. Cyril Naidoo further informed the inspection team that the working face landfill site had a lifespan of approximately four years.</p> |



Handwritten signature or initials.

Handwritten signature or initials.

| | | |
|--|------------------|---|
| <p>5.2.4 The site must be constructed in accordance with recognised civil engineering practice with special consideration to stability.</p> | <p>Compliant</p> | <p>Mr. Cyril Naidoo informed the inspection team that the development of Phase 1 of the infrastructure plan had been undertaken by qualified civil and structural engineers. He informed the inspection team that Emzansi Engineers (Pty) Ltd had overseen the Phase 1 infrastructure development and that construction was undertaken by Leomat Construction. Mr. Cyril Naidoo provided the inspection team with a Completion Report for Infrastructure Upgrade at the New England Landfill Site: Phase 1 produced by Emzansi Engineers (Pty) Ltd dated October 2017 confirming adherence to civil engineering practice (Refer to Document No. 7).</p> |
| <p>5.2.5 The slopes of the sides of the berms shall be constructed in consultation with a suitably qualified engineer in such a manner to ensure that little or no erosion occurs.</p> | <p>Compliant</p> | <p>Mr. Innocent Mhlongo informed the inspection team that a contractor was appointed to extend the berms by 1.5 meter. Grassing was undertaken along the slopes of the berms in order to prevent erosion. He further mentioned that waste pickers continuously disturb the stabilization of the berms.</p> <p>Mr. Cyril Naidoo informed the inspection team that the development of the landfill and infrastructure had been undertaken by qualified civil and structural engineers.</p> |
| <p>5.2.6 The maximum height of the site must not exceed 654 metres above mean sea level.</p> | <p>Compliant</p> | <p>Mr. Innocent Mhlongo informed the inspection team that municipal surveyors were appointed to ensure that the height of the site did not exceed 654 metres above the sea level.</p> <p>Mr. Cyril Naidoo provided the inspection team with Drawing No. NERL/2016/03 "Upgrading of the New England Road Landfill Site" which demonstrated survey height points with a maximum height recorded as 631.0 metres above mean sea level.</p> |
| <p>5.2.7 Storm water berms and channels must be constructed to divert clean storm water away from contaminated water emanating from the site and to prevent gully erosion.</p> | <p>Compliant</p> | <p>Mr. Innocent Mhlongo informed the inspection team that v-drains were constructed along the berms. Surface runoff (uncontaminated) from the re-shaped area drains into the Stormwater Attenuation Pond which flows to the</p> |

[Handwritten mark]

[Handwritten signature]

| | | |
|---|------------------|---|
| <p>5.2.8 Works constructed in compliance with condition 5.2.1 must be properly maintained on a continuous basis.</p> | <p>Compliant</p> | <p>Blackburrowspruit. He further mentioned that leachate (contaminated) from the landfill site drains into the Leachate Pond. Mr. Cyril Naidoo informed the inspection team that Storm water berms and channels are constructed to divert clean storm water away from contaminated water emanating from the site. Mr. Cyril Naidoo informed the inspection team that ponding on site had been mitigated by channelling.</p> |
| <p>5.2.9 The licence holder must construct works to: (a) divert and drain all runoff water from the working face of the site, which could be expected as a result of the estimated maximum precipitation during a 24 hour period with an average frequency of once in 100 years (referred to as "estimated maximum precipitation"); and (b) to cater for all expected leachate.</p> | <p>Compliant</p> | <p>Mr. Innocent Mhlongo informed the inspection team that staff were used to conduct general maintenance around the site which included picking up litter and operating the machines. He further mentioned that all technical works and garden services had to follow the procurement processes. Mr. Innocent Mhlongo informed the inspection team that v-drains were constructed along the berms. Surface runoff (uncontaminated) from the re-shaped area drains into the Stormwater Attenuation Pond which flows to the Blackburrowspruit. He further mentioned that leachate (contaminated) from the landfill site drains into the Leachate Pond. Mr. Cyril Naidoo informed the inspection team that Phase 1 of the site upgrade had included the construction of a stormwater dam and the reshaping of the site. He further mentioned that a leachate system was in place which discharges into the municipal sewer system.</p> |
| <p>5.2.10 Such works must ensure that clean water runoff is prevented from coming into contact with leachate. The works constructed to accommodate the clean water runoff and</p> | <p>Compliant</p> | <p>Mr. Innocent Mhlongo informed the inspection team that both the Stormwater Attenuation Dam and Leachate Dam were lined.</p> |

Handwritten signatures and initials are present at the bottom of the page, including a large stylized signature on the left and several smaller initials on the right.

leachate must each be of such a capacity as to maintain a freeboard of half a metre and must be lined to prevent pollution to groundwater.

5.3 OPERATION

Management

| | | |
|--|------------------|---|
| <p>5.3.1 The site may be used for disposal of general waste as classified according to the applicable waste classification system, excluding those wastes listed in Annexure IV attached to this waste management licence.</p> | <p>Compliant</p> | <p>Mr. Cyril Naidoo informed the inspection team that only general waste was disposed of at the landfill site. He informed the inspection team that three checks are in place, the security officials at the main gate; the weighbridge facility including cameras and visual inspection by officials; and, on-site supervisors at the working face. Site supervisors control the location of waste disposal.</p> |
| <p>5.3.2 No organic or inorganic element or compound which may have a definite acute or chronic negative effect on human health and/or the environmental, due to its toxic, physical, chemical or persistent characteristics may be disposed of on site.</p> | <p>Compliant</p> | <p>Mr. Innocent Mhlongo informed the inspection team that no organic or inorganic element or compound which may have a definite acute or chronic negative effect on human health and/or the environmental, due to its toxic, physical, chemical or persistent characteristics was disposed of on site.</p> |
| <p>5.3.3 No medical waste may be disposed of on site.</p> | <p>Compliant</p> | <p>Mr. Innocent Mhlongo informed the inspection team that no medical waste was disposed of on site.</p> |
| <p>5.3.4 No schedule pharmaceutical products registered in terms of the Medicines and Related Substances Control Act, 1965 (Act 101 of 1965) or associated containers, may be disposed of on the site in accordance with Annexure IV.</p> | <p>Compliant</p> | <p>Mr. Innocent Mhlongo informed the inspection team that no schedule pharmaceutical products registered in terms of the Medicines and Related Substances Control Act, 1965 (Act 101 of 1965) or associated containers, may be disposed of on the site in accordance with Annexure IV.</p> |
| <p>5.3.5 The licence holder must ensure that personnel operating the landfill are competent in waste disposal and landfill operation.</p> | <p>Compliant</p> | <p>Mr. Innocent Mhlongo informed the inspection team staff have attended training on an ongoing basis. Mr. Cyril Naidoo informed the inspection team that personnel</p> |

| | | |
|--|------------------|---|
| <p>5.3.6 A dedicated accessible area must be established to receive waste during wet weather conditions when an operational cell cannot be accessed.</p> | <p>Compliant</p> | <p>have competency certificates and undergo ongoing training and that the staffing capacity at the landfill site is approximately 73%. He informed the inspection team that there is a separate contract for security on site. Mr. Cyril Naidoo provided two certificates as examples to confirm competency of personnel to the inspection team. (Refer to Documents No. 1 and No. 2)</p> <p>Mr. Innocent Mhlongo informed the inspection team that the Waste Transfer Station was utilized temporarily during high rainfall events. A permanent Wet Weather Cell was located at the face of the landfill Site.</p> |
| <p>5.3.7 Waste disposed of at the site may be reclaimed. The sorting may take place at a designated area allocated by Landfill Site Management and must not interfere with the daily operation of the site. In this regard the licence holder must take measures to ensure that an appropriate area for reclamation is identified and implemented within one (1) year of the date of this licence.</p> | <p>Compliant</p> | <p>Mr. Cyril Naidoo informed the inspection team that an appropriate area for reclamation had been identified in the North-eastern portion of the site, on the berm outside of the working area. Mr. Cyril Naidoo indicated that the reclamation area was demarcated with danger tape however he informed the inspection team that waste-pickers were not remaining in the demarcated area and have spread over a larger area outside of the working area of the landfill site.</p> |
| <p>5.3.8 The licence holder must keep records of the volume and types of waste materials reclaimed and report this to the licensing authority and into the national waste information system as required by the National Waste Information Regulations.</p> | <p>Compliant</p> | <p>Mr. Cyril Naidoo indicated that recyclable material that departed the site via the outgoing weighbridge was recorded and reported into the National Waste Information System. Mr. Cyril Naidoo provided the inspection team with the recycling figures for August 2017 (Refer to Document No. 3).</p> <p>Mr. Cyril Naidoo informed the inspection team that not all waste being reclaimed were recorded as some material was removed on foot or during periods when the weighbridge was not functioning.</p> |
| <p>5.3.9 Waste disposed of must be compacted and covered at</p> | <p>Compliant</p> | <p>Mr. Innocent Mhlongo informed the inspection team that there were 2 compactors on site, only one was operational, which</p> |

BB

| | | |
|---|----------------------|--|
| <p>the end of each working day with a minimum of 150mm of soil or other material approved by the licensing authority.</p> | | <p>led to the backlog of waste compaction. He further mentioned that 150mm thickness of fine soil was used as cover material.</p> |
| <p>5.3.10 Sufficient cover material, enough for at least two (2) weeks, must be stock piled within or in close proximity to the site at all times.</p> | <p>Compliant</p> | <p>Mr. Innocent Mhlongo informed the inspection team that the landfill site had sufficient cover material.</p> |
| <p>5.3.11 The site must be operated in such a manner that the height of the embankment or perimeter wall is at all times maintained at a higher elevation than the level of the operating floor.</p> | <p>Compliant</p> | <p>Mr. Innocent Mhlongo informed the inspection team that a contractor was appointed to extend the berms by 1.5 meters</p> |
| <p>5.3.12 The licence holder may only accept waste on the active working area of the site between 07h00 and 16h00 during weekdays and between 07h00 and 15h00 on Saturdays.</p> | <p>Non-compliant</p> | <p>Mr. Innocent Mhlongo informed the inspection team that there are security guards on site to ensure that waste is only delivered during business hours. He further mentioned that waste was accepted at the landfill site during weekends which included Sundays.</p> <p>Mr. Cyril Naidoo informed the inspection team that the landfill site was operating outside of the specified operation times, including Sundays from 07h00 to 15h00.</p> |
| <p>5.3.13 The licence holder must ensure that all entrance gates are manned during the hours of operation and locked outside the hours of operation.</p> | <p>Compliant</p> | <p>Mr. Innocent Mhlongo informed the inspection team that there were two security guards whom manned an entrance and rear gate. Four security guards patrolled the landfill site.</p> |
| <p>5.3.14 The licence holder must ensure that the site is fully fenced with an installed lockable gate, legible notice board written in at least two (2) appropriate languages and must include operation hours; contact and emergency details; types</p> | <p>Non-Compliant</p> | <p>Mr. Innocent Mhlongo informed the inspection team that the landfill site is a GMB+, which meant that only general waste was accepted on site.</p> <p>Mr. Cyril Naidoo informed the inspection team that there were approximately 12 openings located along the fence line.</p> |

10

Handwritten marks and signatures at the bottom of the page.

| | | |
|--|----------------------|--|
| <p>of wastes allowed, and tariffs. Appropriate warning signs must be displayed at the entrance on the notice board.</p> | | <p>The inspection team observed that the landfill site was not fully fenced, as there were many openings. (Refer to Photograph A1)</p> |
| <p>5.3.15 Notices prohibiting unauthorized persons from entering the site, as well as an internationally accepted sign indicating the risks involved in unauthorized entry must be displayed at 100 meter intervals along the boundary of the site.</p> | <p>Non-Compliant</p> | <p>Mr. Innocent Mhlongo informed the inspection team that notices prohibiting unauthorized persons from entering the site, as well as an internationally accepted sign indicating the risks involved in unauthorized entry was not displayed at 100 meter intervals along the boundary of the site. The inspection team observed a sign indicating 'Enter at your own risk' which did not include the risks involved with an unauthorized entry. (Refer to Photograph A2)</p> |
| <p>5.3.16 The licence holder must take all reasonable steps to maintain service roads in a condition which ensures unimpeded access to the site for vehicles transporting waste and to keep the roads free of waste.</p> | <p>Compliant</p> | <p>Mr. Innocent Mhlongo informed the inspection team that a jay loader was used to maintain the site twice a week.</p> |
| <p>5.3.17 The licence holder must take all reasonable steps to ensure that the site is operated in such a manner that nuisance conditions or health hazards or the creation of nuisance conditions or health hazards including vermin and odour are prevented.</p> | <p>Compliant</p> | <p>Mr. Innocent Mhlongo informed the inspection team that waste at the landfill site was continuously covered which prevented health hazards and nuisances.</p> |
| <p>5.3.18 No smoking, burning of waste or naked flames are allowed on the site.</p> | <p>Compliant</p> | <p>Mr. Innocent Mhlongo informed the inspection team that burning of waste was prohibited on site. He further mentioned that waste pickers burn copper cables, smoke cigarettes and cook food on site.</p> |
| <p>5.3.19 Litter scattered by wind must be collected on a daily basis and the licence holder must use movable fences to</p> | <p>Non-compliant</p> | <p>Mr. Innocent Mhlongo informed the inspection team that there were staff which picked litter on a daily basis. He further indicated that danger tape was utilized which were vandalised</p> |

[Handwritten signature]
11

[Handwritten signature]

| | | |
|--|-------------------------------|--|
| <p>control wind-blown waste where practicable.</p> | | <p>by the waste pickers.</p> <p>The inspection team observed windblown litter along the fence line located at the entrance to the landfill site and near the gas wells (Refer to photographs A3 and A4).</p> <p>Mr. Innocent Mhlongo informed the inspection team that water tanker was utilized for dust suppression.</p> |
| <p>5.3.20 Sufficient dust control measures to prevent wind-blown dust from causing nuisance conditions or health hazards must be applied.</p> | <p>Compliant</p> | |
| <p>5.3.21 Indigenous trees must be established on the screening berm around the site to effectively screen the site from nearby roads and residential areas.</p> | <p>Non-compliant</p> | <p>Mr. Innocent Mhlongo informed the inspection team that grass was planted around the site and not indigenous trees.</p> <p>The inspection team observed Wattie Trees planted inside the landfill site. (Refer to photograph A5)</p> |
| <p>5.3.22 During the operative life of the site, the licence holder must take all reasonable steps, such as suitable zoning, written agreements with adjacent landowners, buying out land and/or obtaining a servitude to prevent the development of further residential and/or light industrial areas closer to the site than –165 metres to the north-west, 180 metres to the North, and 800 metres to the east, south and west.</p> | <p>Non-Compliant</p> | <p>Mr. Cyril Naidoo informed the inspection team that the licence holder had not notified relevant parties in the Municipality (i.e. Planning) or adjacent land owners of the limitations on development within the buffer area.</p> |
| <p>5.3.23 The licence holder must implement adequate measures to the satisfaction of the Department to:</p> <p>5.3.23.1 ventilate methane gas generated in the waste area;</p> <p>5.3.23.2 prevent the build-up of flammable gas inside buildings on the site; and</p> | <p>Partial Non-Compliance</p> | <p>Mr. Innocent Mhlongo informed the inspection team that there were six underground gas wells located two metres deep at the face of the landfill site, and many other gas wells located around the landfill site.</p> |

| | | |
|---|----------------------------------|---|
| <p>5.3.23.3 prevent lateral migration of methane gas; and monitor these measures in accordance with condition 5.3.42 in order to prevent the build-up of dangerous concentrations within the site. The licence holder must ensure that there is a contingency plan to be followed when measured levels of flammable gas reach the levels as referred to in condition 5.3.42</p> | | <p>Mr. Cyril Naidoo informed the inspection team that a General Site Contingency Plan was in place, however the plan did not specifically address the needs related to flammable gas exceedences.</p> |
| <p>5.3.24 The licence holder must maintain all infrastructure works on a continuous basis to prevent all runoff water from the working face coming into contact with the leachate from on the site.</p> | <p>Compliant</p> | <p>Mr. Innocent Mhlongo informed the inspection team that the Stormwater Attenuation Dam was operational but not complete as concrete works still have to be conducted. He further mentioned that there was an electrical failure at the Leachate Dam and manually pumping was being undertaken.</p> |
| <p>5.3.25 Works constructed to accommodate surface runoff and leachate must be continuously monitored to ensure a freeboard of half a metre is maintained.</p> | <p>Compliant</p> | <p>Mr. Innocent Mhlongo informed the inspection team that a contractor was appointed to extend the berms by 1.5 metres.</p> |
| <p>5.3.26 Runoff water must comply with quality requirements of the General and Special Standard prescribed by the Department of Water and Sanitation, as amended from time to time.</p> | <p>Potentially Non-Compliant</p> | <p>Mr. Cyril Naidoo informed the inspection team that the stormwater emanating from the functional area of the landfill was channelled into the new stormwater dam and thereafter directly into the Blackborough Spruit. Stormwater emanating from the land fill site and entering the stormwater dam is potentially contaminated or may come into contact with waste material and/or leachate. No testing of this stormwater run off takes place prior to discharge directly into the Blackborough Spruit.</p> |
| <p>5.3.27 Leachate is deemed to be treated when the quality thereof complies with the quality requirements of the General</p> | <p>Compliant</p> | <p>Mr. Cyril Naidoo informed the inspection team that the leachate is sampled. A copy of the Water Quality, Leachate and Gas Monitoring Report produced by Envitech Solutions</p> |

| | | |
|--|----------------------------------|---|
| <p>and Special Standard prescribed by the Department of Water and Sanitation, as amended from time to time.</p> | | <p>dated April 2017 was provided to the inspection team (Refer to Document No. 4).</p> |
| <p>5.3.28 All runoff water (stormwater) arising as a result of precipitation-</p> <ul style="list-style-type: none"> (i) On land adjacent to the site; and (ii) On the site; <p>must be prevented from coming into contact with any substance, whether such substance is a solid, liquid, vapour or gas or a combination thereof which is produced, used, stored, dumped or spilled on the premises, including leachate and must be diverted and drained-</p> <ul style="list-style-type: none"> (i) Around the site; and (ii) From the working face of the site; <p>by means of works constructed by the licence holder in accordance with condition 5.2.9.</p> | <p>Non-compliant</p> | <p>Mr. Innocent Mhlongo informed the inspection team that the bottom of the landfill site was lined in order to prevent any contamination.</p> <p>The inspection team observed a Waste Transfer Station which was not bunded and lined, there were no stormwater management measures in place to prevent stormwater from coming into contact with any substance, whether such substance is a solid, liquid, vapour or gas or a combination thereof. (Refer to photograph A6)</p> <p>Mr. Cyril Naidoo informed the inspection team that the stormwater emanating from the functional area of the landfill was channelled into the new stormwater dam and thereafter directly into the Blackborough Spruit. Stormwater emanating from the land fill site and entering the stormwater dam is potentially contaminated or may come into contact with waste material and/or leachate. No testing of this stormwater run off takes place prior to discharge directly into the Blackborough Spruit prior to discharge directly into the Blackborough Spruit.</p> |
| <p>5.3.29 Uncontaminated runoff water as defined in condition 5.3.26 must be diverted away from the site to the Blackboroughspruit and discharged into this Spruit at a point upstream of the site.</p> | <p>Potentially Non-Compliant</p> | <p>Mr. Cyril Naidoo informed the inspection team that the stormwater emanating from the functional area of the landfill was channelled into the new stormwater dam and thereafter directly into the Blackborough Spruit. Stormwater emanating from the land fill site and entering the stormwater dam is potentially contaminated or may come into contact with waste material and/or leachate. No testing of this stormwater run off takes place prior to discharge directly into the Blackborough Spruit.</p> |

| | | |
|---|----------------------------------|---|
| <p>5.3.30 In the event that runoff water referred to in condition 5.3.26 becomes contaminated to the extent of not complying with the water quality requirements as referred to in condition 5.3.26, it must be regarded as untreated leachate and must be dealt with according to condition 5.3.33.</p> | <p>Potentially Non-Compliant</p> | <p>Mr. Cyril Naidoo informed the inspection team that the stormwater emanating from the functional area of the landfill was channelled into the new stormwater dam and thereafter directly into the Blackborough Spruit. Stormwater emanating from the land fill site and entering the stormwater dam is potentially contaminated or may come into contact with waste material and/or leachate. No testing of this stormwater run off takes place prior to discharge directly into the Blackborough Spruit.</p> |
| <p>5.3.31 Runoff water arising from operational actions, for example the washing of vehicles and containers, must be regarded as contaminated runoff and must be treated according to condition 5.3.33.</p> | <p>Compliant</p> | <p>Mr. Innocent Mhlongo informed the inspector team that contaminated water from the washing of vehicles and containers are directed to the Leachate Dam.</p> |
| <p>5.3.32 Uncontaminated runoff must under no circumstances be used to dilute waste water resulting from any activities on the site, or actions relating to the operation of the site, or leachate emanating from the site, but must be dealt with according to condition 5.3.29.</p> | <p>Compliant</p> | <p>Mr. Innocent Mhlongo informed the inspection team that uncontaminated runoff were used to dilute waste water resulting from any activities on the site, or actions relating to the operation of the site, or leachate emanating from the site. He further mentioned that there was no treatment of leachate.</p> |
| <p>5.3.33 All leachate emanating from the site including contaminated runoff water shall be treated to comply with the aforementioned standard and discharged in a legal manner; be evaporated in a lined dam and/or, be discharged into a sewer if accepted by the authority in control of that sewer.</p> | <p>Potentially Non-Compliant</p> | <p>Mr. Innocent Mhlongo informed the inspection team that leachate was not treated on site. Leachate is directed to the municipal sewerage line, which is treated at the uMgeni Waste Water Treatment Works.</p> <p>Mr. Cyril Naidoo informed the inspection team that the stormwater emanating from the functional area of the landfill was channelled into the new stormwater dam and thereafter directly into the Blackborough Spruit. Stormwater emanating</p> |

| | | |
|---|----------------------|--|
| | | <p>from the land fill site and entering the stormwater dam is potentially contaminated or may come into contact with waste material and/or leachate. No testing of this stormwater run off takes place prior to discharge directly into the Blackborough Spruit.</p> |
| MONITORING & AUDITING | | |
| <p>5.3.34 The licence holder must submit a detailed geo-hydrological report for the site to this Department and Department of Water and Sanitation within one (1) year from the date of issue of this licence.</p> | <p>Compliant</p> | <p>Mr. Cyril Naidoo informed the inspection team that the submission of a detailed geo-hydrological report for the site to the Department and Department of Water and Sanitation would be undertaken.</p> |
| <p>5.3.35 The licence-holder must establish and maintain the monitoring boreholes and water quality monitoring/sampling points as reflected on the Water Quality Monitoring Plan Ref: 525-2015-001 prepared by Envitech Solutions and attached as Annexure V.</p> | <p>Compliant</p> | <p>Mr. Cyril Naidoo informed the inspection team that the boreholes have been established in terms of Water Quality Monitoring Plan Ref: 525-2015-001 prepared by Envitech Solutions. The plan was not provided to the inspection team.</p> |
| <p>5.3.36 Monitoring boreholes must be equipped with lockable caps. The Department reserves a right to take water samples at any time and to analyse these samples, or to have them taken and analysed.</p> | <p>Non-Compliant</p> | <p>Mr. Innocent Mhlongo informed the inspection team that the boreholes were capped and not locked. The inspection team observed capped and unlocked boreholes. (Refer to Photograph A7)</p> |
| <p>5.3.37 Monitoring of the ground and surface water quality network must be conducted at the locations identified in the Water Quality Monitoring Plan and must monitor the variables listed in Annexure VI at the frequencies reflected therein.</p> | <p>Non-Compliant</p> | <p>Mr. Naidoo informed the inspection team that the ground and surface water is sampled and provided a copy of the Water Quality, Leachate and Gas Monitoring Report produced by Envitech Solutions dated April 2017 (Refer to Document No 4). The Water Quality, Leachate and Gas Monitoring Report</p> |

2 16

| | | |
|--|----------------------------------|--|
| <p>5.3.38 If, in the opinion of this Department, the water quality variables referred to 5.3.37 and listed in Annexure VI shows an increasing trend, the licence holder shall initiate a monthly monitoring programme.</p> | <p>Potentially non-Compliant</p> | <p>produced by Envitech Solutions dated April 2017 did not monitor for the variables listed in Annexure VI of the WML, or for the variables listed in the Annexure of the previous Waste Permit. The Water Quality, Leachate and Gas Monitoring Report produced by Envitech Solutions dated April 2017 did not monitor for the variables listed in Annexure VI of the WML, or for the variables listed in the Annexure of the previous Waste Permit. There is no trend analysis to establish if more frequent monitoring was required.</p> |
| <p>5.3.39 The licence holder must establish and maintain the landfill gas monitoring points as reflected on the Landfill Gas Monitoring Plan Ref. 525-2015-002 prepared by Envitech Solutions and attached as Annexure VII.</p> | <p>Compliant</p> | <p>Mr. Cyril Naidoo informed the inspection team that the gas monitoring point and boreholes have been established in terms of Landfill Gas Monitoring Plan Ref. 525-2015-002 prepared by Envitech Solutions. The plan was not provided to the inspection team.</p> |
| <p>5.3.40 Monitoring of flammable gas must be conducted – (a) Through a network of boreholes or any other monitoring devices approved by the licensing authority, which must be at least one metre deeper than the deepest point of the waste body; and (b) In the atmosphere inside buildings on the Site; for the quantitative detection of the volatile materials on the Site: Carbon Dioxide, Oxygen, and Methane.</p> | <p>Compliant</p> | <p>Mr Naidoo informed the inspection team that the gas monitoring points were sampled quarterly and provided a copy of the Water Quality, Leachate and Gas Monitoring Report produced by Envitech Solutions dated April 2017 (Refer to Document No. 4).</p> |
| <p>5.3.41 Quarterly monitoring of the flammable gas variables must take place at the points identified on the Landfill Gas</p> | <p>Compliant</p> | <p>Mr. Cyril Naidoo informed the inspection team that the gas monitoring points were sampled quarterly and provided a copy of the Water Quality, Leachate and Gas Monitoring Report</p> |

| | | |
|--|----------------------|--|
| <p>Monitoring Plan Ref. 525-2015-002 prepared by Envitech Solutions and attached as Annexure VII.</p> | | <p>produced by Envitech Solutions dated April 2017 (Refer to Document No. 4).</p> |
| <p>5.3.42 The atmospheric levels in the atmosphere of (a) carbon dioxide must not exceed 0.5%; and (b) methane must not exceed 1%, by volume in air at the monitoring locations.</p> | <p>Non-Compliant</p> | <p>The Water Quality, Leachate and Gas Monitoring Report produced by Envitech Solutions dated April 2017 (Document No. 4) indicated that the atmospheric levels of carbon dioxide had exceeded 0.5% v/v at gas monitoring points GMP1, GMP2, GMP3, GMP4, GMP5, GMP6, GMP7, GMP8, GMP9, GMP10, GMP13, GMP14, GMP15, GMP20, GMP21 and boreholes P1S, P1D, P2S and P3S.</p> <p>The Water Quality, Leachate and Gas Monitoring Report produced by Envitech Solutions dated April 2017 (Refer to Document No. 4) indicated that the atmospheric levels of methane have exceeded 1.0% v/v in boreholes P1S, P1D and P2S.</p> |
| <p>5.3.43 Should the atmospheric levels of flammable gas be between 0.1% and 1%, a higher frequency of monitoring must be instituted. Should levels above 1% be detected in buildings on the site, the buildings must be evacuated and the contingency plan implemented.</p> | <p>Non-Compliant</p> | <p>The Water Quality, Leachate and Gas Monitoring Report produced by Envitech Solutions dated April 2017 (Refer to Document No. 4) indicated that the atmospheric levels of flammable gases have exceeded the specified levels and a higher frequency of monitoring was not instituted.</p> |
| <p>5.3.44 Should measurements of the gas monitoring network at any time exceed the limits specified, the licence holder must report this as an incident.</p> | <p>Non-Compliant</p> | <p>The Water Quality, Leachate and Gas Monitoring Report produced by Envitech Solutions dated April 2017 (Refer to Document No. 4) indicated that the atmospheric levels of flammable gases have exceeded the specified levels which was not reported as an incident.</p> |
| <p>5.3.45 The measurements of flammable gases must be amended for Standard Temperature and Pressure.</p> | <p>Compliant</p> | <p>Mr. Cyril Naidoo provided a copy of the Water Quality, Leachate and Gas Monitoring Report produced by Envitech Solutions dated April 2017 (Refer to Document No. 4).</p> |

(Handwritten signatures and initials)

| | | |
|---|---------------|--|
| <p>5.3.46 The licence holder must within 60 (sixty days) from the date of issue of this licence, submit a proposal for a comprehensive air quality, gas and dust monitoring programme for approval by the licensing authority. Once approved the licence holder must implement this monitoring programme.</p> | Non-Compliant | Mr. Cyril Naidoo informed the inspection team that the monitoring programme had not been developed. |
| <p>5.3.47 The licence holder shall carry out all tests in accordance with methods prescribed by and obtainable from the South African Bureau of Standards (SABS), referred to in the Standards Act, 2008 (Act of 2008), to analyse samples taken for monitoring.</p> | Compliant | Mr. Cyril Naidoo provided a copy of the Water Quality, Leachate and Gas Monitoring Report produced by Envitech Solutions dated April 2017 (Refer to Document No. 4) which indicated that samples and testing had been undertaken in accordance with SANS 241:2011. |
| <p>5.3.48 The licence holder must submit quarterly environmental audit reports, prepared by the licence holder, to this Department, unless otherwise agreed to in writing by this Department.</p> | Non-Compliant | Mr. Cyril Naidoo informed the inspection team that the quarterly environmental audit report had not been completed. |
| <p>5.3.49 This Department or any other state organ reserves the right to auditor inspect the site at any time, and the licence holder must make any records or documentation regarding the site available upon request.</p> | Compliant | The inspection team was allowed to access the site without restriction and provided documents as requested. |
| <p>5.3.50 The licence holder must establish a landfill Monitoring Committee that will meet twice a year and not later than 30 days after the external audit report specified in condition</p> | Non-Compliant | Mr. Cyril Naidoo informed the inspection team that the Landfill Site Monitoring Committee had not been functional since 2014/15. This is primarily due to a lack of a suitable Quorum and Chairmanship of the forum meetings. Furthermore the Strategic Management Committee (SMC) had disbanded the |

| | | |
|---|----------------------|--|
| <p>5.3.53 has been submitted. The monitoring committee must include interested and affected parties, this Department, the licence holder and Department of Water and Sanitation.</p> | | <p>Monitoring Committee. Mr. Cyril Naidoo informed the inspection team that he was in the process to redevelop the Terms of Reference and a report to amend the Quorum requirements.</p> |
| <p>5.3.51 The licence holder must ensure that minutes of the Monitoring Committee meetings are kept and must ensure that these minutes are distributed to all members of the Monitoring Committee within 14 days after a meeting.</p> | <p>Non-Compliant</p> | <p>Mr. Cyril Naidoo informed the inspection team that the Landfill Site Monitoring Committee had not been functional since 2014/15 and therefore no minutes were in existence.</p> |
| <p>5.3.52 The licence holder must appoint an independent, suitably qualified external auditor to audit the annually.</p> | <p>Compliant</p> | <p>Mr. Cyril Naidoo informed the inspection team that Envitech Solutions had been appointed to undertake the external audits.</p> |
| <p>5.3.53 The external audit report referred to in 5.3.52 must include-</p> <ul style="list-style-type: none"> An evaluation of the compliance with the conditions of this licence for the reporting period; Actions taken to rectify the non-compliances identified. | <p>Non-Compliant</p> | <p>Mr. Cyril Naidoo provided a copy of the Water Quality, Leachate and Gas Monitoring Report produced by Envitech Solutions dated April 2017 (Refer to Document No. 4). The report did not include an evaluation of compliance with the conditions of the licence for the reporting period or actions taken to rectify the non-compliances identified.</p> |
| <p>5.3.54 The external audit report referred to in 5.3.52 must be submitted to the Department within 90 (ninety) days of the audit being conducted.</p> | <p>Compliant</p> | <p>Mr. Cyril Naidoo informed the inspection team that a copy of the Water Quality, Leachate and Gas Monitoring Report produced by Envitech Solutions dated April 2017 (Refer to Document No. 4) was emailed to the Department.</p> |
| <p>RECORDING AND REPORTING</p> | | |
| <p>5.3.55 The licence holder must, within 24 hours notify this Department of occurrence or detection of any incident on the site which has the potential to cause environmental impact or water pollution.</p> | <p>Compliant</p> | <p>Mr. Cyril Naidoo informed the inspection team that the Department was informed within 24 hours of the last major event. The last major event was a fire at the landfill site.</p> |

SR

| | | |
|---|------------------|--|
| <p>5.3.56 The licence holder must, within 14 days or shorter time if specified by this Department, from the occurrence or detection of any incident referred to condition 5.3.55, submit to this Department an action plan which must include a detailed time schedule of measures taken to:</p> <p>5.3.56.1 correct the impact resulting from the incident;</p> <p>5.3.56.2 prevent the incident from causing any further impacts; and</p> <p>5.3.56.3 prevent the recurrence of a similar incident.</p> | <p>Compliant</p> | <p>Mr. Cyril Naidoo informed the inspection team that a Section 30 incident report was submitted to National DEA and to the Department following the fire incident.</p> |
| <p>5.3.57 The licence holder must keep an incident report and complaints register, which must be made available to the external auditor and the licensing authority for purposes of their audits.</p> | <p>Compliant</p> | <p>Mr. Cyril Naidoo informed the inspection team that an incident and complaints register was maintained on site and provided a copy of the register for 2017 (Refer to Document No. 5).</p> |
| <p>5.4 SITE CLOSURE AND DECOMMISSIONING</p> | | |
| <p>5.4.1 The operation of the site must address rehabilitation processes as part of the operation by preventing erosion and the formation of pools due to rain through the re-establishment of vegetation and the final shaped covering of any disused portion of the site.</p> | <p>Compliant</p> | <p>Not applicable as the site is still functional.</p> |
| <p>5.4.2 The Licence holder must rehabilitate the site or any portion thereof, in accordance with legislated closure requirements.</p> | <p>Compliant</p> | <p>Not applicable as the site is still functional.</p> |

| | | |
|--|--|--|
| <p>5.4.3 In the event of closure of the site, the licence holder must contact the Department for confirmation of relevant requirements.</p> | <p>Compliant</p> | <p>Not applicable as the site is still functional.</p> |
| <p>5.4.4 Water quality monitoring must be maintained for a period of 30 years or for such period, frequency and/or at locations as may be determined in writing with the licencing authority.</p> | <p>Compliant</p> | <p>Not applicable as the site is still functional.</p> |
| <p>5.4.5 Air quality, gas and dust monitoring must continue for a period until the landfill gas peak concentration of methane and carbon dioxide has been detected, or for any longer period as may be determined in writing with the licencing authority.</p> | <p>Compliant</p> | <p>Not applicable as the site is still functional.</p> |
| <p>10. UNAUTHORISED ACTIVITIES</p> | | |
| <p>ECA Section 20(6) Disposal of waste at a site not authorised in terms of Section 20(1). Criminal offence in terms of Section 29(4) of FCA. NOTE THIS ONLY APPLIES TO BEFORE JANUARY 2006</p> | <p>None identified</p> | |
| <p>NEM:WA Section 20(b) Waste management activities that require a waste management license in terms of section 20(b) of the National Environmental Management Waste Act, 2008 (Act No. 59 of 2008) ("NEM:WA") which came into effect on 3 July 2009</p> | <p>The following sites/facilities are waste management activities and the New England Road Landfill Site is not in possession of the required waste licenses in terms of Section 20(b) of the NEM:WA None identified</p> | |

SR

| | | |
|---|--|---|
| <p>NEM:WA Section 67 Offences</p> | <p>The New England Road Landfill Site is currently committing the following offences due to its contravention of and failure to comply with the following provisions or sections provided for in the NEM:WA</p> | |
| <p>Section 67 (1)(a) Sec 16(1)(c) of the NEM:WA requires that: A holder of waste must, within the holder's power, take all reasonable measures to where waste must be disposed of, ensure that waste is treated and disposed of in an environmentally sound manner.</p> | <p>None identified Activity/situation that indicates that the facility is not taking all reasonable measures to ensure that the waste is treated and disposed of in an environmentally sound manner</p> | <p>Is the facility implementing any measures to deal with the real or potential detrimental environmental impact Are these measures reasonable and/or sufficient to prevent or deal with the detrimental impact</p> |
| <p>Section 16(1)(d) of the NEM:WA requires that: A holder of waste must, within the holder's power, take all reasonable measures to manage waste in such a manner that it does not endanger health or the environment or cause a nuisance through noise, odour or visual impacts.</p> | <p>None identified Activity/situation that indicates that the facility is not taking all reasonable measures to ensure that the waste does not endanger health or the environment or cause a nuisance through noise, odour or visual impacts</p> | <p>Is the facility implementing any measures to deal with the real or potential detrimental environmental impact Are these measures reasonable and/or sufficient to prevent or deal with the detrimental impact</p> |
| <p>Section 16(1)(e) of the NEM:WA requires that: A holder of waste must, within the holder's power, take all reasonable measures to prevent any employee or any person under his or her supervision from contravening this Act.</p> | <p>None identified Activity/situation that indicates that the facility is not taking all reasonable measures to prevent any employee or any person under his or her supervision from contravening this Act</p> | <p>Is the facility implementing any measures to deal with the real or potential detrimental environmental impact Are these measures reasonable and/or sufficient to prevent or deal with the detrimental impact</p> |

23

SR

| | | | |
|---|--|---|---|
| <p>Section 16(1)(f) of the NEM:WA requires that: A holder of waste must, within the holder's power, take all reasonable measures to prevent the waste from being used for an unauthorised purpose</p> | <p>None identified</p> <p>Activity/situation that indicates that the facility is not taking all reasonable measures to prevent the waste from being used for an unauthorised purpose</p> | <p>Is the facility implementing any measures to deal with the real or potential detrimental environmental impact</p> | <p>Are these measures reasonable and/or sufficient to prevent or deal with the detrimental impact</p> |
| <p>Section 21 of the NEM:WA provides for the general requirements for the storage of waste and requires that: Any person who stores waste must at least take steps, unless otherwise provided by the Act, to ensure that:</p> | <p>None identified</p> <p>Activity/situation that indicates that the facility is not taking all reasonable measures to fulfil the general requirements for the storage of waste</p> | <p>Is the facility implementing any measures to deal with the real or potential detrimental environmental impact of the failure to comply with the general requirements for the storage of waste.</p> | <p>Are these measures reasonable and/or sufficient to prevent or deal with the detrimental impact</p> |
| <p>a) the containers in which any waste is stored, are intact and not corroded or in any other way rendered unfit for the safe storage of waste</p> | <p>A waste storage container located at the Waste Recycling Area was corroded, waste was observed overflowing from the sides of the container. (Refer to Photograph A8)</p> | <p>No. The facility indicated that a quotation to order new waste containers was made and the new containers would arrive in 2 or 3 months.</p> | <p>No</p> |
| <p>b) adequate measures are</p> | <p>None identified</p> | | |

[Handwritten signature]
SB

| | | | |
|--|---|--|---|
| <p>taken to prevent accidental spillage or leaking</p> | | <p>No. The facility indicated that there was a dedicated person appointed to ensure that all windblown litter was picked up on a daily basis. This was not being implemented on site as observed by the inspection team.</p> | <p>No</p> |
| <p>c) the waste cannot be blown away</p> | <p>Windblown litter was identified along the fence located at the entrance of the site and near the gas wells. (Refer to Photographs A3 and A4).</p> | | |
| <p>d) nuisances such as odour, visual impacts and breeding of vectors do not arise</p> | <p>None identified</p> | | |
| <p>e) pollution of the environment and harm to health are prevented</p> | <p>Activity/situation that indicates that the facility is not taking all reasonable measures to prevent pollution of the environment and harm to health</p> | <p>Is the facility implementing any measures to deal with the real or potential detrimental environmental impact of pollution to the environment and harm to health</p> | <p>Are these measures reasonable and/or sufficient to prevent or deal with the detrimental impact</p> |
| <p>Section 50(1) of the NEMA provides for the issuing of a</p> | <p>None identified</p> | <p>Is the facility implementing</p> | <p>Are these measures reasonable and/or sufficient to address the non-compliance</p> |

[Handwritten signatures and initials]

| Waste Management Licence subject to such conditions and requirements - | not in compliance with the conditions of the Waste Management Licence | any measures to deal with the non-compliance of the conditions | |
|---|---|--|---|
| (a) as specified in terms of Section 51; | None identified | | |
| (b) as the Licensing Authority may determine and specify in the licence; and, | <ol style="list-style-type: none"> Condition 5.1.5 related to not notifying registered I&AP's of the issuing of the Varied WML Condition 5.1.6 related to not notifying registered I&AP's of the issuing of the Varied WML in the format required Condition 5.1.7 related to not advertising the issuing of the WML. Condition 5.3.12 related to accepting waste outside of times specified in the conditions of the WML. Condition 5.3.14 related to the site being fully fenced. Condition 5.3.15 related to a sign indicating the risks involved in unauthorized entry must be displayed at 100 meter intervals along the boundary of the site. Condition 5.3.19 related to litter scattered by wind. | <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>Yes</p> <p>No</p> | <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> |

[Handwritten signature]

| | | | | |
|--|--|---|-----|----|
| | | 8. Condition 5.3.21 related to the establishment of indigenous trees around the site. | No | No |
| | | 9. Condition 5.3.22 related to taking all reasonable steps to ensure development restrictions within the defined buffer area | No | No |
| | | 10. Condition 5.3.23 related to ensuring that there is a contingency plan to be followed when measured levels of flammable gas reach the levels as referred to in condition 5.3.42. | Yes | No |
| | | 11. Condition 5.3.26 related to runoff water complying with quality requirements of the General and Special Standard prescribed by the Department of Water and Sanitation. | Yes | No |
| | | 12. Condition 5.3.28 related to runoff water (stormwater) arising as a result of precipitation. | No | No |
| | | 13. Condition 5.3.29 related to uncontaminated runoff water to be diverted away from the site | Yes | No |
| | | 14. Condition 5.3.30 related | Yes | No |

[Handwritten signature]

| (c) as the Minister or MEC has prescribed for the waste management activity in question. Offence in terms of Section 67 (1)(b) of the NEM:WA | non-compliances identified | | | | |
|--|---|--|---|--|--|
| 11. ENVIRONMENTALLY HARMFUL ACTIVITIES | | | | | |
| Activities/situations that have or may have a major detrimental environmental impact | Activity/situation that has or may have a major detrimental environmental impact | Details of evidence of the detrimental environmental impact (including potential impact) | Is the facility implementing any measures to deal with the real or potential detrimental environmental impact | Are these measures reasonable and/or sufficient to prevent or deal with the detrimental impact | |
| Non-Compliances identified in terms of Section 28 of NEMA and/or Section 31A of ECA | | | | | |
| Criminal offence in terms of section 49A(e) of NEMLA | Storm water v-drains located around the landfill site were blocked with waste material. (Refer to Photograph A9) | Stormwater from the v-drains would be contaminated by waste material. According to the site flows stormwater from the site flows directly to the Blackbourspruit, which can indicate that contaminated stormwater could flow into the river. | No | No | |
| | The opening of a monitoring borehole was covered with waste material. (Refer to photograph A10) | Waste material has the potential to contaminate the groundwater. The facility had not installed lockable caps for their monitoring boreholes. The boreholes are only capped. | Yes | No | |
| | A Leachate Pond Tank was not enclosed. (Refer to Photograph A11) | Leachate from the Leachate Dam has a potential to overflow into the environment. | No | No | |
| 12. NEMA S24F Activities that required EIA | New England Road Landfill Site commenced with the following listed activities after 3 July 2006, without the requisite authorisations in terms of Section 24 of NEMA: | | | | |

SR #

| | | |
|---|---|---|
| <p>authorisation in terms of section 24 NEMA Criminal offence in terms of Section 24F of NEMA</p> | <p>None identified</p> | |
| <p>13. OTHER CONTRAVENTIONS</p> | | |
| <p>NEMA Section 34A(1) Hindering or interfering with an EMI in the execution of that inspector's official duties; furnishing false or misleading information when complying with a request of an EMI; failing to comply with a request of an EMI.</p> | <p>None</p> | |
| <p>14. DOCUMENTATION SYSTEMS</p> | | |
| <p>Documentation systems to support demonstration of compliance with legislation and permits</p> | <p>Document management system appeared to be efficient. Most of the documents requested during the inspection were provided on the day of the inspection. Further documentation was requested by the 27th of October 2017, which was not received.</p> | |
| <p>15. SUMMARY OF INSPECTION PROCESS</p> | | |
| <p>Uncertainties or obstacles encountered</p> | <p>None</p> | |
| <p>Have the inspection objectives been met within the scope of the inspection and in accordance with the inspection plan?</p> | <p>Yes</p> | |
| <p>16. CLOSING MEETING</p> | | |
| <p>Date, time and venue</p> | <p>25 October 2017, 11:00am, New England Road Landfill Site</p> | |
| <p>Who was present?</p> | <p>Name</p> | <p>Designation</p> |
| | <p>Ms. Kershia Govender</p> | <p>Environmental Management Inspector</p> |
| | <p>Mr. Ian Felton</p> | <p>Environmental Management Inspector</p> |
| | <p>Ms. Heather Sheard</p> | <p>Environmental Management Inspector</p> |
| | <p>Mr. Ricky James</p> | <p>Environmental Management Inspector</p> |
| | <p>Ms. Shannon Farnsworth</p> | <p>Environmental Management Inspector (Municipal)</p> |
| | <p>Ms. Esmeralda Ramburran</p> | <p>Environmental Management Inspector (Municipal)</p> |
| | <p>Mr. Marc Hattingh</p> | <p>Environmental Management Inspector (Municipal)</p> |
| | | <p>Institution</p> |
| | | <p>EDTEA</p> |
| | | <p>EDTEA</p> |
| | | <p>EDTEA</p> |
| | | <p>EDTEA</p> |
| | | <p>MM</p> |
| | | <p>MM</p> |
| | | <p>UM</p> |

Handwritten initials and marks at the bottom of the page.

| | | | |
|--|--|------------------|----|
| | Mr Cyril Naidoo | Landfill Manager | MM |
| | Mr Innocent Mhlango | Foreman | MM |
| What was discussed? | <p>The inspection team leader and indicated that no immediate feedback would be provided, a detailed inspection report would be compiled and depending on the response received from the facility, the Department would make a decision whether enforcement action would be required or not. The inspection team leader thanked the facility for their co-operation during the inspection.</p> | | |
| Was further information requested, from whom and by what date? | <p>Documents were requested from Mr. Cyril Naidoo by the end of business day the 27.10.2017.</p> <p>The following documents were not provided to the inspection team:</p> <ul style="list-style-type: none"> • General Existing Infrastructure Layout Plan: Plan No. 525-2015-003 and the Co-ordinated Infrastructure Layout Plan 525-2015-004 prepared by Envitech Solutions. • Water Quality Monitoring Plan Ref. 525-2015-001 prepared by Envitech Solutions. • Landfill Gas Monitoring Plan Ref. 525-2015-002 prepared by Envitech Solutions. | | |
| 17. OUTSTANDING ISSUES/FOLLOW-UP ACTIONS | | | |
| None | | | |



Dr. Khumbulani Derick Mbatsha
 Inspection Team Leader
 Deputy Manager Environmental Services
 Grade 1 Environmental Management Inspector
 Date: 12/02/2018

Annexure A

Team members

| Name | Designation | Institution |
|-------------------------|--|-------------|
| Ms. Kershia Govender | Environmental Management Inspector | EDTEA |
| Mr. Ian Felton | Environmental Management Inspector | EDTEA |
| Ms. Heather Sheard | Environmental Management Inspector | EDTEA |
| Mr. Ricky James | Environmental Management Inspector | EDTEA |
| Ms. Shannon Farnsworth | Environmental Management Inspector (Municipal) | MM |
| Ms. Esmeralda Ramburran | Environmental Management Inspector (Municipal) | MM |
| Mr. Marc Hattingh | Environmental Management Inspector (Municipal) | UM |

Annexure B: List of mandated legislation and permits

Mandated legislation

National Environmental Management: Waste Act, 59 of 2008
 National Environmental Management Act, Act 107 of 1998

List of all permits applicable to the facility

| Permit | Date | Government Sphere | Ref No. | Status | Department |
|---|--------------|-------------------|-----------------------|--------|---|
| Waste Management License for the New England Road Landfill Site | 03 July 2017 | Provincial | DC22WML/0061/2 016 | Valid | Economic Development, Tourism & Environmental Affairs |


35



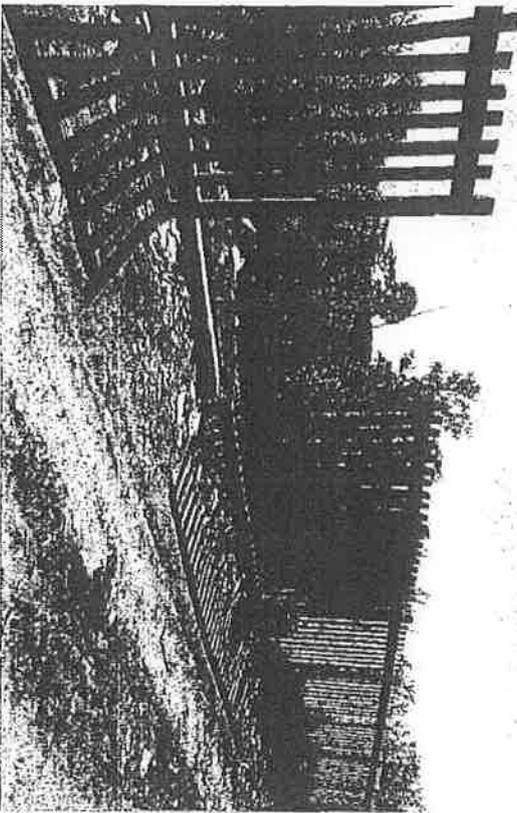
Annexure C: Opening Meeting Attendance Register

| NAME | INSTITUTION | TELEPHONE NUMBER | E-MAIL ADDRESS |
|-------------------------|-------------|------------------|-------------------------------------|
| Ms. Kershia Govender | EDTEA | (035) 780 0328 | Kershia.Govender@kznedtea.gov.za |
| Mr. Ian Felton | EDTEA | (033) 347 1826 | Ian.Felton@kznedtea.gov.za |
| Mr. Ricky James | EDTEA | (033) 347 1820 | Ricky.James@kznedtea.gov.za |
| Ms. Heather Sheard | EDTEA | 082 922 0700 | Heather.Sheard@kznedtea.gov.za |
| Ms. Shannon Farnsworth | MM | (033) 392 3243 | Shannon.Farnsworth@msunduzi.gov.za |
| Ms. Esmeralda Ramburran | MM | (033) 392 2470 | Esmeralda.Ramburran@msunduzi.gov.za |
| Mr. Marc Hattingh | UM | (033) 239 9261 | Marc.Hattingh@umgeni.gov.za |

Annexure D: Documentation submitted on 25 October 2017

| No. | Document | Date of document/ document reference | Author | Hardcopy / electronic copy |
|-----|--|---|---|-------------------------------|
| 1. | Certificate of Achievement: Bomag Refuse Compactor: Mr. Mlungisi Zeka | 01 March 2012 | Bell Training Centre | Hardcopy |
| 2. | National Certificate: Environmental Practice: Mr. Simangele Bhengu | 17 June 2016 | LGSETA | Hardcopy |
| 3. | Msunduzi Landfill (New England Road) Weight per Day : Recycling | August 2017 | Cyril Naidoo (Msunduzi Landfill site manager) | Hardcopy |
| 4. | Water Quality, Leachate and Gas Monitoring Report (Reference: 507-2014) | April 2017 | Envitech Solutions | Hardcopy |
| 5. | Landfill site: Complaints / Incident register 2017 | January - October 2017 | Cyril Naidoo (Msunduzi Landfill site manager) | Hardcopy |
| 6. | Waste Manifest, Safe disposal certificate and Dangerous Goods Declaration (Consignment ID: 067851) | 19 July 2016 | Big Six Distributors | Hardcopy |
| 7. | Completion Report: Infrastructure Upgrade at the New England Road Landfill Site: Phase 1 | October 2017 | Emzansi Engineers (Pty) Ltd | Hardcopy |

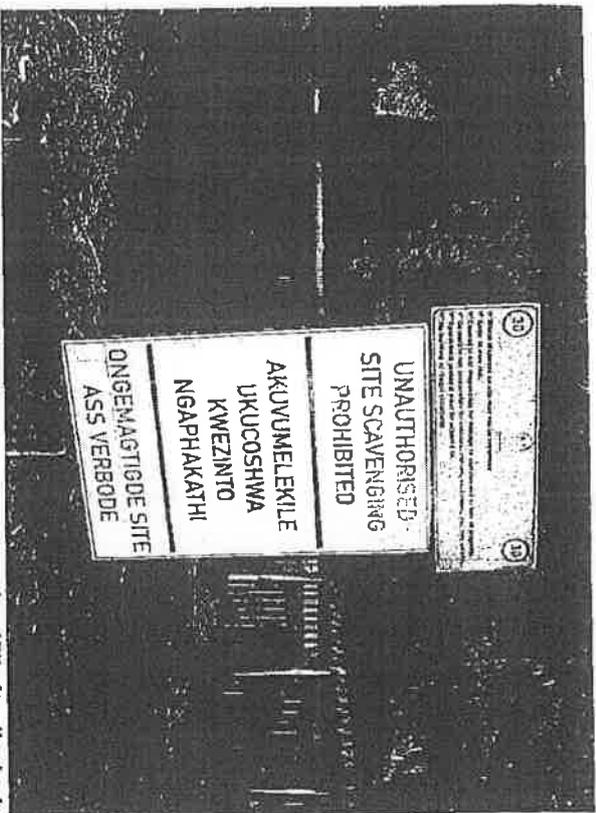
Annexure E: Photographs



Photograph A7: An opening observed at the fence surrounding the landfill site.

SR
33

SR

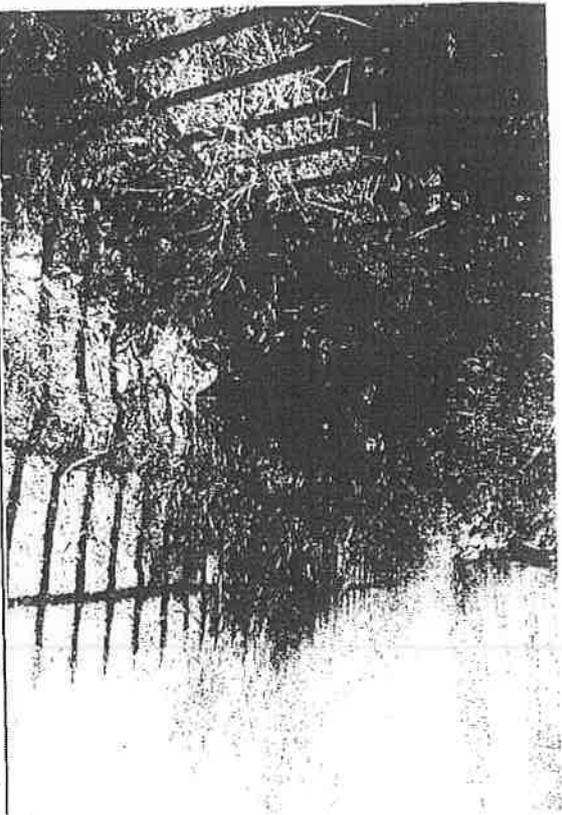


Photograph A2: A sign located at the entrance of the landfill site displaying 'Enter at your risk'.

37

AB

Photograph A3: Windblown litter observed along the fence line located at the entrance of the landfill site.

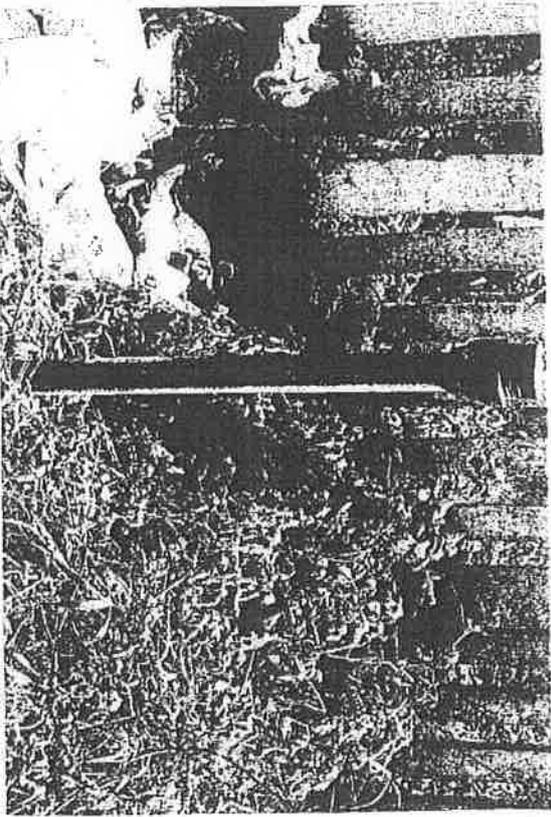


38

SR

Handwritten signature or mark.

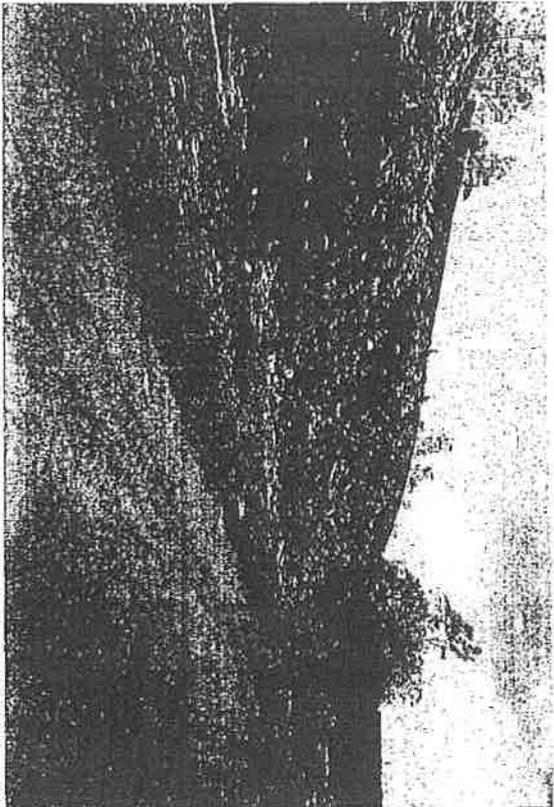
Photograph A4: Windblown litter observed around the gas wells.



39

SA

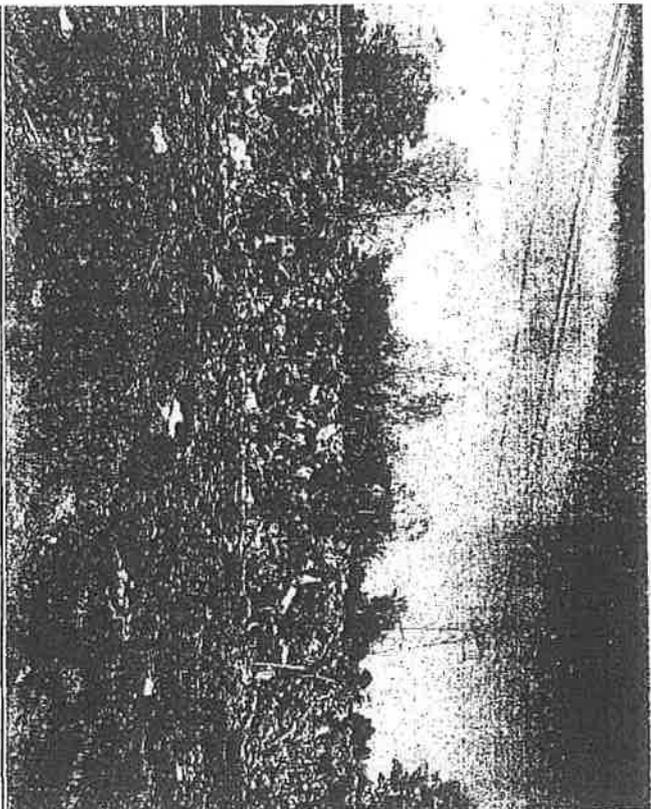
Photograph A5: Wattle trees were observed as screens around the landfill site.



Q

43

58



Photograph A6: An un-bundled and unlined Waste Transfer Station located within the Landfill site.

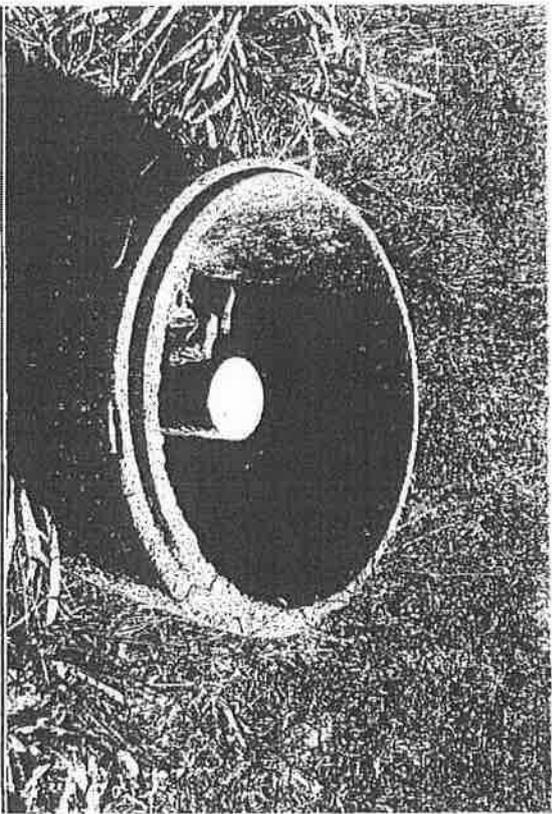
8

41

SR

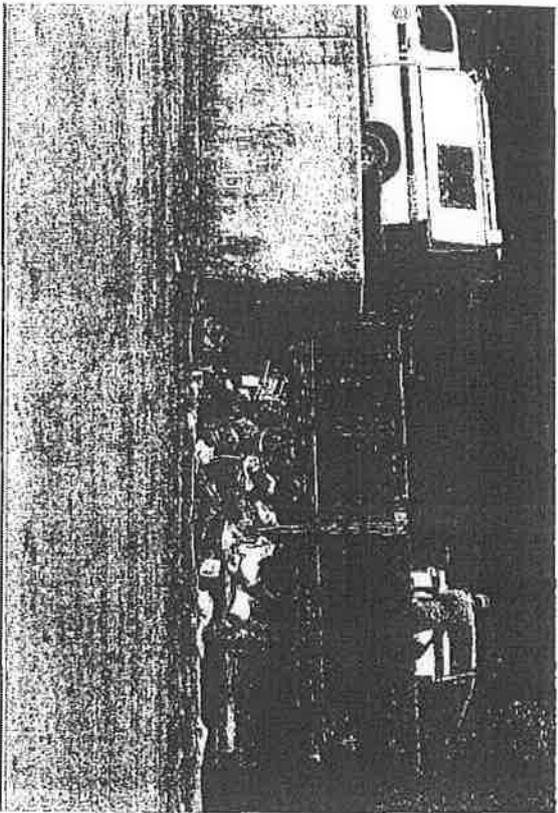
SP

Photograph A7: A capped and unlocked borehole at the landfill site.



Q
43

SR →



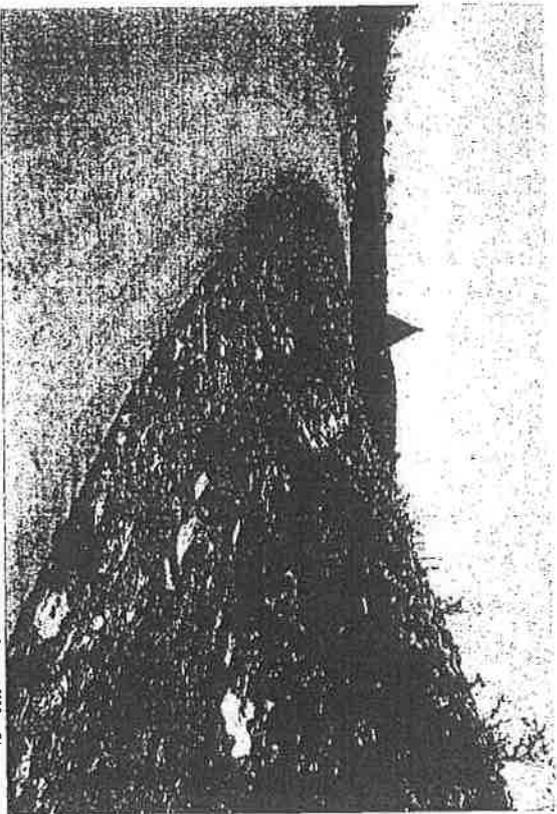
Photograph A8: A waste storage container located at the Waste Recycling Area was corroded, waste was observed overflowing from the sides of the container.

8

43

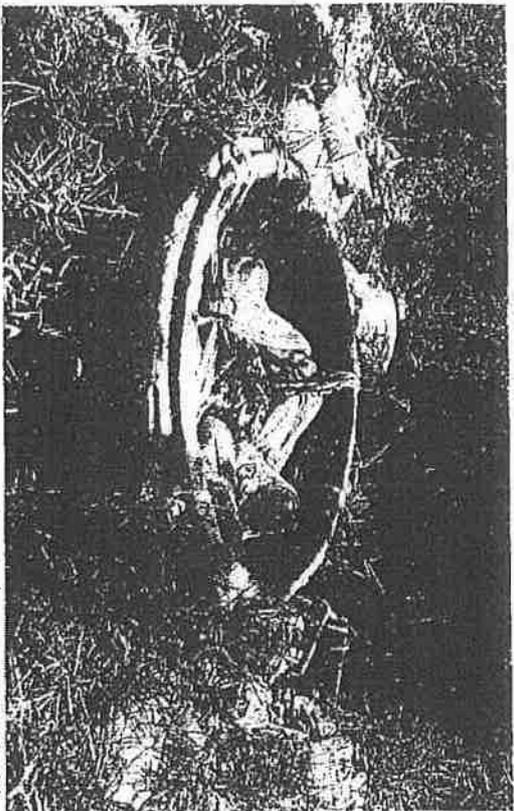
S.B.

Photograph A9: Storm water v-drains located around the landfill site were blocked with waste material.



Q

CBP



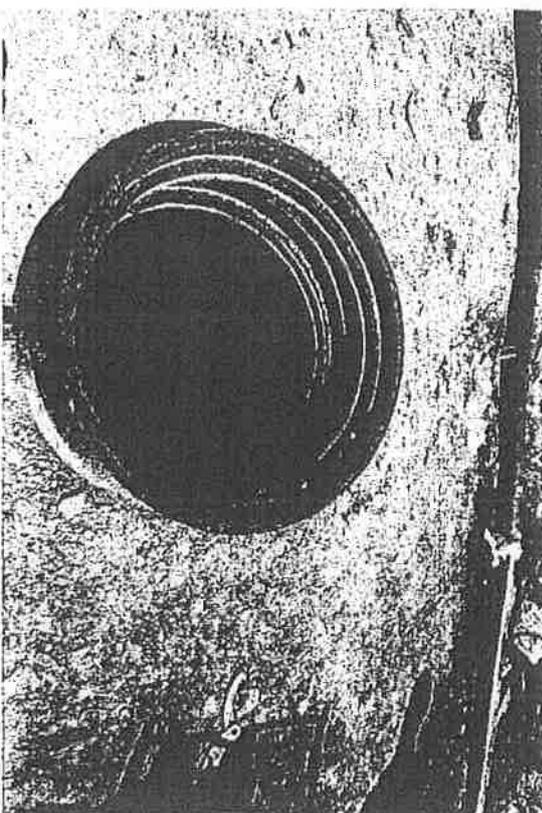
Photograph A10: The opening of a monitoring borehole was covered with waste material.

2

45

SS

Photograph A11: A Leachate Pond tank was not enclosed.



8

SR #

10 Oct 2019

Landfill on lock down

The Witness Nyamato Singh



Members of the Bible Study Group of the Dutch Reformed Church Myfield with the sandwich platters they dropped off for the firemen on Wednesday.
Nyamato Singh

The smouldering New England Road landfill site is on lock-down. No unauthorised people or vehicles were allowed to enter while waste-pickers on Wednesday morning took cover at the far end of the site, away from security guards.

This follows Tuesday's visit by Environmental Affairs MEC Nomusa Dube-Ncube, who took a hardline stance against the Msunduzi Municipality and their "poor management" of the site and reaction to the crisis.

Dube-Ncube also presented her report to the cabinet at the KZN Legislature on Wednesday, outlining the crisis at the site, the mismanagement by Msunduzi, and the action plan incorporating assistance from the various government departments and municipalities.

MOST READ

- Girl (4) electrocuted by Msunduzi Municipality's transformer after trip to buy sweets
- PICS, VIDEO AND NEW INFORMATION | Crash between two trucks and a minibus near Estcourt claims 14 lives
- Whistleblower hits back at Dudu Myeni
- A snake catcher's 'mamba' rescue surprise
- Plekenarienburg mother and child seriously injured after being struck by car

Daily Poll

Police Minister Bheki Cele is expected to release quarterly crime statistics for the period of July 1 to the end of September on Friday. Do you have faith in the SAPS?

Yes, they try considering they're under resourced

Not at all

Sometimes

Vote

Results

Previous Results

Latest Issue

View the Witness in PDF

Read the latest news from KZN in digital form.

SRA

Premier's spokesperson Cecil Msoni said Premier Shile Zikalala has expressed his concern over the matter and wanted it dealt with as "urgently as possible".

It was recommended that the departments of Community Safety and Liaison, Co-operative Governance and Traditional Affairs, and Human Settlements all work together to deal with the landfill site issues of illegal waste-pickers, access to the site and foreign nationals illegally on the site.

He said the cabinet was "extremely concerned" over the closure of schools in the area and the environmental impact of the fire.

Msunduzi municipally spokesperson Thobeka Matumbatha said four teams of fire-fighters from Msunduzi, uMgungundlovu and eThekweni municipalities as well as Working on Fire have been working on the site.

She said there were four water tankers, four graders, four bulldozers, one T18 and one excavator working per 12-hour shift.

Matumbatha said more ground was covered on Tuesday night but that they were expecting further progress after more equipment is made available to them.

Staff from the Department of Environmental Affairs' Expanded Public Works programme, Working on Fire, have been assisting for three days at the site.

KZN acting general manager Bongani Nhlabathi said they had dispatched 34 firefighters from Monday and would continue providing assistance to the municipality for as long as it was needed.

"Our team started working the night shift on Tuesday night, which proved to be quite productive. This was done in the hope of combating the fire quickly to reduce the hazardous effects of the smoke to the neighbouring residents," said Nhlabathi.

An additional 19 crew members from Working on Fire with a fire truck that loads 3 000 litres of water were dispatched on Wednesday.

More than 50 firefighters worked the night shift last night, with the promise of rain expected to assist their efforts.

Pietermaritzburg residents and business owners rallied support around the firefighters, dispatching much needed food, water and other essential supplies to the command site at the dump.

Facebook community group Voices of Pietermaritzburg Angels said they had a phenomenal response to their requests for donations.

Some of the donors include Alpha Pharm Scottsville, Irene King, Save Supermarket, R Hinner Bahiet Sefthou, Deby Morton, Rabia Karim, Rene Sanyaman, Sonja Gardun, Sudika Raspoorandan, Sudika Harkhu, Sarah Muller, Dr LC Pillay, Royal Pharmacy and Tsaunak Auto Electrical.



Effortful Complaints | Tip-Offs | Press Code
Advertise on News | Jobs at 24.com | About us |
FAQs

© 2020 (11/2017/21) 24.com. All rights reserved.

Terms and Conditions

Contact Us

Follow:



Handwritten signature/initials

They have been contributing water, bananas, cakes, sandwiches, and other food items.

Carrn McCann, branch manager at North Safety Products in Pinetown, on Wednesday took a drive to the dumpsite to drop off donations of respiratory gear for those fighting the fire.

"We're just contributing our share of goodwill as part of the community after this atrocious situation," said McCann.

There is still an on-going need for juice and food, energy bars and energy drinks, fruit and water.

We live in a world where facts and fiction get blurred

In times of uncertainty you need journalism you can trust. For only R75 per month, you have access to a world of in-depth analyses, investigative journalism, top opinions and a range of features. Journalism strengthens democracy. Invest in the future today.

Subscribe to News24

Related Links

MEC shocked at dump

Smoke from landfill site
fire chokes the city

Smoke chokes the city

READ MORE ON:

VIETNAMITEZUNG

Next on Witness

Did a pro-woman festival get fired
for Madala Phipps



Handwritten signature or initials, possibly 'AS'.

DUZIMED
MEDICINE DEPOT
Yunus Chopra
CLINIC NOW OPEN
Tel: 021 242 1207 Fax: 021 242 1564
121 Burgers Street, Pretoria, Gauteng 0001
CASH ONLY 700 2626 Email: duzimed@duzimed.co.za
Open 10:30 am - 6:30 pm - Ample parking available

The Witness

"JBS11"

291

I BUY
CARS AND BAKKIES
OLD OR NEW
PHONE AJAY
082 966 2384



Massive corruption at dump

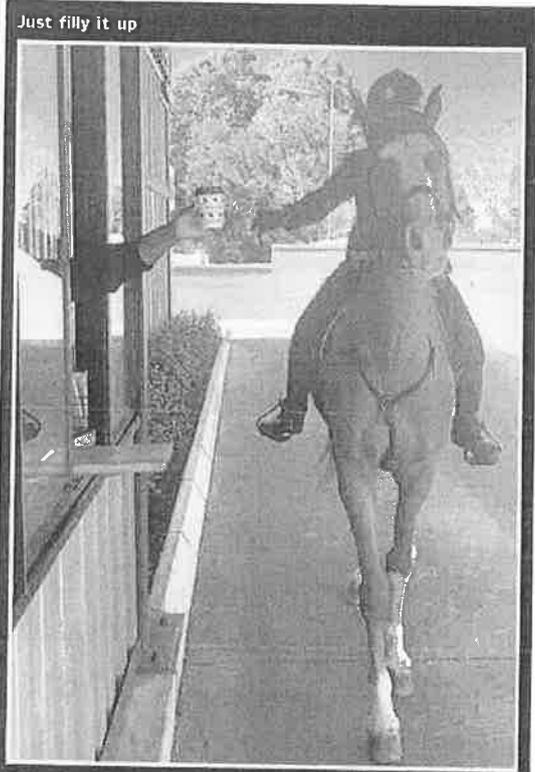
Interim report paints picture of lawlessness, abuse

Councils must service farms

NOKUTHULA NTULI

RAMWANE has been accused of being the largest illegal dump in the country. The interim report on the operations of the National Development Bank (NDB) has revealed that the bank's operations at Ramwane are riddled with corruption and lawlessness. The report, which was released last week, states that the bank's operations at Ramwane are a "shambles" and that the bank's management has been "grossly negligent" in its oversight of the site. The report also states that the bank's operations at Ramwane are a "major source of environmental pollution" and that the bank's management has been "grossly negligent" in its oversight of the site.

One operator has confirmed that one municipal employee demands R500 per month to allow the operator on site. Numerous metal and wire cage containers are on site with no rental being collected in spite of council resolutions and annual rate adjustments being made, which requires such rental to be collected.



Just fill it up
The Coffee Box drive-through at Athlone's Circle shopping centre became a 'hole through' when Lieutenant-Colonel Liza Nene, sergeant Simphiwe Ndlovu, warrant officer Shiree Howey and constables Nonhlanhla Mwenya and Ndabandaba Maphahle, from the SAPS equine unit, joined the queue to grab a coffee during their patrol of the city. PHOTO: THE COFFEE BOX

BHARIKA RECHAND

The interim report on the operations of the National Development Bank (NDB) has revealed that the bank's operations at Ramwane are a "shambles" and that the bank's management has been "grossly negligent" in its oversight of the site. The report also states that the bank's operations at Ramwane are a "major source of environmental pollution" and that the bank's management has been "grossly negligent" in its oversight of the site.

COVID-19 PANDEMIC
HELPLINE: 0800 029 999
GLOBAL COUNT
22 504 386
789 455
596 060
3 916
12 432

The interim report on the operations of the National Development Bank (NDB) has revealed that the bank's operations at Ramwane are a "shambles" and that the bank's management has been "grossly negligent" in its oversight of the site. The report also states that the bank's operations at Ramwane are a "major source of environmental pollution" and that the bank's management has been "grossly negligent" in its oversight of the site.

The interim report on the operations of the National Development Bank (NDB) has revealed that the bank's operations at Ramwane are a "shambles" and that the bank's management has been "grossly negligent" in its oversight of the site. The report also states that the bank's operations at Ramwane are a "major source of environmental pollution" and that the bank's management has been "grossly negligent" in its oversight of the site.

R149 995
INSTALLMENT R2 199 pm
2019 FORD FIAT 1.5 T
SUV PRESENT DAY

R179 995
INSTALLMENT R2 499 pm
2019 FORD FIAT 1.5 T
SUV PRESENT DAY

R199 995
INSTALLMENT R2 799 pm
2019 FORD FIAT 1.5 T
SUV PRESENT DAY

R469 995
INSTALLMENT R5 999 pm
2019 FORD FIAT 1.5 T
SUV PRESENT DAY

GWM
AKSONS WHEELS
353 Pietermaritzburg Street, Pietermaritzburg 3201
Tel: 033 392 9970
Email: saved@havalpmb.co.za • www.havalpmb.co.za

BOOK YOUR SERVICE ON LINE
shiraz@havalpmb.co.za
Service@havalpmb.co.za
Third Anniversary! Spare Parts 25% Off
Free Safety and A/C system check
Free A/R/I Bill for Real 2008 customers
Offer valid from 1 August 2018 to 31 September 2018.
T&C apply. Excludes warranty.

3
Professional Protection
2019 FORD FIAT 1.5 T
SUV PRESENT DAY

SP

Sobantu takes action

ESTELLE SINKINS

RESIDENTS of Sobantu are so fed up with Msunduzi's failure to sort out the New England Road landfill site, they intend submitting a case to the Human Rights Commission. They are working under the umbrella group Siyazuzi Ngemvelo, which encompasses residents, NPCs, NPOs and private companies that focus on environmental and social issues.

Ntsikelelo Nkosi, deputy chairperson of the Sobantu Ratepayers' Association, told *The Witness* that residents' voices had been silenced for far too long.

"[We have been] represented by people who haven't even taken the time to ask us about how we have been largely affected and impacted by the New England landfill issues," he said. "We have seen so many publications from groups that claim to represent our concerns when they haven't even visited even one of households."

"Therefore, we have decided to finally make our voices heard and presence visible by forming a consortium called Siyazuzi Ngemvelo." Nkosi said the recent landfill fire, which covered the city in toxic fumes, was not the first nor the last that residents living in Ward 35 were likely to have to deal with.

"The landfill site's toxic fumes started to be

witnessed by the Sobantu residents in 2016," he explained.

"However, as the years have gone by, this issue has worsened — the air pollution has led to the majority of people suffering from respiratory illnesses, including tuberculosis and asthma."

Nkosi wrote to the Department of Economic Development, Tourism and Environmental Affairs in 2019 to express the residents' concerns, but says little action has been taken by the department to help them. Fed-up, they are now collecting evidence that they plan to use as part of their submission to the Commission.

"We have organised a group of people that have been monitoring these fires since the beginning of 2020 and the way the landfill has been managed," Nkosi said.

The Siyazuzi Ngemvelo technical team, which is made up of four young environmentalists based in Sobantu and Allandale (Ward 30), believe there are a number of issues which need to be resolved. These include:

- When the weighbridge doesn't work no one knows what kind of waste is entering the site and how it can affect the quality of the air.
- People are living inside the dump site because the fence is broken.
- Waste pickers are giving directions to the waste truck drivers, which means the waste ends up

in uncontrolled isolated piles and is not compacted.

• When there has been heavy rain or high winds, waste ends up in uMshungu River, which runs between the residential area and the landfill site.

Nkosi said that in addition to taking their case to the Human Rights Commission, they planned to target industrial companies in the city which are adding to the air pollution crisis.

Environmentalist Sumbhululu Mngadi said that she and her colleagues had been conducting an assessment of the impact of the landfill site on the health of residents in Sobantu.

"They found that many were suffering from cardiovascular and respiratory diseases; and because they were poor to middle class households they struggled to afford private healthcare and had to make use of the public healthcare system."

"The air pollution issue is not only impacting the Sobantu residents' physical health, but their mental health in the following ways: depression, anxiety, psychosis, dementia, childhood cognitive development and suicide," Mngadi said.

"It is clear that there is a vital need for a further systematic review and meta-analysis of the association between air pollutants and mental health outcomes, specifically within the Sobantu area."

Ballin's Pharmacy

450 Church Street PMB
Tel: (033) 345 3130

IMMUNIZER 30's R120

EXVIRA 120ml R86

FLU PAK Contains:
1. Flu Shot
2. Cough Syrup
3. Pain-Free Tablets
4. Fever Liner
5. Cough Syrup
R41

MENTAT 100ml R63

MOLKASAN R126

KWESISINDO SLIMMERS 400ml R60

COVID-19 ESSENTIALS

Vitamin C 500mg 60's R55

Vitamin D 30's R106

Zinc Tablets 30's R85

WHY PAY MORE?

TRENVIT R99

GELACID R55

PAINBLOK R26

ALPHA CYCLOIN R80

MAGNI SLOW R50

SOFLAX R20

TRADITIONAL AFRICAN MEDICINES

MORINGA POWDER 50g 1 for R28, 2 for R55

CD PLUS 1 for R11, 2 for R130

APPLE CIDER VINEGAR 1 for R88, 2 for R140

OBEE'S 1 for R88, 2 for R240

REVIVE BLOOD PRESSURE 1 for R72, 2 for R130

UVUKAHLALE 500ml 1 for R11, 2 for R130

ORGANIMUNE 1 for R11, 2 for R135

AMAZON HERBS 1l 1 for R11, 2 for R180

Probe into City guards soliciting bribes to skip queues

NOKUTHULA NTULI

The City's law enforcement officers have been accused of preying on Pietermaritzburg's poorly-subsidised lifelines to skip the queue at grant payout points.

This was yesterday confirmed by Mzandzi spokesperson Thobeka Mafumbatha, who said the municipality had received several complaints from members of the public.

Facebook user Oluwatosi Zeighe is one of those who

brought the guards' alleged misconduct to the City's attention.

She posted that the "dirty" officers operated outside the Pietermaritzburg Post Office and Southgate Spar, where they allegedly asked for bribes from the beneficiaries of the R350 social relief of distress grant.

"They are asking for R50 bribes from people — who are unemployed — so they can allow you to get in if the line is too long. They need to change those guards and have new ones because what they are doing is wrong

... The guards at Southgate Spar are also taking bribes and letting you in while those who were there first go back home empty handed," Zeighe posted.

Mafumbatha said the residents' complaints have been referred to the relevant department for investigation.

"We request that anyone who may have information to come forward so that actions can be taken against those implicated in wrongdoing."

She said the law enforcement officials took an oath to protect and serve the citizens of Msunduzi.

"We urge the public not to pay bribes to any municipal officials in order to fast track services as this is a criminal offence and will be treated as such," said Mafumbatha.

Beyond

Down Town, (between Knipe Street and Thomas Street), Pietermaritzburg

| | | | |
|--|---|--|---|
| VENETIAN BLINDS NO EXCHANGE/REFUNDS 60m x 1m R105 1m x 1m R180 1.5m x 1m R266 1.5m x 1.6m R380 1.8m x 2.1m R699 BRONZE, CHAMPAGNE, SILVER, ONYX, WHITE | SOFA COVERS 2-2-1 R900 AVAILABLE IN - GREY, MAROON, CHOC BROWN & TAN | POLY COTTON DUZZET COVER SET Single R80 3/4 R140 Double R140 Queen R160 King R160 ITEM MAY VARY FROM ILLUSTRATION | LUXURY POLYESTER COMBO Single R80 Double R120 Queen R130 King R145 |
| LUXURY EMPELLO DINNER Single R170 A4 R180 Double R190 Queen R200 King R216 | PRIVATE COLLECTION SOFAS TIGHT COVER Single R196 A4 R196 Double R220 Queen R250 King R270 | VALUE PACK - PILLOWCASES "STANDARD DEPTH ONLY" R60 | FILLED CONTINENTAL PILLOWCASES 2 FOR R60 |

PRICES VALID TILL 26 AUGUST 2020
OPEN MONTH END SUNDAYS 10AM-2PM

NO LAYBY ON ABOVE SALE ITEMS

WhatsApp: 072 502 9480
Tel: 033 345 7990

ESTABLISHED
494 CHURCH STREET PIETERMARITZBURG
MON-FRI: 8:30 am - 5:00pm / Saturday: 8:30am - 2pm
Open this Sunday 10am to 2pm

WE'RE IN THIS TOGETHER

Trio in rape trial denied bail

SHARIKA RECHMUND

THREE men who are alleged to have raped and murdered a 74-year-old woman at her home in Sweetwaters and then gang-raped a 20-year-old woman, were denied bail on Tuesday.

Pietermaritzburg magistrate Paul van Dongen said the state relies on the evidence of an eye witness who was present when the men allegedly raped and killed the elderly woman, and cell phone evidence. He said the men have set out their personal circumstances which is "fairly normal".

Van Dongen denied bail on the basis that the men have not shown exceptional circumstances.

They are not being named because they are charged with rape and have not yet pleaded to the charges. It is alleged that on March 29, the trio gang-raped Ngenzeni Zuma. They then strangled her with a rope. They are also charged with aggravated robbery for allegedly stealing R2 000 from the woman. The alleged gang rape of the 20-year-old woman also happened in the Sweetwaters area.

Initial reports were that they got into Zuma's home by pretending to be members of the SANDF who wanted to sanitise the property. However, nothing to this effect was mentioned by the investigating officer, Sergeant Ntshona Ndlela, in his affidavit.

Except for stating what the charges are, he did not go into the details of the case.

The men, through their attorney Mclwla Ngobeni, deny the allegations. He said they are employed and have families.

On the evening of March 28, they went to Sweetwaters to look for a shebeen to buy alcohol.

Along the way, they met an "unknown" woman who asked for a lift and then joined them at a friend's house where they were joined by other women and had a party. They say they all left at about midnight and went home. The next day they were told that the woman they had picked up was being sought by police.

This woman has made the rape allegations against the men.

Ntshona said the investigation is almost complete and the only thing outstanding is the DNA results. The men will appear again in court next month.

SB

July 25, 2020

Msunduzi 'killing us'

Fed-up Sobantu residents blame City for dump fires

NOKUTHULA NTULI

"OUR blood will be on your hands." That is the sentiment echoed by Sobantu residents who yesterday accused Msunduzi of gassing them through the fires at the dump.

Yesterday dozens of people did not go to work because the heavy smoke made it difficult for them to either walk to the nearest taxi rank or drive as even street lights were of no help.

"We are pleading with the provincial and national government to intervene before we are all dead from the pollutants that we are inhaling with the smoke from the fire. Our lungs have been subjected to this over and over again and now we also have to deal with Covid-19," said Tana Mbolazi.

Chest pains, headaches, nosebleeds, body aches, insomnia, trouble breathing, sore throats and itchy eyes were some of the health conditions they blamed on the dump fire.

Mbolazi said they want the Department of Health to do an investigation on how many people had health complications emanating from the dump fires.

A handful of Sobantu residents also stormed what was meant to be an oversight visit by the KwaZulu-Natal Legislature's portfolio committee on Economic Development, Tourism and Environmental Affairs (EDTEA) at the landfill site.

They disrupted the briefing and a screaming match ensued as they demanded that the politicians listened to their grievances.

They said the community of Ward 25 had been excluded from decisions made about the landfill site, yet they were the ones who suffered the consequences of its poor management.

"I'm asthmatic and the X-rays show that my chest has damage caused by the smoke. I'm not the only one, there are a lot of people in Sobantu who have chest problems, even those who aren't asthmatic," said Nokwanda Dubazane.

She said when she was growing up in the 1980s those managing the landfill separated the hazardous waste from garden and domestic refuse to prevent contamination, but Msunduzi mixed the waste streams, which she believed led to the chemical imbalance and fires. "Then the municipality



Sobantu resident Makhokwane Hlabisa during the confrontation between Ward 25 residents and the KwaZulu-Natal's portfolio committee on Economic Development, Tourism and Environmental Affairs at the landfill site yesterday. PHOTO: NOKUTHULA NTULI

want to blame the waste-pickers for the fires, why would they do that?"

Makhokwane Hlabisa said her two children had been in and out of hospital whenever there was a dump fire, which led to her medical aid funds running out quickly and she ended up having to pay in cash.

"We are sick and tired of Msunduzi and its corruption. They must get qualified people to manage this municipality and stop gambling with our lives. It's obvious that there are people benefiting from this mess so they want it to continue."

When portfolio chair Sthenbos Mshengu tried to speak, Hlabisa screamed back at him saying "do you know the pain I'm going through right now? My child is sick. Should my child die, you will be held accountable."

"One day you will answer for our deaths," screamed Dubazane next to her.

The committee suspended the oversight visit

and it was agreed that a meeting would be held with the representatives from the Sobantu community today. Mshengu told *Weekend Witness* that they would reschedule the visit after engagements with the affected communities as those would form part of their recommendations on what should be done to stabilise the situation at the dump so that there were no more fires.

Asked if whether this was not another political talkshop as witnessed many other times, Mshengu said: "We are deeply concerned about what's happening because of the health impact of this fire and we want a lasting solution to this problem."

He said they also want an update on what has happened since Msunduzi was issued with a 2015 non-compliance notice.

"If nothing has happened we would then want to make sure that they are consequences for those departmental officials," said Mshengu.

• nokuthula.ntuli@witness.co.za

No water for some as tankers go to dump site

NOKUTHULA NTULI

SOME communities have been left without water for days as tankers had to be sent to help fight at the landfill site.

And the dump fire and the explosion at a city substation could be linked to sabotage.

This was confirmed by Mayor Mzimkhulu Thebolla yesterday. He said the impact of the fire devastated areas even in the rural parts of Msunduzi. "We have areas that we supply with tankers for various reasons but we've had to redirect some of those to fight the fire.

"Some of the areas have not had water since we took away the tankers and this shouldn't happen right now because we are also facing a threat of Covid-19."

He said the City's leadership suspected there were attempts to destabilise the municipality and the explosion at the Mason Primary power station could be related to the suspected arson at the dump. "We will be engaging the national Police Minister General Bheki Cele and his counterpart at the State Security Department because what's happening here could have country-wide ramifications as we already had the N3 — which is one of our critical and busiest economic routes — being closed this [yesterday] morning because of the smoke," said Thebolla.

He said the leadership met with the business community as well as the Msunduzi Residents and Ratepayers Association yesterday to explain to them that the City suspected foul play in both incidents, and also gave them an update on how they were dealing with the situation. "The people who are behind this are gambling with the country's security and economy and I believe they should be charged with treason."

On the air quality, he said environmental and air monitoring specialists already started the process of running tests and the results would be released publicly as soon as they became available. "We understand that our residents are frustrated and we don't blame them, but they must understand that the fire at the landfill is not a result of any negligence on our part. We have done everything to ensure that such does not happen but we still apologise for the inconvenience caused."

• nokuthula.ntuli@witness.co.za

DUMP SMOKE NOT UNUSUAL — FIREMEN

NIYANTA SINGH

FIREMEN working at the dump site say yesterday morning's smoke was "nothing out of the ordinary" but had affected the highway because of the direction of the wind.

They said overnight only two graders had worked on the site, leaving many teams not operating. "Basically what that means is that whatever work was done in the day is undone if the wind picks up as the fire spreads again. Each team needs a grader and a tanker of water so as the grader digs up, the water is sprayed so the deep-seated fire is put out. If there is no grader, it's like pouring water on a duck's back and an exercise in futility. The wind picked up really strongly by 4 am and we had to stop working as visibility became real poor on the site itself," said a fireman. Depending on weather conditions, they expect the fire to be suppressed by Monday or Tuesday. Residents should continue to expect smoke until then.

N3 closed due to dump site smog

NOMPILLO KUNENE

MOTORISTS were left frustrated yesterday morning as they struggled to get to work due to the dark clouds of smoke that had engulfed most of Pietermaritzburg and surrounding areas.

Road Traffic Inspectorate (RTI) spokesperson Zinile Mngomezulu yesterday said the smoke was so thick on the N3 passing through Pietermaritzburg that RTI officers had to redirect traffic into town, resulting in major traffic jams in the city.

Some motorists who were heading to work yesterday morning chose to do U-turns and go back home because the road and other vehicles on it were not visible.

Commenting on *The Witness* Facebook page, Amella Nicolette Moody said: "It was a complete nightmare to drive into Hesketh Drive near the traffic circle. Zero visibility! ... Turned back and made it home safely. This is unacceptable something needs to be done, this site has to be moved!"

Tracy Govender said: "It was the most awful feeling this morning. Unable to see much while driving. What a safety issue!"

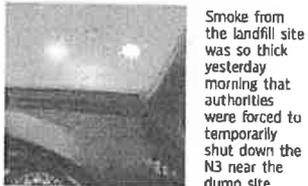
Warren Dillon said: "I had to turn around, could not see car in front of me!"

• nompillo.kunene@witness.co.za



Hesketh Drive at about 9 am yesterday.

PHOTO: VERONA ORIE



Smoke from the landfill site was so thick yesterday morning that authorities were forced to temporarily shut down the N3 near the dump site.

A COCKTAIL OF TOXIC CHEMICALS FROM LANDFILL SMOKE

THE smoke coming off the dump contains a deadly cocktail of toxic chemicals.

Mira Chamane, of environmental watchdog body GroundWork, said these hazardous chemical compounds severely affect people with compromised immune systems and those with sensitive respiratory systems, as well as young children and the elderly.

"In the short term, exposure to smoke can cause headaches, nausea and rashes. Over time, regular landfill fires exposures can increase the

risk of chronic health impacts such as certain cancers and heart disease," he said.

Chamane said this is because in the smoke there are many harmful chemicals such as heavy metals, volatile organic substances and cancer-causing substances.

"A list of particularly harmful chemicals that have been recorded in landfill fires include dioxins and furans [these are cancer-causing chemicals formed when organic waste is burnt in the presence of PVC, which makes up many com-

mon plastics], which are known to cause reproductive impairment and cancer in humans. Arsenic, mercury, PCBs, lead, carbon monoxide, nitrogen oxides, sulphur oxides, hydrochloric acid — all harmful to human health.

"Some of these chemical pollutants can also end up in the ash after the fire and be inhaled as it gets blown on the wind. So therefore the combination of the smoke and the ash after the fire will deteriorate the ambient air quality in Pietermaritzburg." — WWR.

“People who are behind this are gambling with the country's security and economy and I believe they should be charged with treason.”

GLOBAL COUNT

15 594 551
Total confirmed cases

635 086
Total deaths

421 996
Total confirmed SA cases (by July 24)

13 944
Increase in 24 hours

6 343
Total SA deaths

Pickfords

Moving Home Around The Corner, Around The World

Tel: 031 902 2581
info.pd@pickfords.co.za • www.pickfords.co.za

SR

DUZIMED
MEDICINE DEPOT

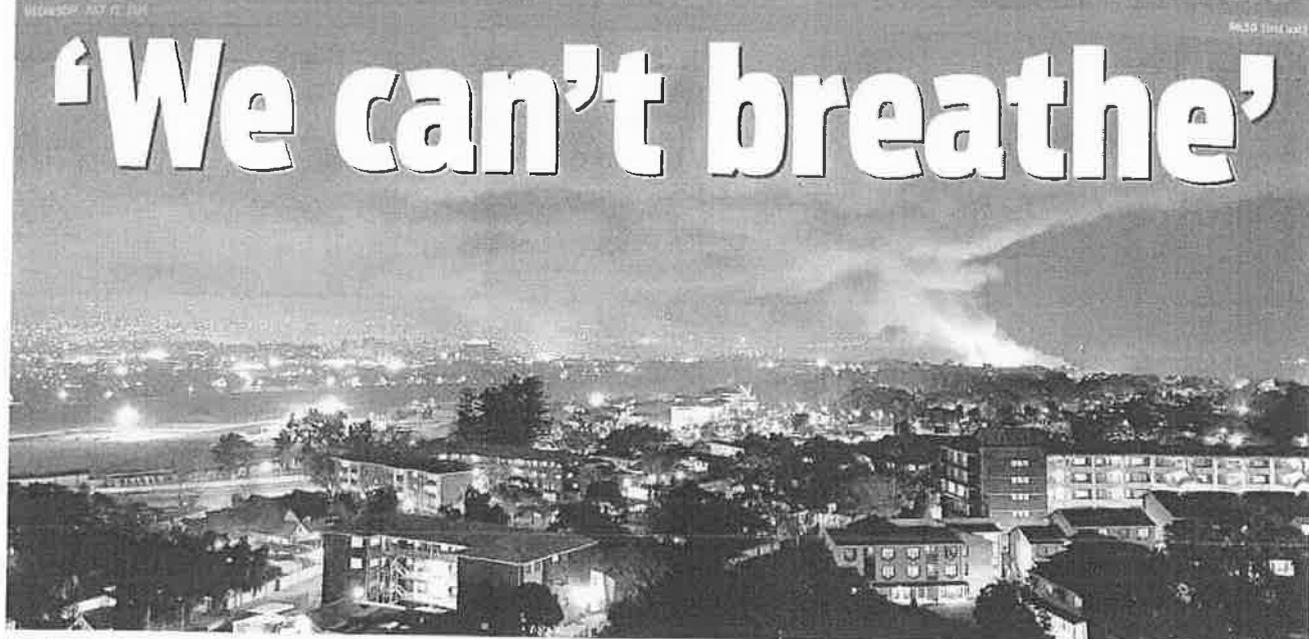
Yorba Linda
CLINIC NOW OPEN

Tel: 925 947 1506 / Fax: 925 947 1504
2550 DOWNEY STREET, YORBA LINDA, CA 92585
Call: 925 700 2525
Open 10 to 6 daily / Ample parking available

The Watchman

295

I BUY
CARS AND BAKKIES
OLD OR NEW
PHONE A JAY
082 966 2384



Melrose Park look. This photograph of the New England town landfill site, taken last night, shows the Redbank Plaza Highway in Southwold. PHOTO: MELANEE HARR

City chokes on toxic dump fumes

NOKUTHULA NTULI

“Obviously the investigation is ongoing because we don’t want this to ever happen again. At this point we’re not sure whether it’s an act of sabotage because it happened right on the active cell [where dumping is currently taking place].”

THE TOWN OF MELROSE PARK is looking at the possibility of a major investigation into the New England town landfill site, following a fire that caused a major release of toxic fumes.

“We know that the investigation is ongoing because we don’t want this to ever happen again. At this point we’re not sure whether it’s an act of sabotage because it happened right on the active cell [where dumping is currently taking place].”

“We know that the investigation is ongoing because we don’t want this to ever happen again. At this point we’re not sure whether it’s an act of sabotage because it happened right on the active cell [where dumping is currently taking place].”

“We know that the investigation is ongoing because we don’t want this to ever happen again. At this point we’re not sure whether it’s an act of sabotage because it happened right on the active cell [where dumping is currently taking place].”

“We know that the investigation is ongoing because we don’t want this to ever happen again. At this point we’re not sure whether it’s an act of sabotage because it happened right on the active cell [where dumping is currently taking place].”

“We know that the investigation is ongoing because we don’t want this to ever happen again. At this point we’re not sure whether it’s an act of sabotage because it happened right on the active cell [where dumping is currently taking place].”

“We know that the investigation is ongoing because we don’t want this to ever happen again. At this point we’re not sure whether it’s an act of sabotage because it happened right on the active cell [where dumping is currently taking place].”

“We know that the investigation is ongoing because we don’t want this to ever happen again. At this point we’re not sure whether it’s an act of sabotage because it happened right on the active cell [where dumping is currently taking place].”

“We know that the investigation is ongoing because we don’t want this to ever happen again. At this point we’re not sure whether it’s an act of sabotage because it happened right on the active cell [where dumping is currently taking place].”

“We know that the investigation is ongoing because we don’t want this to ever happen again. At this point we’re not sure whether it’s an act of sabotage because it happened right on the active cell [where dumping is currently taking place].”

COVID-19 PANDEMIC

HELPLINE: 0800 039 999

GLOBAL COUNT
14 774 887
TOTAL confirmed cases

611 599
TOTAL deaths

373 628
TOTAL recovered SA cases (by July 31)

9 300
Increase in SA cases

5 173
TOTAL SA deaths

Sore throats, nosebleeds amid dump fire

NOKUTHULA NTULI

“We know that the investigation is ongoing because we don’t want this to ever happen again. At this point we’re not sure whether it’s an act of sabotage because it happened right on the active cell [where dumping is currently taking place].”



“We know that the investigation is ongoing because we don’t want this to ever happen again. At this point we’re not sure whether it’s an act of sabotage because it happened right on the active cell [where dumping is currently taking place].”

“We know that the investigation is ongoing because we don’t want this to ever happen again. At this point we’re not sure whether it’s an act of sabotage because it happened right on the active cell [where dumping is currently taking place].”

“We know that the investigation is ongoing because we don’t want this to ever happen again. At this point we’re not sure whether it’s an act of sabotage because it happened right on the active cell [where dumping is currently taking place].”

LOCALS FED UP WITH APOLOGIES

“We know that the investigation is ongoing because we don’t want this to ever happen again. At this point we’re not sure whether it’s an act of sabotage because it happened right on the active cell [where dumping is currently taking place].”

“We know that the investigation is ongoing because we don’t want this to ever happen again. At this point we’re not sure whether it’s an act of sabotage because it happened right on the active cell [where dumping is currently taking place].”

SUPERSPAR

MILLS • WATERFALL

MADE IN SOUTH AFRICA

| | | |
|--------------|--------|--------|
| COMBO R50.00 | R69.99 | R13.99 |
| R69.99 | R45.99 | R46.99 |
| R12.00 | R30.99 | R15.99 |
| R16.00 | R74.99 | R49.99 |

Handwritten signature and initials.

Dumpsite 'still a mess'

NOKUTHULA NTULI

POOH management practices and Msunduzi's alleged failure to attend to snags continue to threaten operations at the City's problematic New England Road landfill site.

Last month the dump erupted into a suspicious inferno, which kept flaring up and covered Pietermaritzburg in smoke for several days.

Soon after the fire, the municipality made a commitment to revamp the landfill and ensure that it was properly managed and secure — but that has not been done.

Some of the things the council said it would do included rehabilitating the site, repairing the equipment which was broken, including the weighbridge, fixing the palisade fencing to prevent intruders, improving the lighting around the property and installing cameras to monitor activities within the site.

Yesterday the landfill site's staff told *The Witness* that the municipality had not met any of its recent commitments to improve the condition of the site nor had it ensured that it was properly managed.

Instead, they said, the dump was slowly disintegrating into the same mess it was in March when trucks ended up off-loading on New England Road because access roads to the site were blocked by piles of waste. The staff added that they currently could not even work on the "activo coil", situated at the top section of the site, because vehicles could not get there due to the mud.

The piles of waste along the interior roads have started going up and one of the landfill staffers said they did not have trucks to move it to the working area.



Piles of waste lining the interior roads at the New England Road landfill site.

PHOTO: MOEKETSI MAMANE

Interior roads have started going up and one of the landfill staffers said they did not have trucks to move it to the working area.

The transfer area is not looking any better either, because hakkies and some trucks have been off-loading their waste there since last week.

"If the transfer area fills up — and that could happen before the end of this week — people are go-

ing to start off-loading on the access roads and the recycling area, and there is nothing we can do to stop them because they can't get to the working area either and we can't expect them to take their waste with them because some come all the way from Bergville and Greytown."

There is only one operating truck but the site apparently needs at least three.

The compactor and three other machines were working yesterday but the site employees said they would not be sufficient for cleaning up the mess that had already been created. The staff fear that operations will soon grind to a halt because they do not have adequate equipment to deal with the problems. Adding to the problems is the fact that both the site and waste department don't have managers to attend to the problems at hand.

"The municipality is now going to blame the recent rains for this mess, but the truth is it's been long coming and people will end up dumping outside the gate if we don't get this sorted as soon as possible," said one of the employees.

Msunduzi spokesperson Thobeka Mafombatha said the City had not neglected the problems at the site and was working on addressing them.

She added that supply chain management, as well as recruitment processes, were underway to procure the equipment needed, get the necessary service providers and fill the vacant positions in the waste department.

Creating Exclusive Living Spaces

XCLUSIVE tiles

TAPS • TILES • SANITARE • HOME DECOS

No. 7 Clough Street • T: 033 345 8665

244 Berg Street • T: 033 342 2280

Prices valid till 25th November 2019

| | | | |
|---|---|--|--|
| <p>Jamaica Blanco 600x600 1ST CLASS</p> <p>from R8990 (per sqm)</p> | <p>Glazed Polished Porcelain 1ST CLASS</p> <p>BLACK SERIES from R13990 (per sqm)</p> | <p>Alberta Grey 600x1200 1ST CLASS</p> <p>from R18990 (per sqm)</p> | <p>Hardbody Ceramic 600x600 1ST CLASS</p> <p>from R10990 (per sqm)</p> |
| <p>Ceramic Floor Tiles 400x400</p> <p>from R7990 (per sqm)</p> | <p>Rustic Outdoor Floor Tiles</p> <p>from R8990 (per sqm)</p> | <p>Johnson Tiles 250x500</p> <p>JOHNSON-TILES from R7990 (per sqm)</p> | <p>Harmony Series 350x350 GLOSS/MATT</p> <p>from R7990 (per sqm)</p> <p>GREY AND BEIGE AVAILABLE</p> |
| <p>Wall Tiles</p> <p>from R5990 (per sqm)</p> | <p>Cladding Look Wall Tiles 300x600</p> <p>from R9990 (per sqm)</p> | <p>Anti Slip Shower Mosaics</p> <p>from R2990 (per sheet)</p> | <p>Cabinets</p> <p>To Clear from R999</p> |
| <p>Alpine Pivot & Panel Shower Enclosure FREE SHOWER MIXER</p> <p>R1999</p> | <p>Supero Bath Tub 1800x800 GEBERIT</p> <p>R2499</p> | <p>Faucets GROHE</p> <p>from R899 (each)</p> | <p>Orbital Column Activator, Pans, Wall Hanging Fan - All 2000 Series</p> <p>R2599</p> |

www.xclusivetiles.co.za

While Stocks Last - T's & C's Apply

SA

POWERBUILD
FOR MORE INFORMATION VISIT
www.powerbuild.co.za

CORDONK **REACT 15 AND REMANUAL SAVERS** **CORDONK R350**

The Witness

BLOMEYERS
SOLAR ELECTRICAL APPLIANCES
Call: 083 392 4250

Rules, rules, rules
PAGE 8

Vatiswa: Ferguson's hit back
PAGE 2

New dirt on Trump
PAGE 5



New dump site earmarked

District offers to buy undisclosed new site
Closing dump will cost City R78 million

An aerial view of the extent of the firm razing the New England landfill site. PHOTO: MSUNDUZI MUNICIPALITY

NOKUTHULA NTULI

MSUNDUZI MUNICIPALITY is set to build a new landfill site in the New England area, a project that will cost the municipality R78 million, according to a report by the City of Msunduzi.

The report, which was released last week, states that the new landfill site will be built on a 100-hectare plot of land in the New England area. The site is currently being used as a quarry and is owned by the Department of Water and Sanitation.

The City of Msunduzi has been in discussions with the Department of Water and Sanitation regarding the purchase of the site. The report states that the City has offered to buy the site for R78 million, which would cover the cost of the land and the infrastructure required to build the landfill site.

The report also states that the City has been in discussions with the Department of Water and Sanitation regarding the possibility of building a new landfill site in the New England area. The report states that the City has been in discussions with the Department of Water and Sanitation regarding the possibility of building a new landfill site in the New England area.

look at the alternative future site?"

The report also states that the City has been in discussions with the Department of Water and Sanitation regarding the possibility of building a new landfill site in the New England area. The report states that the City has been in discussions with the Department of Water and Sanitation regarding the possibility of building a new landfill site in the New England area.

The report also states that the City has been in discussions with the Department of Water and Sanitation regarding the possibility of building a new landfill site in the New England area. The report states that the City has been in discussions with the Department of Water and Sanitation regarding the possibility of building a new landfill site in the New England area.

CONSTITUTIONALLY, the mandate for environmental health, including landfill, across Msunduzi, belongs to the district municipality, the fact that Msunduzi is providing the service within its borders has a "precedence" over any for the district, by July, Msunduzi will be providing the service.

The report also states that the City has been in discussions with the Department of Water and Sanitation regarding the possibility of building a new landfill site in the New England area. The report states that the City has been in discussions with the Department of Water and Sanitation regarding the possibility of building a new landfill site in the New England area.

DISTRICT TO TAKE OVER FROM MSUNDUZI

According to a June assessment report by One Degree Financial that is yet to come before council, the City must be prepared to spend more than R78 million on the rehabilitation and closure of the dump.

The report also states that the City has been in discussions with the Department of Water and Sanitation regarding the possibility of building a new landfill site in the New England area. The report states that the City has been in discussions with the Department of Water and Sanitation regarding the possibility of building a new landfill site in the New England area.

did you know?

The City of Msunduzi has been in discussions with the Department of Water and Sanitation regarding the possibility of building a new landfill site in the New England area. The report states that the City has been in discussions with the Department of Water and Sanitation regarding the possibility of building a new landfill site in the New England area.

WE'RE SIZZLING
PROUDLY STOCKING
AWARD WINNING BEEF
& LAMB FROM
SOUTHERN DRAKENSBERG

| | | |
|------|--------------------|---------|
| LAMB | LOIN RIB CHOPS | R139.98 |
| | BESTIEND CHOPS | R129.99 |
| | LEG. CHOPS / LEG | R129.99 |
| BEEF | PORTERHOUSE / RUMP | R119.99 |
| | RIB-EYE | R119.99 |
| | T-BONE | R115.99 |
| | CHUCK | R 79.99 |
| | PRIME RIB | R 89.99 |
| | BRISKET | R 79.99 |
| | SHORT RIB | R 79.99 |

Champion & Reserve Champion Bcmeat, USA, 43555
From The Underberg Farms, a Game and Big Game

Powerful Japan typhoon threatens Rugby World Cup, Grand Prix

A POWERFUL typhoon that is expected to hit Japan this weekend threatens the Rugby World Cup and the Grand Prix.

The typhoon, which is expected to hit Japan on Saturday, is expected to bring heavy rain and strong winds. This could lead to the cancellation of the matches, which are expected to be held in Japan.

The Rugby World Cup matches are expected to be held in Japan on Saturday and Sunday. The Grand Prix matches are expected to be held in Japan on Saturday and Sunday.

KIA KIA MOTORS
The Power to Surprise™

PIETERMARTZBURG

310-322 Hoosen Haffjee (Berg) Street
Tel: 033 345 3692 • Shan: 082 457 4253
Latasha 072 604 1544

www.kiapmb.co.za

To subscribe, SMS the words 'Witness new' and your address to 31069.
Subscription costs R143,44 p/m if you pay by debit order.
Subscription deliveries queries: Call WhatsApp Number 087 353 1333

K2-SERIES

picanto

Get in for R1 899 per month

SPORTAGE

R25 000 CASH BARGAIN

MAYORS WALK SPAR

Shop 10, Mayors Walk Mews Tel: 033 394 5036
WhatsApp: 083 392 4250

KIA KIA MOTORS
The Power to Surprise™

PIETERMARTZBURG

310-322 Hoosen Haffjee (Berg) Street
Tel: 033 345 3692 • Shan: 082 457 4253
Latasha 072 604 1544

www.kiapmb.co.za

DUZIMED
MEDICINE DEPOT
Yates Clinics
CLINIC NOW OPEN
Tel: 031 342 1200 / Fax: 031 342 1864
363 Burger Street, Parkhurst 6001
083 700 2525 / Email: duzimed@duzimed.co.za
Open till 10 pm daily • Ample parking available

The Witness

299
I BUY
CARS AND BAKKIES
OLD OR NEW
PHONE AJAY
082 966 2384



Hash still in W Cup plans
PAGE 12



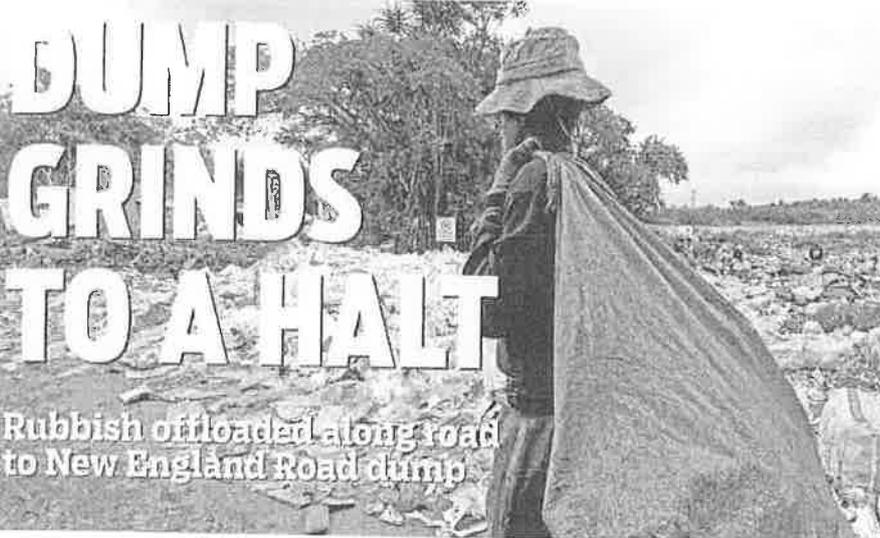
Stars pay tribute to Bartman
PAGE 9



Duduzane blames the rain
PAGE 4

TOTAL VALUE OF ESTIMATED JACKPOTS AT **R47 MILLION** WEDNESDAY 27 MARCH 2019

BUY YOUR TICKETS NOW AT WWW.NATIONALLOTTERY.CO.ZA, YOUR NEAREST NATIONAL LOTTERY RETAILER OR THE NATIONAL LOTTERY MOBILE APP



DUMP GRINDS TO A HALT

Rubbish offloaded along road to New England Road dump

Tip trucks tilt through the piles of rubbish blocking the New England road dump yesterday. PHOTOS: IAM CARBUTT

NOKUTHULA NTULI and CHELSEA PIETERSE

THEY make contact in the New England Road dump and the road is blocked by piles of rubbish. The scene is chaotic, with piles of plastic bags, old fridges, and other household items. The road is completely impassable.

Some of the local residents called the dump on Monday to report the situation at the dump, saying they could not get to their homes.

One resident who asked not to be named said he saw the rubbish being tipped through the air. "I was at the dump on Monday and I could not get to my home because the road was blocked by the rubbish," he said.

In January this year, the WRC reported that the dump is "overrun with rubbish due to bad management and broken machinery."

Landfill truck driver who declined to be named said the dumping



is not part of any plan, but was chaotic. It had been said that the site was "overrun" for more weeks.

Some of the local residents called the dump on Monday to report the situation at the dump, saying they could not get to their homes.

One resident who asked not to be named said he saw the rubbish being tipped through the air. "I was at the dump on Monday and I could not get to my home because the road was blocked by the rubbish," he said.

In January this year, the WRC reported that the dump is "overrun with rubbish due to bad management and broken machinery."

Landfill truck driver who declined to be named said the dumping

for the City."

The workers said the collapsed machinery had been jammed in the site. The Department of Cooperative Governance and Traditional Affairs is to assess its plant equipment for free use of entering to assist in road clearing.

The workers also said the Department of Environmental Affairs should investigate the municipality for funding the provision of the waste management facility.

"This site is a disaster waiting to happen... At this point even the fire engine won't be able to enter if there were to be a fire and we all know how prone this site is to fire."

Another municipal spokesman Thabeka Mafanizela said privately that they had a problem with the machinery. "Additional yellow gravel machinery was hired in to deal with the big log. The situation will normalize from tomorrow (Tuesday)."

However, one of the two trucks that were hired from a local company yesterday informed a journalist with minutes of striking on site.

"The trucks are not going to help because they only move the rubble onto the sides of the road. They are only making space for the night waste collection team to dump so the problem will only get worse tomorrow," one of the workers said.

Aqua Transport did not respond to media queries at the time of going to print yesterday evening.

UNSUITED: ALL-WOMAN SPACEWALK OFF

LONDON — What should have been a joint leap for women's history has turned into a stumble on the path to equality after U.S. space agency NASA cancelled the first all-female spacewalk due to a lack of a spacesuit in the night sky.

Anne McClain and Christina Koch had been due to step into history books in a spacewalk on Friday during the final week of Women's History Month.

But McClain will now give up her place on the mission to ferret out college rock music. NASA announced late on Monday.

"Mission managers decided to adjust the schedule, due in part to spacewalk availability on the station," NASA said in a statement.

McClain learned during her first spacewalk that a medium-size hand un-

NO UPDATED LOAD SHEDDING SCHEDULE

While the response of load shedding in local businesses and residents had last week, Muzumbe Municipality is still unable to provide an updated load shedding schedule.

The Municipality has been contacted with requests from residents to have the most recent of load shedding will affect them in a timely manner with the new load shedding stage.

Last week, Muzumbe Municipality spokesman Thabeka Mafanizela

could not provide the schedule stating that technicians and coordinators were busy with the situation.

Mafanizela said that the updated schedule would be available by yesterday at the latest.

However, by late afternoon yesterday, a spokesman for the municipality said that the updated schedule would be available by the end of the day.

— Witness reporter

MEK AGENCIES
YOUR 1 STOP DIY STORE

Hardware, Building, Industrial and General Supplies 126 Baljo Road, Balmhorpe (DIEPSTADT) SANDTON, GAITHERS
Tel: 011 307 5910 / 011 307 1805 - Cell: 082 545 93 6279 - web@mek.co.za

MONTH-END SPECIALS

| | |
|--|--|
| REPEX EPEX ROOF PAINT ZOLY COLOURS R549.00 | PRACON PARABOND GLOSS CREAM PAINT R149.00 |
| SIBA RAINWATER SYSTEMS FREE OF CHARGE R120.00 | DURAM DURAM PRIMER COLOURS - PVC EXTENDED LIFE R649.00 |

ARTS AND CRAFTS

| | |
|--|--|
| DIY KIT DIY KIT FOR CRAFTING R359.00 | PLA DROPPER FOR 3D PLA DROPPER FOR 3D R49.00 |
| DIY KIT DIY KIT FOR CRAFTING R20.00 | DIY KIT DIY KIT FOR CRAFTING R399.00 |

ALL SPECIALS VALID UNTIL 28/03/2019. LIMITED QUANTITIES. STOCKS AVAILABLE. CODE

To subscribe, SMS the words 'Witness new' and your address to 31069
Subscription costs R143,44 p/m if you pay by debit order.

ASALY MOTOR SPARES
The Body Part Specialist

FREE WINDSCREEN LEAK ASSESSMENT

ASALY MOTOR SPARES
The Professionals

ASALY BRANCHES

| | |
|--|---|
| BOOM STREET 293 BOOM ST. 033 345 3419 | BERG STREET 431 HOOSER HAFEEJEE ST. 033 342 1807/8 |
|--|---|

WINDSCREEN FITMENT CENTRE

boomstreet@asaly.co.za sales@asaly.co.za

Handwritten signature or initials.

Grand plan for the city's waste

Report supports establishment of energy-to-waste plant to increase local landfill site's lifespan

NOKUTHULA NTULI

THE New England Road landfill site could extend its capacity within the next 10 years, under a model alternative energy-to-waste plant, an independent report says.

The report, which is a preliminary report for a study, was commissioned by the City of Durban, which is currently assessing the site's capacity to receive waste from the city.

In 2014, the Department of Environmental Affairs approached the independent consultant to assess the site's capacity to receive waste from the city.

The report, which is a preliminary report for a study, was commissioned by the City of Durban, which is currently assessing the site's capacity to receive waste from the city.

The report, which is a preliminary report for a study, was commissioned by the City of Durban, which is currently assessing the site's capacity to receive waste from the city.

The report, which is a preliminary report for a study, was commissioned by the City of Durban, which is currently assessing the site's capacity to receive waste from the city.

The report, which is a preliminary report for a study, was commissioned by the City of Durban, which is currently assessing the site's capacity to receive waste from the city.

The report, which is a preliminary report for a study, was commissioned by the City of Durban, which is currently assessing the site's capacity to receive waste from the city.

The report, which is a preliminary report for a study, was commissioned by the City of Durban, which is currently assessing the site's capacity to receive waste from the city.



A waste picker at work at the City New England Road landfill site. A proposal to extend the life of the dump would formalise the separation of recyclables. PHOTO: IAN CARBUTT

AN ENVIRONMENTAL HEALTH THREAT

UNLAWFUL DUMPING says the New England Road landfill site should be completely shut down as it poses an environmental health threat which could see government being sued by ratepayers.

Chief manager Roy Ngwenya said they supported the proposal of an integrated waste plant that "we cannot continue disposing waste at such close proximity to the city centre and residential areas."

"If you go anywhere in the world — except Paternoster — the landfill sites are at the periphery, so it there is going to be such an investment, we need to do things right because this site can no longer take new waste and it's an environmental health hazard."

The district has a constitutional mandate to provide environmental health services across its seven local municipalities and that includes identifying an appropriate location for a landfill as the dump is nearing its capacity, Ngwenya said.

Ngwenya said plans were under way to find a regional dumping site that would be away from the CBD but still accessible to all the municipalities that would be using it.

"We need to start talking to a regional site for all the municipalities because this is not a function of a local municipality. They can have sites for refuse but the dumping site is a different matter," he said.

The report, which is a preliminary report for a study, was commissioned by the City of Durban, which is currently assessing the site's capacity to receive waste from the city.

The report, which is a preliminary report for a study, was commissioned by the City of Durban, which is currently assessing the site's capacity to receive waste from the city.

The report, which is a preliminary report for a study, was commissioned by the City of Durban, which is currently assessing the site's capacity to receive waste from the city.

It refers to the dumping site as a "public nuisance".

He said the site has been a public nuisance for a long time and that it is a health hazard.

He said the site is a health hazard because it is a source of disease and it is a source of environmental pollution.

He said the site is a health hazard because it is a source of disease and it is a source of environmental pollution.

He said the site is a health hazard because it is a source of disease and it is a source of environmental pollution.

He said the site is a health hazard because it is a source of disease and it is a source of environmental pollution.

He said the site is a health hazard because it is a source of disease and it is a source of environmental pollution.

He said the site is a health hazard because it is a source of disease and it is a source of environmental pollution.

He said the site is a health hazard because it is a source of disease and it is a source of environmental pollution.

THE BIGGEST DEALS OF THE YEAR

23 NOVEMBER 2018

Pick n Play

SR

Toxic fumes choke city



Smoke from a fire at the municipal dump engulfs the city in toxic smog yesterday morning.
PHOTOS: IAN CARBUTT

Firefighters struggling to put out landfill blaze due to low water supply

CHELSEA PIETERSE

A THICK blanket of black smog from a large fire at the New England Road landfill site covered the city yesterday and led to the closure of many schools, with nearby residents complaining of chest pains and breathing problems. The fire started at the New England

Road dump site on Thursday afternoon, quickly spreading across the site and spewing noxious fumes into the air. While Msunduzi firefighters attempted to battle the blaze, the fire continued throughout the night, smothering the city with toxic fumes yesterday morning. The cause of the fire is unknown. However, it has been alleged that a truck

driver carrying smouldering fire trimmings had dumped the load at the site, starting the fire. This could not be confirmed.

A source said the firefighters were struggling to fight the fire due to a low water supply. The source said the firefighters would close the flames only for them to flare up again as they waited for more water to be brought to the site. Merchiston Preparatory School's Melissa Verwey said the school had to cancel their sports day and ask parents to fetch their children yesterday morning because of the smog.

"The children on the field could not see 100 metres ahead of them and there were a few asthmatic boys who complained that they could not breathe.

"It has been heavy on our (staff's) chests as well," she said. Other schools that closed included Bellam Primary, St Charles, St John's, Ridge, Peppercorn, Scottsville Primary, Epworth and GHS.

St John's DSG principal Simon Moore said the school decided to close the boarding establishment and the school until further notice.

"This decision should be seen as a precautionary measure in the best interests of the health and safety of the pupils at the school, and was made after careful deliberation and consultation with the manager of the municipal landfill site, Cyril Naldoo," he said.

Moore said following meetings with Msunduzi Municipality, it was brought

LEVEL OF FUMES' TOXICITY UNCLEAR

PIETERMARITZBURG air quality specialist Andrew Simpson said although the fumes coming from the fire were noxious, it was difficult to gauge just how toxic the smoke was without proper measurements and equipment.

He said it depended on how concentrated the smoke was, and in which areas, but said yesterday afternoon that the fire seemed under control.

"This happens typically under dry and hot conditions but this is not the worst case I have seen," he said.

"The fire department must have acted quite fast for the air to be clearer [at midday yesterday]."

He said that there was much less smog than yesterday morning and if firefighters had not acted as quickly as they had, the fumes would be worse.

AVOID CITY'S SMOKE-FILLED AREAS

PIETERMARITZBURG ER24 branch manager Casper Geldenhuys said that people should try to avoid areas where there was excessive smoke.

He said if people were at home and battling with the smog from the fire, they should wet a cloth or shirt and breathe through that. If they found they had trouble breathing and that

they should close all doors and windows and try to cover up any gaps.

"If in a car put the aircon on high and close the air vents. This will create a safe bubble with breathable air."

He said to call ER24 or a doctor if people experienced a hoarse voice, difficulty with breathing and draw-out coughing spells.

to the school's attention that while the municipality faces various challenges at the site, there were "no real, effective and tangible measures" in place to ensure fires occurring on the site were brought to a complete halt.

He said the school has formally petitioned the municipality to take all measures to ensure the prevention of fires at the site, and ensure the "effective and efficient management of such fires in the interim".

Residents living in and around Pietermaritzburg took to Facebook yesterday to complain about the smell and the toxicity of the smoke.

"I work in Umloas Road and live in Camperdown and the smell over this side is sickening," said Facebook user Kathy Doran. "I feel so very sorry for everyone in and around Pietermaritzburg. I do hope this is contained

soon," she said.

"In Scottsville — van latch see out our windows. Smoke causing headaches. We are staying indoors," said Emily Olive Rodriguez.

Msunduzi acting municipal spokesperson Siba Bhegwana said the fire was immediately attended to but due to strong winds, high temperatures and the dryness of the environment the fire spread quickly over an area of about 100 metres.

He said graders, landfill compactors and water tankers on site enabled firefighters to gain more control and that the situation was steadily improving.

"The assistance of other fire fighting institutions is being sought. It is hoped that with the added resources, non-stop fire fighting and favourable weather conditions that the fire will be put out by Sunday. The city apologises for any inconvenience caused."

• chelsea.pieterse@witness.co.za

Step into Spring with The Witness

Step into Spring with The Witness over breakfast
Main speaker Zelda La Grange, served Nelson Mandela as personal aide for 19 years. Author of 'Good Morning, Mr Mandela'
 Demonstration with gardening guru Tanya Visser
 Entertainment with the hilarious Daryl Williams

Venue: Members Terrace, Royal Show Grounds
 Tickets on sale R250 per person or R2200.00 for a table of 10
 Theme: Fresh Beginnings
 Dress: Something floral, you choose the hue, something bold, it's up to you!
 Start: 9h30am • Date: Friday, 1st September 2017
 To book and order your tickets email marketing@witness.co.za

gordener
 NutriFit
 The Witness

Pickfords
 Moving Home Around The Corner, Around The World
 Tel: 031 902 3581
 info.pd@pickfords.co.za * www.pickfords.co.za

Handwritten initials and signature: SR and a stylized signature.



By mid-morning the city centre was still under a blanket of smog.



Msunduzi firefighters battle the blaze at the New England Road landfill site yesterday.



Hayfields residents going to work in thick smog yesterday morning.

PREVIOUS FIRES AT THE SITE

EXACTLY one year ago, the New England Road landfill site caught alight and schools had to close due to concerns over the fumes coming from the blaze.

Last year *The Witness* reported that the fire had started on a Monday evening with firefighters still battling the blaze two days later.

The landfill has seen a number of fires start at the dump over the years and

continues to be of concern to residents and schools in the area.

St John's principal Simon Moore said that the school had had to close before due to fires at the site and following the previous fire, the school appointed a legal environmental consultancy to assist the school in addressing the fire hazards posed in relation to the New England Road landfill site.

Tvet admin block gutted in blaze

KERUSHUN PILLAY

THE admin block of Tvet Coastal College's Appelsbosch campus was gutted in a fire yesterday.

Firefighters worked for four hours to extinguish the blaze, which began raging in the early hours of yesterday morning.

Three fire engines carrying six firefighters responded to the scene, station commander of New Hanover station Sydney Govender told *Weekend Witness*.

"We received a call at 4 am, and we were told the fire had started before 3 am, so we got there about an hour after it had begun."

He said firefighters arrived on scene to find the roof of the block already collapsed.

Govender said no injuries were reported.

The cause of the fire is under investigation, he said.

Acting principal of the college Koglan Naldeo said lectures were suspended pending the outcome of an investigation into the cause.

"If it's an electrical fault, then the entire campus may be at risk. But if it's some mischievous act, then it's a different situation."

What people said

SISEKELO KHUMALO

A CLOUD of smoke coming from the Msunduzi Municipality dump site in Hayfields yesterday had local residents worried about the impact the smoke could have on their health.



SONGUMUSA NDAWU (35) said he had been told the smoke was harmful. "The smoke is toxic to people and animals considering it was coming from a dump site. Everything gets dumped there and you have to be concerned about the smoke," he said.



SOBANTU NGCOWU (46) a Sobantu resident said he feared for his well-being. "It's really bad, especially when you consider those who are asthmatic, and how it's affecting them. The smoke started in the morning around 3.40 am. I also have flu and I was affected by the smoke as well," said Ngcowu.



ROBIN PURVES, manager of Gerber Fastening Systems (Pty) Ltd in Willowton, said the smoke almost forced them to close their business, as workers were experiencing throat problems. "We had a thick cloud of smoke this morning, and we couldn't see our towers. Our factory was full of smoke, so we gave our guys dust masks, and we continued to work. But a lot of the guys were getting sore throats and we would have considered closing the factory, if the smoke hadn't cleared," said Purves.

PHOTOS: SISEKELO KHUMALO

Victim's dad: 'Arrest boy in video or else'

DURBAN — The father of the 12-year-old seen on a video being assaulted by a male pupil has warned that he wants the perpetrator arrested "or else he might die at my hands".

The furious father told News24 yesterday that he has seen the "traumatising video" and has since deleted it from his phone.

The incident happened at Siyathuthuka Secondary School in Inanda, north of Durban in November last year when his daughter was about to write her final exams.

"Whenever he sees me, he runs away. I wish police arrest him soon before I catch him first, because if I do, he might die at my hands and I'll end up in jail," he said.

He said on the day of the incident, he went to the perpetrator's home but his parents were not there.

"I only found him there. He told me that he beat her up because she and other girls had said he was skinny like he was HIV positive," he said. On the same day, the single father said he went to a local police station in the area, but police were not willing to open a case for his daughter.

"I took my daughter and the blood stained school uniform she wore during the assault as she bled from her nose. Police there first told me there were no police vans available to go take us to the perpetrator's home. They then told me that it would be a waste of time to open a case against the boy because he would be set free in court," he said.

KZN MDP Mthandeni Dlangwana's spokesperson Kwazi Mthethwa yesterday told News24 that the department's officials were currently locked in a meeting with the principal of the school where the incident occurred. — News24.

Tap n Tile hyper

445
Victoria Road
033
345 2998

Open 7 days a week
(including public holidays)
E-mail: tapntilehyper@yahoo.com

TILE CLEARANCE!

| | | |
|---|--|-------------------|
| ODD LOTS WALL & FLOOR TILES..... | | R19. 90 m2 |
| 20 x 30 WALL TILES | | R29. 90 m2 |
| 25 x 33 WALL TILES..... | | R34. 90 m2 |
| 30 x 30 FLOOR TILES | | R39. 90 m2 |
| 33 x 33 FLOOR TILES..... | | R39. 90 m2 |
| 40 x 40 FLOOR TILES | | R49. 90 m2 |
| 20 x 50 WALL TILES..... | | R49. 90 m2 |
| 30 x 60 FULL BODY PORCELAIN | | R69. 90 m2 |
| 60 x 60 GLAZED PORCELAIN..... | | R79. 90 m2 |
| 60 x 60 POLISHED PORCELAIN | | R99. 90 m2 |

GEBERIT
ALPHA TOILET SUITE:

- > CONCEALED MECHANISM
- > ACTUATOR PLATE
- > WALL HUNG PAN
- > SOFT CLOSE SEAT

R2399⁰⁰

SALE NOW ON!

25% OFF

ALL BATHROOM VANITIES

VALID FOR THIS WEEKEND ONLY

SR



Recycling will help reduce landfills

>> 'A landfill is like a gas station, smoking is not allowed due to various flammable gases'

Response from Msunduzi Municipality

Msunduzi Municipality spokesperson, Ngobile Madonda, said that the exact cause of the fire remains unknown, but offered two possible reasons: "There was a neighbouring weld fire that may have resulted in airborne burning debris finding its way over the fire break, or waste pickers may have left a fire unattended," she said.

Madonda added that the site remained accessible for disposal and the affected area will be rehabilitated.

"She added that fire breaks are created regularly, waste must be covered daily, spot checks on waste via personnel and camera technologies are in place, annual upgrades, entrance cover and general operations and three additional fire hydrants have been installed along the active work-face at the landfill site.

"Landfill fires are common, however, we have been able to reduce their frequency over the past five years by improved operations. It is difficult to totally avoid due to many possible factors that give rise to these fires," said Madonda.

NICOLE JOHN
>> nicole@mbfever.co.za

WHILE Pietermaritzburg residents watched as the New England Landfill site burnt sending toxic smoke into the atmosphere, environmental organisation groundWork emphasised the importance of recycling.

"Recycling will decrease the amount of waste being buried at landfill sites, therefore, there will be less fires or flammable materials. If as a country can produce only recyclable materials, we may not need landfills," said Musa Chamane, groundWork waste campaign manager.

While Chamane said it is difficult to say what would have caused the fire at the landfill site, he said that poor practices generally lead to fires.

"A lot of recyclable waste such as paper and plastic that should have been recycled, uncovered waste that should be landfilled at the end of each day, unlimited or unrestricted access by the public, uncontrolled salvaging of waste by waste pickers and public could have resulted in the fire.

He said the chemicals emitted from the landfill site are among the most carcinogenic compounds known to cause cancers in humans. Any exposure to these chemicals, especially for people with respiratory problems such as asthma, is cause for concern.

"Dioxins and Furans known to cause cancer in humans, heavy metals such as nickel that causes chronic bronchitis, reduced lung function, and cancer of the lung and nasal sinus and styrene vapour from burning foam based products can damage the eyes and nervous membranes are just some of the gases that a fire at a landfill will produce."

When asked how fires at dumps should be handled he said that it should be prevented in the first place.

"Fires should be managed through public and staff training. A landfill is like a gas station, smoking is not allowed due to various flammable gases that are present by these places."

Waste pickers were allowed to get back to work at the New England landfill site, however, they would have lost recycling material they would have collected and sold to make a daily wage.

'Schools were right to close'

Chairman agreed with some of the schools in the nearby area that sent pupils home as a smoke cloud appeared over them.

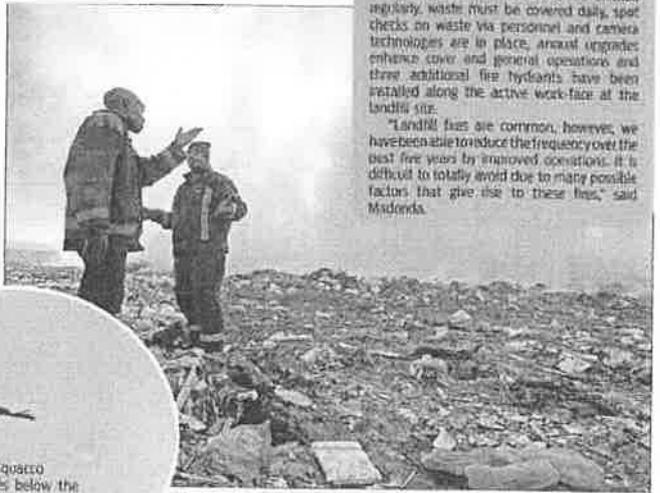
St Charles and St John's DSE called for parents to take their children home at about midday on Wednesday and only reopened on Friday.

"The decision was made to close St Charles College out of concern for the health of our boys and staff. Some boys reported breathing difficulty and we were most concerned about those who suffer from asthma, however, there were no serious medical cases reported."

"The smoke cloud traveled quickly across the campus, enveloping the College just before 9am (on Wednesday). The cold conditions created a temperature inversion trapping a thick smoke cloud. Once the day warmed up the inversion was disrupted and the smoke cleared quickly. This problem is not acceptable for the city of choice and we would want to assist the authorities in any way we can to find long term solutions," said Dean Fray, marketing manager at St Charles College.

Simon Moore, principal of St John's DSE said that the school had consulted an air quality expert who advised that the school should be closed.

"It was merely a precaution based on advice received. At no time were we aware of any pupils or staff experiencing any symptoms or problems caused by the smoke, but we were concerned about potential long term health implications, particularly to those who are asthmatic or have any respiratory problems," he said.



A Squacco heron flies below the sun obscured by smoke from fires at the dump site last week.
PHOTO: IAN CARBUTT

PHOTO: IAN CARBUTT
Members of the Pietermaritzburg Fire Department monitor a fire at the dump site last week.

BUTLIN HEARING
For Affordable Hearings...
EST. 1988

- ✓ Hearing Tests
- ✓ Hearing aids (All leading international brands)
- ✓ Hearing aid adjustment and repairs
- ✓ Medical Aid rates - we claim for you
- ✓ FREE trial period on all hearing aids
- ✓ Hearing Aid batteries R27,00 (pack of 6)

HEARING AID ACQUSTICIANS
Laurie Butlin Kate-Marie Butlin
082 444 5426 082 067 7888

By appointment at these Pharmacies
Hayfields • Wembley • Hilton • Howick
Tel: 033 330 3404
www.butlinhearing.co.za

BERG PAWNBROKERS
BUY SELL
"Lending a helping hand since 1999"
Cash loans
Pawn shop
Maiden Road, 12 shops
• 24hr Closed
Telephone: 033 304 0570, 340 Howick Highway
Oseng Street, Shop 1

ALOE RIDGE RENTAL HOUSING
Accommodation Available
(290 White Road, Westmead, Pietermaritzburg)
TWO BEDROOM FLATS
R2 700 per month
MIDLAND HOUSING ASSOCIATION NPC
41 PETER KERR (HILTON) STREET
PIETERMARITZBURG
TELEPHONE: (033) 345 21667
Website: www.mhakatona.co.za
Monday to Friday 9:00am - 5:00pm
*Free and confidential enquiries
APPLY NOW (RENTAL) 033 345 21667

I BUY CARS
AND
BAKKIES
OLD OR NEW
PHONE AJAY
082 966 2384

SIS

Five years left for New England landfill

>> Landfill site is managed by the municipality

NICOLE JOHN
>> nicole@pmbfever.co.za

There might only be five years of use left at the New England Road landfill site until it reaches capacity, depending on how much waste is reclaimed from the site by waste pickers or reclaimers, according to groundwork Waste Campaign manager, Musa Charmano.

The landfill site is managed by the municipality - landfill staff continuously face many challenges such as running out of diesel for the compactor and trucks, which impacts on their operations, however, the appearance of the site is much better compared to the past five years," said Charmano.

He added that waste pickers are still operating at the landfill.

"The municipality is looking at creating buy-back centres to increase recycling rates. The buy-back centres will replace a failed plan to have a materials recovery facility."

Speaking on the recent announcement from Msunduzi Municipality about the new kerbside project that will be

started in the city, Charmano said it would assist with lengthening the capacity of the New England Road landfill site.

"This (kerbside project) means recyclables will not go the landfill therefore saving space at the landfill and increasing the lifespan of the site."

He added the success of the project will depend on many factors, including education and awareness for the public for separation at source.

"It would also depend how much waste pickers have been involved in the project because recyclable knowledge sits with them," he said.

Charmano emphasised the need for waste pickers to be involved in the new municipal recycling project as they have the first-hand knowledge of the environment already and have made a living for many years by sorting through recycling.

"If the kerbside project works, it would be good for the city. If it does not involve waste pickers it will be a shame because more than 500 waste pickers will lose their livelihoods, however, it is important to note that kerbside projects only become impactful after a number of years," he said.



There might only be five years of use left at the New England Road Landfill site until it reaches capacity. PHOTO: SUPPLIED

FROM PAGE 1 Future Farmer interns are hands-on

LEADING conservation NPO, Wildlands, is transforming the lives of 10 Future Farmer interns by placing them in its various vegetable gardening hubs close to the organisation's partner communities to gain invaluable skills.

The Future Farmers programme develops skills and sparks passion for farming in young aspiring farmers by providing them with real job experience in the sector.

The Future Farmers' organisation in Howick, has an interesting programme where, based on feedback from host institutions, individuals who have excelled are sent on an exchange programme to learn different styles of agriculture.

Their one-year internship programme with Wildlands is intended to expose the interns to a wide range of practical experience, over and above the theory they may already have learnt while studying.

They will also be exposed to community work through Wildlands' projects such as school vegetable gardens, nurseries and the Food for Life programme, focusing on permaculture gardens at a homestead level, which is related to food security and small business development.

One enthusiastic intern, Ayanda Ngebo from Edendale, Pietermaritzburg, said she has been passionate about agriculture since she was young.

"At home we had a vegetable garden and I took great pleasure working in it."

Ngebo, who holds a Bachelor of Technology in plant production majoring in soil science,

said agricultural extension development, which involves working with communities and exposing them to new methods of agriculture, was the most enjoyable part of her new job.

"I've already been exposed to organic farming and growing plants and controlling weeds without the use of chemicals.

"I don't want to share my knowledge with the community and inspire them to love producing as much as I do."

The interns will be working across the province starting at three recently established hubs in Pietermaritzburg, Durban and Richards Bay, made possible by Nodbank and South 32.

Wildlands' project manager, Dave Moldenhauer, said the intention was to go back to basics and place emphasis on organic vegetable farming.

"I have secured a permaculture design training course for them which differs greatly from conventional commercial farming that they've studied.

"They will learn intelligent use of water, alternative methods of weeding and companion planting, among other interesting things. This knowledge will stimulate creative methods of keeping the gardens green, and productive and bursting with abundance."

Wildlands has issued their Future Farmer interns protective gear and they are being inducted into the Wildlands programme where they will familiarise themselves with the farming sector and gain invaluable hands-on experience.

"I can't wait to share my knowledge with the community and inspire them to love gardening as much as I do"

Supplied.

FIND US ON FACEBOOK MARITZBURG FEVER

OUTPOST
TREATED TIMBER

CCA Treated Gum Poles | Droppers | Laths
SATAS graded quality
On-site pressure treatment

For all your fencing, building, thatching & agricultural requirements

100 Boston Road, Merrivale (opposite Sakabula on the R617)
072 144 6469 | murray@outposttreatedtimber.co.za

I'm lovin' it

BIG JALAPEÑO FLAVOUR. SMALL PRICE.

SINGLE SMALL MEAL
R19.90

Also available in BBQ and Boerie.

© 2016 McDonald's. All rights reserved. Coca-Cola is a trademark of the Coca-Cola Company 2016.

SB

in case there is an

emergency 10111

Crime Stop: 086 001 0111

CRISIS
Ambulance: 10 177
Fire Brigade: 080 003 3911
Traffic: Mpumala Hotline: 086 221 1011
911 Control Centre, PMB: 033 391 1911
Lifeline (24hrs): 033 394 4444
Rape Crisis: 033 394 4444

MUNICIPAL
Water: 080 000 1868/033 392 2128
Electricity: 033 392 5098/5096/5029
Afterhours number: 033 392 5098
Traffic lights: 033 392 2205
Roads (chains, damage): 033 392 2047 or 033 392 2059

ESSENTIAL NUMBERS
Aids Help: 033 394 4444
Aids Hotline (tollfree): 080 001 2322
Gift of the Givers Careline: 033 342 2239/080 078 6786
Alcoholics Anon: 086 143 5222 or 033 345 6795
Famsa: 033 342 4945
Childline: 080 005 5555
Forest Fires: 033 330 8421
Safe City report crime via SMS: 083 767 7233
SPCA: 033 386 9267

EMERGENCY CHEMISTS:
Scottsville: 033 386 1029
Central: 033 342 1200/(a/h) 033 346 0550
Northdale: 033 387 1681

Maritzburg FEVER hotline:
Distribution complaints or compliments, contact OTD distributors on 033-346 2156. This number is available from Mo-Fri 8:00-16:30

CONTACT THE FEVER
TELEPHONE 033 355 1247
EDITOR editorial@pmbfever.co.za
CLASSIFIEDS 033 355 1333
REPORTER nqobile@pmbfever.co.za
POST PO Box 362, PMB, 3200



The site is currently sitting at 625 metres above sea level and the daily disposal is 700 tons.

PHOTO: FILE

No space for waste

>> The New England Road landfill will be at capacity by 2022.

NQOBILE MTOLO
>>nqobile@pmbfever.co.za

PETERMARITZBURG's New England Road landfill site has only nine years left before it will be at capacity. Moreover, it is estimated that the cost to the Msunduzi Municipality to close the site in 2022 will be approximately R149 million. Closure this year would cost R63 million. The costs for the closure of the landfill site can be attributed to various needs, but include that of a gas management and monitoring system, storm water provisions and vegetation maintenance, a security fence on the perimeter of the site, a water quality monitoring system, engineering fees, geotechnical investigations, construction monitoring and a topographical survey, to mention but a few. According to the landfill permit, the New England Road landfill must not exceed 654 metres above sea level. The site is currently sit-

ting at 625 metres above sea level. A report circulated at the Executive Committee (Exco) meeting stated that the daily disposal at the site is 700 tons. The report further says that by 2020, the landfill site will have no available space. However, the diversion of waste will increase the lifespan of the site by a couple of months. The Gungahloni District Municipality has recently awarded a tender for the construction of the Materials Recovery Facility (MRF) at the landfill site and the project is funded by the Department of Cooperative Governance (Cogta).

The MRF is a specialised plant that reduces municipal solid waste going to landfills by separating the recyclable goods and preparing them for end-user manufacturers. It is expected that the construction of the MRF will start this July and be completed by next year February. As soon as this project has kicked off, there is expected to be a 30% reduction of waste at the landfill site, thus increasing its lifespan. Msunduzi's deputy municipal manager for infrastructure services, Thokozani Masoko, said: "Every year we do this report so that we can budget appropriately for the closure of the landfill site."

Municipality revises tariffs

NQOBILE MTOLO
>>nqobile@pmbfever.co.za

THE Msunduzi Municipality has received a number of complaints from consumers who can't deal with the payments of steep surcharges for the reinstatement of electricity meters due to tampering. Due to these complaints, the municipality has revised its tariff structure to enable those consumers to pay back the money. The current charge for the reinstatement of meters which have been removed due to tampering is R13 296 for domestic electricity users and R331 740 for businesses. The revised charges for reinstating the meters for the first and second offence are R4000 and R5 500 respectively. Thereafter, each offence will be R7000. For businesses that connect illegally, the fine for the first offence will now be R20 000, R35 000 for the second offence, and each offence thereafter will cost R50 000 to reinstatement the meters. In addition to tampering charges, the consumer found to have been tampering will be expected to pay the estimated consumption which will be determined by the municipality. The municipality will include these charges in the municipal tariff register. "On a lighter note, this shows that the people who are stealing electricity are serious about paying. It's a preventative measure that we are putting forward," said mayor Chris Ndaba. Last week the Maritzburg FEVER reported that from January to April this year, the municipality has lost over R40 million in electricity income due to illegal connections and that in the same period, there were 4981 disconnections due to illegal connections.

EARRINGS BEST IN THREES?



NO, DEAR, **HEARING TESTS ARE FREE** AT **BUTLIN HEARING**.
'For Affordable Hearing Care'
HEARING AID ACQUISITION at these Pharmacies, by appointment:
Hilton • Wombey • Hayfields • Cascades
Laurie Butlin 082 444 5426
Kate-Marie Butlin 082 067 7698
Tel: 033 330 3404

WE GUARANTEE YOUR HEARING WILL IMPROVE OR YOU DON'T PAY! CAN IT GET SIMPLER?

The Funtubbles
SAFE all-weather FAMILY environment

www.funtubbles.co.za • Liberty Mall, Dept. 013 362 3990

WANTED CARS AND BAKKIES

* ANY MODEL
* OLD OR NEW
* QUICK CASH

TEL: **AJAY ON 082 966 2384**

Handwritten signature and initials: *SB*

"JBS12"

Lloyd Lotz

From: Naomi Hardman <nhardman@stjohnsdsg.com>
Sent: Tuesday, August 25, 2020 1:44 PM
To: Pavershree Padayachee
Cc: Simon Moore; 'Linda Longhurst'
Subject: FW: New England landfill
Attachments: petition_signatures_jobs_23631790_20200825113507.pdf

Importance: High

Dear Pavershree,

Your email to Linda below has reference.

Yes, we did start a petition through Love PMB and set up the SAHRC to receive details of the petition as follows.

<http://chnrg.lt/zZwJ6Gnc>

To date, 17 122 people have signed the petition (please see the attached – all 786 pages of signatures!) calling for the New England Road Landfill site to be closed / moved.

The petition was registered to send to the following organisations:

- SAHRC
- Department of Environment, Forestry & Fisheries
- KZN Premier
- Minister Barbara Creecy
- Mayor Cllr Thebolla

The petition reads as follows:

We, the residents of Pietermaritzburg, have lost faith in Msunduzi Municipality and our leaders to protect our rights enshrined in the Constitution.

The New England Road Landfill Site ("the Landfill") has deteriorated to the point that it presents a serious risk to human health and wellbeing. Pollution and degradation of the environment is ongoing and fires at the Landfill have forced us to close schools and businesses because we cannot breathe.

Section 24(a) of the Constitution gives to everyone, the right to an environment that is not harmful to their health or wellbeing.

Section 24(b)(iii) gives affected people the right to have the environment protected for the benefit of present and future generations, through reasonable legislative and other measures that prevent pollution and ecological degradation.

As citizens of Pietermaritzburg, we are denied these rights through the political apathy and mismanagement by the Municipality of the Landfill.

Emissions from the Landfill, because of its failed management, are likely to include carcinogenic compounds such as benzene, and gases mixed with sulphides that produce unbearable odours. Leachate escaping the Landfill has the potential to cause loss of life and is already causing serious pollution of the Msunduzi River, an important source of water for the Sobantu community.

Air pollution in the city has reached levels where the discomfort of odours and the risk that the malodorous air contains highly toxic gases, has forced schools and businesses to close while the Landfill burns.

In the Sobantu community, increased respiratory ailments and deaths have coincided with fires on the Landfill. The risk of serious harm to the health of all people within the pollution plume from benzene and hydrogen sulphide, which are colourless and odourless, is ever present, even when there are no fires on the Landfill. All these facts are well-known to our leaders.

We have implored Msunduzi Municipality, we have implored the Administrator and we have implored the Premier of KZN to hear our concerns and to respond to our pleas for them to address this crisis. We have petitioned for the restoration of municipal services at least to established minimum standards insofar as the licence conditions of the Landfill are concerned.

We have requested of our leaders the publication of a recovery plan (financial or for service delivery) prepared by the Administrator.

We have appealed to our Premier, as head of the executive, accountable for the restoration of the Municipality to functionality, to address our concerns.

We have copied our concerns to the MEC for Economic Development, Tourism and Environmental Affairs for information and appropriate action.

The fires continue and our city continues to suffer.

Problems on the Landfill are not new. The Municipality has been issued with a compliance notice in terms of section 31L of National Environmental Management Act 107 of 1998. It would appear that the Municipality did not heed the compliance notice. The Department of Economic Development, Tourism and Environmental Affairs is currently investigating criminal charges, presumably against the Municipal Council and its officials. These actions should be made public so that stakeholders are made aware of the fact that something is being done about the untenable state of the Landfill.

One of the factors contributing to the deteriorating conditions on the Landfill is the lack of a monitoring committee, one on which local stakeholders are represented. It is condition of the waste management licence that the Municipality establish and support a monitoring committee. This has not happened.

Although the Municipality and the Administrator have stated publicly that steps are being taken to rectify the problems on the Landfill, we are sceptical. We have lost confidence that the Municipality has the means or the will to do what is required to restore the Landfill to an acceptable level of management. Similarly, the Municipality's promise that the Landfill will be closed within the near future and a new site established elsewhere, is treated with scepticism.

The public has the right to be fully informed as to what danger the Landfill poses to the surrounding communities. We have a right to know what steps have been taken and/or what progress has been made, if any, towards finding a new landfill site, and the source of funding for the establishment thereof.

The Municipality (and it follows, the provincial executive) should voluntarily disclose this information to stakeholders. This has not been done.

We accordingly request of the Minister that she urgently address the health and human rights crisis that is the Landfill.

We implore her to close this site as a matter of urgency, in the interests of the health and well-being of all residents of Pietermaritzburg.

Please, Honourable Minister, hear us!



From: Linda Longhurst [mailto:lindamarylonthurst@gmail.com]
Sent: 25 August 2020 10:28
To: Naomi Hardman <nhardman@stjohnsdsg.com>; Simon Moore <scmoore@stjohnsdsg.com>
Subject: Fwd: New England landfill

Hi Naomi and Simon
 Can you help with this?
 Regards Linda

----- Forwarded message -----

From: Pavershree Padayachee <ppadayachee@sahrc.org.za>
Date: Mon, Aug 24, 2020 at 5:35 PM
Subject: RE: New England landfill
To: Linda Longhurst <lindamarylonthurst@gmail.com>
Cc: Kathleen Boyce <kboyce@sahrc.org.za>

Dear Ms Longhurst,

I hope you well and would be grateful if you might be able to assist us with a query relating to the online petition that was being circulated on the social media platform, Facebook.

According to the petition a formal complaint relating to the landfill site was to be lodged with the Commission which have to date not received. Was the petition started by Love PMB and are you able to advise whether it was forwarded formally to the Commission.

change.org

#lovepmb

Recipient: South African Human Rights Commission, Department of Environment, Forestry and Fisheries, KZN Premier, Minister Barbara Creecy, Mayor Cllr Thebolla

Letter: Greetings,
Close the Msunduzi Municipality New England Road Landfill Site


SB

Signatures

| Name | Location | Date |
|-----------------------|--------------------------------|-------------|
| Naomi Hardman | Pietermaritzburg, South Africa | 2020-07-22 |
| Landi Goldman | Pietermaritzburg, South Africa | 2020-07-22 |
| Paul Hardman | Johannesburg, South Africa | 2020-07-22 |
| Melissa Gravett | Durban, South Africa | 2020-07-22 |
| Robyn Kirsten | Johannesburg, South Africa | 2020-07-22 |
| Sheena Gaston | Durban, South Africa | 2020-07-22 |
| Feroza Suleman | Durban, South Africa | 2020-07-22 |
| Carolyn Rochat | Durban, South Africa | 2020-07-22 |
| Justine Briscoe | Pietermaritzburg, South Africa | 2020-07-22 |
| Peters Peters | Durban, South Africa | 2020-07-22 |
| Rachel Gilson | Durban, South Africa | 2020-07-22 |
| Duncan Sibiya | Kempton Park, South Africa | 2020-07-22 |
| Cindy Brown | Durban, South Africa | 2020-07-22 |
| Tamryn Sprunt | pietermaritzburg, South Africa | 2020-07-22 |
| Belinda Driemeyer | Durban, South Africa | 2020-07-22 |
| Jade Westhorpe-Pottow | Pietermaritzburg, South Africa | 2020-07-22 |
| Donovan Rewitzky | Durban, South Africa | 2020-07-22 |
| Sherise Carroll | Durban, South Africa | 2020-07-22 |
| Lovashini Moodley | Pietermaritzburg, South Africa | 2020-07-22 |
| Lisa Strydom | Durban, South Africa | 2020-07-22 |

JA
SK

| Name | Location | Date |
|------------------|--------------------------------|-------------|
| Brandon Rochat | Durban, South Africa | 2020-07-22 |
| Cindy Higgins | Howick, South Africa | 2020-07-22 |
| Leeann Nelson | Pietermaritzburg, South Africa | 2020-07-22 |
| Ryan Taylor | Durban, South Africa | 2020-07-22 |
| Thando Gwetu | Durban, South Africa | 2020-07-22 |
| John Bloem | Durban, South Africa | 2020-07-22 |
| Ronel Taylor | Pietermaritzburg, South Africa | 2020-07-22 |
| Nicole Pool | Durban, South Africa | 2020-07-22 |
| Jenny Westwood | Durban, South Africa | 2020-07-22 |
| carien du toit | Durban, South Africa | 2020-07-22 |
| Glen Cooper | Durban, South Africa | 2020-07-22 |
| Caroline Holley | Durban, South Africa | 2020-07-22 |
| Koushik Maharaj | Durban, South Africa | 2020-07-22 |
| Jon Higgins | Johannesburg, South Africa | 2020-07-22 |
| Heidi Taylor | Durban, South Africa | 2020-07-22 |
| Bongiwe Kunene | Durban, South Africa | 2020-07-22 |
| Kerri Hellens | Johannesburg, South Africa | 2020-07-22 |
| Sjabulisiwe Xaba | Johannesburg, South Africa | 2020-07-22 |
| Nomphilo Dladla | Durban, South Africa | 2020-07-22 |
| Roselyn Dredge | Pierermaritzburg, South Africa | 2020-07-22 |
| Taryn Nel | Durban, South Africa | 2020-07-22 |
| Ronel Govender | Durban, South Africa | 2020-07-22 |

Handwritten signature and initials, possibly 'R' and 'SB', located in the bottom right corner of the page.

"JBS13"



Thursday 01 October 2020

South African Human Rights Commission

New England Road landfill statement

1.

I am Musawenkosi Barnard Chamane. I am a waste specialist at groundWork. I am authorised to make this statement on behalf of groundWork and thereby state that what is contained herein is to the best of my knowledge true and correct unless the contrary is shown otherwise.

2.

From 2007 groundWork has been monitoring and auditing various landfill and municipal dump sites in South Africa, including the New England Road landfill located within Msunduzi local Municipality, Pietermaritzburg KwaZulu-Natal. When we began this work, there was no waste legislation except for the National Environmental Management Act 107 of 1998 (NEMA) as well as the minimum requirements for landfill operations. Most landfills or dumps were historical sites that were generally not managed very well and as a result there were many transgression in as far as human rights are concerned.

3.

At the New England Road site in Pietermaritzburg I recall during one sunny summer day while visiting the site for an audit, a rare sight took place, waste pickers were chased out of the landfill with gun shots, and police dogs chased them off the landfill site. When they were outside they reached out to me because I was frequenting the site and they requested my assistance because they were kicked out of the site and their livelihoods were at stake. We had a meeting under

9
8B

the tree next to the back gate and we agreed to send a delegation to the municipality to discuss what was happening. Among the waste pickers, four people were elected to go and represent the other waste pickers with groundWork as a support system.

4.

At this meeting, both the city officials and the waste pickers voiced their concerns. It was agreed that they should work side by side on agreed times of entry and exit. The issue of identification cards for entry was also agreed upon and, although that process was started, it was never completed by Msunduzi municipality. The issue of interfering with landfill staff operations by waste pickers was also discussed and it was agreed that there will be an operational plan. This was developed and agreed upon, however a few months later the plan failed and the relationship between the city officials and the waste pickers crumbled, despite the fact that city officials had been advised by groundWork on the advantages of waste recovery at the landfill for recycling purposes, which saves a lot of landfill airspace and is an advantage to the life cycle of the landfill.

5.

Over time and because of the lack of access control at the landfill site, the number of waste pickers began to swell making the site unmanageable. GroundWork initially warned the municipality about such a possibility if there was no adequate measures in place to control access to the site. Accidents then started to occur because some of the waste pickers were not familiar with the operational risks on sites which resulted in several accidents where waste pickers were run over by waste trucks. More than eight people have died since while others have been permanently incapacitated. All these accidents happened when the landfill monitoring committee was no longer functional. About 12 years ago, a municipal security guard shot one male waste picker and a case was never opened at the local police station. Three weeks back a service provider who manages the site for the municipality shot at two male waste

PA
BB

pickers claiming self-defence on the basis that they smashed his vehicle when he refused them entry into the landfill site.

6.

The New England landfill has been rocked by death, shootings, and corruption due to the failure of the municipality to sort out the landfill access. Waste pickers have died as a result of truck accidents and currently one of them is paralyzed on a wheelchair, which is very disheartening, because waste pickers are not criminals.

7.

Waste pickers are currently recognized by national legislation. Section 51(1)(i) of the National Environmental Management Waste Act 59 of 2008 states that "A waste management licence (WML) must specify if applicable, the conditions in terms of which salvaging of waste may be undertaken". Accordingly, the waste legislation including its Regulations, Norms and Standards¹ allows for waste pickers at landfills to sort waste as long as the activity is provided for in the WML and it is within the control of the holder of such licence or the municipality in this case. It is my understanding that one of the authorised activities of the municipality's WML is the "sorting" of waste. Waste pickers are among the most vulnerable people in South Africa who survive hand to mouth by picking waste. They are not stealing from anyone. Local Government needs to create a conducive environment for their livelihoods to be respected and to thrive.

8.

During 2010/2011 we advised the municipality to control access to the site and construct a material recovery facility (MRF), effectively a warehouse where waste goes for further sorting

¹ See also List of Waste Management Activities that have, or are likely to have, a detrimental effect on the environment (GN 921 of 2013) and the National Norms and Standards for the Sorting, Shredding, Grinding, Crushing, Screening or Baling of General Waste (GN 1093 of 2017) which provide for the sorting of waste. "sorting" means the manual or automated separation of waste materials according to type, class, state of contamination or usability for a particular purpose.

SP

and is bailed ready for the market. The District municipality (District) agreed with our proposal and bought into the plan and we collectively developed plans and trained a co-operative of waste pickers to run the MRF. The District motivated for the project to COGTA and R21 million was allocated for this purpose to make the project a success.

9.

This project was going to be of benefit to the environment and also to waste pickers because it would reduce waste volumes that were going straight to the landfill and instead divert them to the MRF and our recycling rates for the city were going to increase, thus decreasing the impact of climate change. More than 200 decent jobs were to be created. Because the MRF would not require waste pickers to work directly on the landfill site, no accidents that paralyses or kill waste pickers were anticipated. However, this plan failed on the 11th hour when the District approached the Msunduzi municipality. Since the Msunduzi municipality has the legal right to manage the waste at the landfill, they did not agree with the District on who would be the main custodian to run the MRF. In summary the MRF could not be delivered due to political differences.

10.

As a direct result of the municipalities actions in the past and present, the landfill experiences regular landfill fires because there is no adequate access control to the site and, there is no designated MRF for waste pickers to do their job without interfering with the other landfill operations. A sustainable plan was once presented to both municipalities and it can still be implemented if Msunduzi municipality is willing to do so. Lawyers for Human Rights (LHR) have previously promised that they will assist waste pickers, but nothing was ever done. Waste pickers have staged two protests to the Msunduzi municipality for failure to construct the MRF as promised by the District. It is my understanding that the issue of the MRF was competing with some agendas from the municipality, who apparently had their own preference on how to

CB

benefit the waste pickers. GroundWork and the District have even presented to a full Msunduzi municipal council about the project but the go ahead was not given due to certain political differences as aforementioned.

11.

We have watched helplessly while the municipality's actions have impacted on people's lives and communities by failing to manage the site properly resulting in fires which to our knowledge are mainly sparked by hazardous chemical waste that infiltrates the site without any supervision. Chemical waste from certain industries have been allowed to enter the site and the mixing of such waste has resulted in fires due to several chemical reactions. I doubt that some of the people managing the access to the site even know the difference between general and hazardous waste because bio-medical waste such as syringes, drips etc have also been found on the site which again proves that there is no supervision on the types of waste that is allowed to enter the landfill site which continues to put the health and lives of the people working at the site including waste pickers at risk. We look forward to the Intervention of the South African Human Rights Commission in this matter.

Musawenkosi Barnard Chamane

Waste Specialist: groundWork Pietermaritzburg


SB

**IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG**

Case No: 8407/20P

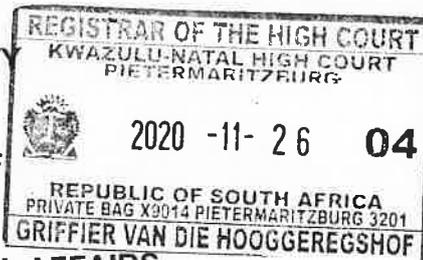
SOUTH AFRICAN HUMAN RIGHTS COMMISSION

Applicant

and

MSUNDUZI LOCAL MUNICIPALITY

**HEAD OF THE DEPARTMENT OF
ECONOMIC DEVELOPMENT,
TOURISM AND ENVIRONMENTAL AFFAIRS,
KWAZULU-NATAL PROVINCIAL GOVERNMENT**



First Respondent

Second Respondent

**MEMBER OF THE EXECUTIVE COUNCIL
FOR ECONOMIC DEVELOPMENT,
TOURISM AND ENVIRONMENTAL AFFAIRS,
KWAZULU-NATAL PROVINCIAL GOVERNMENT**

Third Respondent

INDEX BUNDLE 5

| | | |
|----|---|---------|
| 17 | 'JBS14' - Petition that certain representatives of the Sobantu community submitted to the First Respondent at the end of 2019 | 318-403 |
| 18 | 'JBS15' - Statement from the South African Waste Pickers Association dated 26 October 2020 | 404-406 |
| 19 | 'JBS16' - Applicant's correspondence dated 14 July 2020 | 407-409 |

318

"JBS14"

Pavershree Padayachee

From: Ntsikelelo Nkosi <eyethubs@gmail.com>
Sent: Monday, 24 August 2020 11:23 AM
To: Pavershree Padayachee
Subject: Sobantu Households Petition and Petition Letter
Attachments: Petition Letter 1.pdf; Petition Letter 5.pdf; Petition Letter 4.pdf; Petition Letter 3.pdf; Petition Letter 7.pdf; Petition Letter 6.pdf; Petition Letter 2.pdf; Petition Letter 8.pdf; Petition register 1.pdf; Petition register 2.pdf; Petition register 3.pdf; Petition Letter 9.pdf

Dear Pavershree

Hope this email finds you in good health.

Apologies for the delayed revert, I was waiting on the environmentalist that are currently on the ground at Sobantu signing these petitions to forward them to me.

May you please find the attached Petition register ad letter signed by the Sobantu residents. As well as our online petition with comments from the public that have been showing us support on this New England Landfill matter.

Please note we shall also forward our complaints forms to your department. This task is also currently being handled by the grannies NPC that we are working with. Once I have received any feedback from them, I shall let you know.

JA
SAB

Sobantu Township
 Pietermaritzburg
 3210
 August 2020

ATT: The South African Human's Right Commission

Petition Consent Letter against the Violations of Human Rights of the Sobantu Residents within
 Ward 35

In terms of the environmental right that is stipulated in the Constitution of the Republic of South Africa, Act 108 of 1996 (hereafter referred to as "The Constitution"). As per Section 24 of which enshrines environmental rights in South Africa can be interpreted into a two-fold purpose. The first part guarantees a healthy environment to every person. The second part mandates the State to ensure compliance with the first part mentioned above. The State is prohibited from infringing on the right to environmental protection and is further required to provide protection against any harmful conduct towards the environment.

Section 24 states as follows:

1. Everyone has the right –
 - (a) To an environment that is not harmful to their health or well-being; and
 - (b) To have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that –
 - (i) prevent pollution and ecological degradation;
 - (ii) promote conservation; and
 - (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

This Section also incorporates International Environmental Law which includes the duty of care and that the "Polluter" will pay for polluting the environment, which creates liability for environmental damage caused.

2. *The concept of health and well-being – Section 24(a)*

Critics agree that "health" relates to human health that includes both mental and physical integrity. However, "well-being" is more difficult to define and often questioned. Usually "well-being" is regarded in the wider sense that includes spiritual or psychological characteristics and an individual's need to be able to connect with nature. Environmental issues, such as conservation and the maintenance of biodiversity, are brought within the ambit of the above right.

in association with



Handwritten initials or signature, possibly 'SB'.

3. *Sustainable development – Section 24(b)*

Before the State fulfils its mandate in terms of Section 24(b), it will have to ensure that there is a balance, not only in environmental considerations, but also social and economic considerations – namely sustainable development. To achieve sustainability in most cases, the economic inequalities need to be reduced and social welfare concerns need to be addressed.

4. *Pollution and ecological degradation – Section 24(b)*

The section provides a mandate on the State to ensure environmental protection and ecologically sustainable development. The previously mentioned is achieved by way of laws and regulations. Private individuals, corporate entities and public authorities need to comply with such laws and regulations by way of putting the appropriate measures in place and, where compliance is lacking, enforcement mechanisms. Courts and the judiciary further play a key role in ensuring the enforcement of environmental rights.

The Sobantu Human's Right Violation Case

However, the Msunduzi Local Municipality and the awarded / previously awarded contractor that manages the New England Road Landfill site, for a lengthy period, have violated these environmental rights. As the community of Sobantu, we have witnessed the drastic changes in the area due to the lack of proper management of the dumping site.

(a) To an environment that is not harmful to their health or well-being

We also heard that the weighbridge is not working so the waste that enters the site is unknown and this affects the quality of the air we breathe. There have been recent atmospheric pollution all over the Pietermaritzburg regions due to smoke emissions from the landfill site. However, this was not the first or the last incidents that the Ward 35 residents have been faced with.

This leads to the majority of people suffering from respiratory illnesses such as Tuberculosis (T.B) and Asthma. In addition to this, the community is experiencing great number of flies and rats. These rats also feeds on the community Garden Dumping Site, located on the river bank extending this waste issue to food security.

(b) To have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures

The landfill site and dumping area at the Garden Courts area allows access to anyone and this has led to the increase in crime rate. The dumpsite has become a hotspot for drugs and some murders have taken place in these areas.

in association with



SB

Sobantu Township
 Pietermaritzburg
 3210
 August 2020

ATT: The South African Human's Right Commission

Petition Consent Letter against the Violations of Human Rights of the Sobantu Residents within Ward 35

In terms of the environmental right that is stipulated in the Constitution of the Republic of South Africa, Act 108 of 1996 (hereafter referred to as "The Constitution"). As per Section 24 of which enshrines environmental rights in South Africa can be interpreted into a two-fold purpose. The first part guarantees a healthy environment to every person. The second part mandates the State to ensure compliance with the first part mentioned above. The State is prohibited from infringing on the right to environmental protection and is further required to provide protection against any harmful conduct towards the environment.

Section 24 states as follows:

1. Everyone has the right –
 - (a) To an environment that is not harmful to their health or well-being; and
 - (b) To have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that –
 - (i) prevent pollution and ecological degradation;
 - (ii) promote conservation; and
 - (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

This Section also incorporates International Environmental Law which includes the duty of care and that the "Polluter" will pay for polluting the environment, which creates liability for environmental damage caused.

2. *The concept of health and well-being – Section 24(a)*

Critics agree that "health" relates to human health that includes both mental and physical integrity. However, "well-being" is more difficult to define and often questioned. Usually "well-being" is regarded in the wider sense that includes spiritual or psychological characteristics and an individual's need to be able to connect with nature. Environmental issues, such as conservation and the maintenance of biodiversity, are brought within the ambit of the above right.

in association with

VIA

GOVERNMENT

[Handwritten signature]
 SB

3. *Sustainable development – Section 24(b)*

Before the State fulfils its mandate in terms of Section 24(b), it will have to ensure that there is a balance, not only in environmental considerations, but also social and economic considerations - namely sustainable development. To achieve sustainability in most cases, the economic inequalities need to be reduced and social welfare concerns need to be addressed.

4. *Pollution and ecological degradation – Section 24(b)*

The section provides a mandate on the State to ensure environmental protection and ecologically sustainable development. The previously mentioned is achieved by way of laws and regulations. Private individuals, corporate entities and public authorities need to comply with such laws and regulations by way of putting the appropriate measures in place and, where compliance is lacking, enforcement mechanisms. Courts and the judiciary further play a key role in ensuring the enforcement of environmental rights.

The Sobantu Human's Right Violation Case

However, the Msunduzi Local Municipality and the awarded / previously awarded contractor that manages the New England Road Landfill site, for a lengthy period, have violated these environmental rights. As the community of Sobantu, we have witnessed the drastic changes in the area due to the lack of proper management of the dumping site.

(a) To an environment that is not harmful to their health or well-being

We also heard that the weighbridge is not working so the waste that enters the site is unknown and this affects the quality of the air we breathe. There have been recent atmospheric pollution all over the Pietermaritzburg regions due to smoke emissions from the landfill site. However, this was not the first or the last incidents that the Ward 35 residents have been faced with.

This leads to the majority of people suffering from respiratory illnesses such as Tuberculosis (T.B) and Asthma. In addition to this, the community is experiencing great number of flies and rats. These rats also feeds on the community Garden Dumping Site, located on the river bank extending this waste issue to food security.

(b) To have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures

The landfill site and dumping area at the Garden Courts area allows access to anyone and this has led to the increase in crime rate. The dumpsite has become a hotspot for drugs and some murders have taken place in these areas.

in association with

YMAD

MINISTERIUM

JP

SR

(i) *prevent pollution and ecological degradation;*

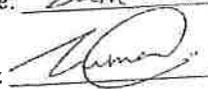
There are even informal residents inside the dumpsite because the fence is broken. The waste pickers end up giving directive to the waste truck drivers and as results the waste ends up in uncontrolled isolated piles and not compacted. Currently they are trying put out the fires using water, there's no way water can be a fire suppressant on methane gas. These become a problem when there has been a heavy rains/winds as most of the waste ends up in uMsunduzi River which runs between the residential area and the dumpsite.

(ii) *sustainable development;*

There are currently NGOs, companies and qualified professionals that reside within the Sobantu Township that have the potential as well as credentials to be employed at the landfill/ dump sites. Even so, the old and young residents do not participate in any recycling or waste picking activities even though the township is located next to New England landfill site and Umngeni Darvill Waste Water Treatment Site (Sewage).

Sobantu is a predominantly black and typical South African township and one of the oldest in Pietermaritzburg. Sobantu falls within the uMsunduzi Local Municipality and the township is managed economically by the municipality as part of the Eastern area of the Pietermaritzburg city. Sobantu is not exempted from the social, economic and environmental challenges the entire municipality faces. Therefore, in most occurrences, the township is not immune and isolated from it neighbouring townships' socioeconomic confronts; the township shares somewhat similarly demographic statistics with the entire Msunduzi municipality.

I (as the Sobantu Resident) request an urgent intervention from the aforementioned State Department/ Agency because the issue has been reported to the local municipality (uMsunduzi) and nothing was done. This becomes an emergency given the mentioned effects but also the fire breukouts that are starting to become a norm in the dumping site.

Last Name: Meloni
 First Name: Zama
 Signature: 

in association with



SA

Sobantu Township
 Pietermaritzburg
 3210
 August 2020

ATT: The South African Human's Right Commission

Petition Consent Letter against the Violations of Human Rights of the Sobantu Residents within Ward 35

In terms of the environmental right that is stipulated in the Constitution of the Republic of South Africa, Act 108 of 1996 (hereafter referred to as "The Constitution"). As per Section 24 of which enshrines environmental rights in South Africa can be interpreted into a two-fold purpose. The first part guarantees a healthy environment to every person. The second part mandates the State to ensure compliance with the first part mentioned above. The State is prohibited from infringing on the right to environmental protection and is further required to provide protection against any harmful conduct towards the environment.

Section 24 states as follows:

1. Everyone has the right –
 - (a) To an environment that is not harmful to their health or well-being; and
 - (b) To have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that –
 - (i) prevent pollution and ecological degradation;
 - (ii) promote conservation; and
 - (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

This Section also incorporates International Environmental Law which includes the duty of care and that the "Polluter" will pay for polluting the environment, which creates liability for environmental damage caused.

2. *The concept of health and well-being – Section 24(a)*

Critics agree that "health" relates to human health that includes both mental and physical integrity. However, "well-being" is more difficult to define and often questioned. Usually "well-being" is regarded in the wider sense that includes spiritual or psychological characteristics and an individual's need to be able to connect with nature. Environmental issues, such as conservation and the maintenance of biodiversity, are brought within the ambit of the above right.

in association with

VIA

REGISTERED

1

JA

SK

(i) *prevent pollution and ecological degradation;*

There are even informal residents inside the dumpsite because the fence is broken. The waste pickers end up giving directive to the waste truck drivers and as results the waste ends up in uncontrolled isolated piles and not compacted. Currently they are trying put out the fires using water, there's no way water can be a fire suppressant on methane gas. These become a problem when there has been a heavy rains/winds as most of the waste ends up in uMsunduzi River which runs between the residential area and the dumpsite.

(ii) *sustainable development;*

There are currently NGOs, companies and qualified professionals that reside within the Sobantu Township that have the potential as well as credentials to be employed at the landfill/ dump sites. Even so, the old and young residents do not participate in any recycling or waste picking activities even though the towbship is located next to New England landfill site and Umgeni Darvill Waste Water Treatment Site (Sewage).

Sobantu is a predominantly black and typical South African township and one of the oldest in Pietermaritzburg. Sobantu falls within the uMsunduzi Local Municipality and the township is managed economically by the municipality as part of the Eastern area of the Pietermaritzburg city. Sobantu is not exempted from the social, economic and environmental challenges the entire municipality faces. Therefore, in most occurences, the township is not immune and isolated from its neighbouring townships' socioeconomic confronts; the township shares somewhat similarly demographic statistics with the entire Msunduzi municipality.

I (as the Sobantu Resident) request an urgent intervention from the aforementioned State Department/ Agency because the issue has been reported to the local municipality (uMsunduzi) and nothing was done. This becomes an emergency given the mentioned effects but also the fire breakouts that are starting to become a norm in the dumping site.

Last Name: NDSILELA
First Name: MANSUJILE
Signature: 

in association with

ES 2014 - 2016




SB

Sobantu Township
Pietermaritzburg
3210
August 2020

ATT: The South African Human's Right Commission

Petition Consent Letter against the Violations of Human Rights of the Sobantu Residents within Ward 35

In terms of the environmental right that is stipulated in the Constitution of the Republic of South Africa, Act 108 of 1996 (hereafter referred to as "The Constitution"). As per Section 24 of which enshrines environmental rights in South Africa can be interpreted into a two-fold purpose. The first part guarantees a healthy environment to every person. The second part mandates the State to ensure compliance with the first part mentioned above. The State is prohibited from infringing on the right to environmental protection and is further required to provide protection against any harmful conduct towards the environment.

Section 24 states as follows:

- 1. Everyone has the right –
 - (a) To an environment that is not harmful to their health or well-being; and
 - (b) To have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that –
 - (i) prevent pollution and ecological degradation;
 - (ii) promote conservation; and
 - (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

This Section also incorporates International Environmental Law which includes the duty of care and that the "Polluter" will pay for polluting the environment, which creates liability for environmental damage caused.

2. *The concept of health and well-being – Section 24(a)*

Critics agree that "health" relates to human health that includes both mental and physical integrity. However, "well-being" is more difficult to define and often questioned. Usually "well-being" is regarded in the wider sense that includes spiritual or psychological characteristics and an individual's need to be able to connect with nature. Environmental issues, such as conservation and the maintenance of biodiversity, are brought within the ambit of the above right.

in association with



Handwritten initials: JB

3. *Sustainable development – Section 24(b)*

Before the State fulfils its mandate in terms of Section 24(b), it will have to ensure that there is a balance, not only in environmental considerations, but also social and economic considerations – namely sustainable development. To achieve sustainability in most cases, the economic inequalities need to be reduced and social welfare concerns need to be addressed.

4. *Pollution and ecological degradation – Section 24(b)*

The section provides a mandate on the State to ensure environmental protection and ecologically sustainable development. The previously mentioned is achieved by way of laws and regulations. Private individuals, corporate entities and public authorities need to comply with such laws and regulations by way of putting the appropriate measures in place and, where compliance is lacking, enforcement mechanisms. Courts and the judiciary further play a key role in ensuring the enforcement of environmental rights.

The Sobantu Human's Right Violation Case

However, the Msunduzi Local Municipality and the awarded / previously awarded contractor that manages the New England Road Landfill site, for a lengthy period, have violated these environmental rights. As the community of Sobantu, we have witnessed the drastic changes in the area due to the lack of proper management of the dumping site.

(a) To an environment that is not harmful to their health or well-being

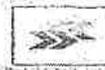
We also heard that the weighbridge is not working so the waste that enters the site is unknown and this affects the quality of the air we breathe. There have been recent atmospheric pollution all over the Pietermaritzburg regions due to smoke emissions from the landfill site. However, this was not the first or the last incidents that the Ward 35 residents have been faced with.

This leads to the majority of people suffering from respiratory illnesses such as Tuberculosis (T.B) and Asthma. In addition to this, the community is experiencing great number of flies and rats. These rats also feeds on the community Garden Dumping Site, located on the river bank extending this waste issue to food security.

(b) To have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures

The landfill site and dumping area at the Garden Courts area allows access to anyone and this has led to the increase in crime rate. The dumpsite has become a hotspot for drugs and some murders have taken place in these areas.

in association with



SR

(i) *prevent pollution and ecological degradation;*

There are even informal residents inside the dumpsite because the fence is broken. The waste pickers end up giving directive to the waste truck drivers and as results the waste ends up in uncontrolled isolated piles and not compacted. Currently they are trying put out the fires using water, there's no way water can be a fire suppressant on methane gas. These become a problem when there has been a heavy rains/winds as most of the waste ends up in uMsunduzi River which runs between the residential area and the dumpsite.

(ii) *sustainable development;*

There are currently NGOs, companies and qualified professionals that reside within the Sobantu Township that have the potential as well as credentials to be employed at the landfill/ dump sites. Even so, the old and young residents do not participate in any recycling or waste picking activities even though the township is located next to New England landfill site and Umngeni Darvill Waste Water Treatment Site (Sewage).

Sobantu is a predominantly black and typical South African township and one of the oldest in Pietermaritzburg. Sobantu falls within the uMsunduzi Local Municipality and the township is managed economically by the municipality as part of the Eastern area of the Pietermaritzburg city. Sobantu is not exempted from the social, economic and environmental challenges the entire municipality faces. Therefore, in most occurrences, the township is not immune and isolated from it neighbouring townships' socioeconomic confronts; the township shares somewhat similarly demographic statistics with the entire Msunduzi municipality.

I (as the Sobantu Resident) request an urgent intervention from the aforementioned State Department/ Agency because the issue has been reported to the local municipality (uMsunduzi) and nothing was done. This becomes an emergency given the mentioned effects but also the fire breakouts that are starting to become a norm in the dumping site.

Last Name: GEORGE
First Name: MABASA
Signature: [Handwritten Signature]

in association with



[Handwritten mark]

SR

Sobantu Township
 Pietermaritzburg
 3210
 August 2020

ATT: The South African Human's Right Commission

Petition Consent Letter against the Violations of Human Rights of the Sobantu Residents within Ward 35

In terms of the environmental right that is stipulated in the Constitution of the Republic of South Africa, Act 108 of 1996 (hereafter referred to as "The Constitution"). As per Section 24 of which enshrines environmental rights in South Africa can be interpreted into a two-fold purpose. The first part guarantees a healthy environment to every person. The second part mandates the State to ensure compliance with the first part mentioned above. The State is prohibited from infringing on the right to environmental protection and is further required to provide protection against any harmful conduct towards the environment.

Section 24 states as follows:

1. Everyone has the right—
 - (a) To an environment that is not harmful to their health or well-being; and
 - (b) To have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that—
 - (i) prevent pollution and ecological degradation;
 - (ii) promote conservation; and
 - (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

This Section also incorporates International Environmental Law which includes the duty of care and that the "Polluter" will pay for polluting the environment, which creates liability for environmental damage caused.

2. *The concept of health and well-being – Section 24(a)*

Critics agree that "health" relates to human health that includes both mental and physical integrity. However, "well-being" is more difficult to define and often questioned. Usually "well-being" is regarded in the wider sense that includes spiritual or psychological characteristics and an individual's need to be able to connect with nature. Environmental issues, such as conservation and the maintenance of biodiversity, are brought within the ambit of the above right.

in association with

VW N

ENVIRONMENTAL

CA

SA

3. *Sustainable development – Section 24(b)*

Before the State fulfils its mandate in terms of Section 24(b), it will have to ensure that there is a balance, not only in environmental considerations, but also social and economic considerations - namely sustainable development. To achieve sustainability in most cases, the economic inequalities need to be reduced and social welfare concerns need to be addressed.

4. *Pollution and ecological degradation – Section 24(b)*

The section provides a mandate on the State to ensure environmental protection and ecologically sustainable development. The previously mentioned is achieved by way of laws and regulations. Private individuals, corporate entities and public authorities need to comply with such laws and regulations by way of putting the appropriate measures in place and, where compliance is lacking, enforcement mechanisms. Courts and the judiciary further play a key role in ensuring the enforcement of environmental rights.

The Sobantu Human's Right Violation Case

However, the Msunduzi Local Municipality and the awarded / previously awarded contractor that manages the New England Road Landfill site, for a lengthy period, have violated these environmental rights. As the community of Sobantu, we have witnessed the drastic changes in the area due to the lack of proper management of the dumping site.

(a) To an environment that is not harmful to their health or well-being

We also heard that the weighbridge is not working so the waste that enters the site is unknown and this affects the quality of the air we breathe. There have been recent atmospheric pollution all over the Pietermaritzburg regions due to smoke emissions from the landfill site. However, this was not the first or the last incidents that the Ward 35 residents have been faced with.

This leads to the majority of people suffering from respiratory illnesses such as Tuberculosis (T.B) and Asthma. In addition to this, the community is experiencing great number of flies and rats. These rats also feeds on the community Garden Dumping Site, located on the river bank extending this waste issue to food security.

(b) To have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures

The landfill site and dumping area at the Garden Courts area allows access to anyone and this has led to the increase in crime rate. The dumpsite has become a hotspot for drugs and some murders have taken place in these areas.

in association with

VMAD

MINISTERIUM

Handwritten signature and initials, possibly "SB".

(i) *prevent pollution and ecological degradation;*

There are even informal residents inside the dumpsite because the fence is broken. The waste pickers end up giving directive to the waste truck drivers and as results the waste ends up in uncontrolled isolated piles and not compacted. Currently they are trying put out the fires using water, there's no way water can be a fire suppressant on methane gas. These become a problem when there has been a heavy rains/winds as most of the waste ends up in uMsunduzi River which runs between the residential area and the dumpsite.

(ii) *sustainable development;*

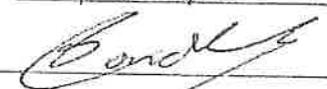
There are currently NGOs, companies and qualified professionals that reside within the Sobantu Township that have the potential as well as credentials to be employed at the landfill/ dump sites. Even so, the old and young residents do not participate in any recycling or waste picking activities even though the township is located next to New England landfill site and Umngeni Daryill Waste Water Treatment Site (Sewage).

Sobantu is a predominantly black and typical South African township and one of the oldest in Pietermaritzburg. Sobantu falls within the uMsunduzi Local Municipality and the township is managed economically by the municipality as part of the Eastern area of the Pietermaritzburg city. Sobantu is not exempted from the social, economic and environmental challenges the entire municipality faces. Therefore, in most occurrences, the township is not immune and isolated from it neighbouring townships' socioeconomic confronts; the township shares somewhat similarly demographic statistics with the entire Msunduzi municipality.

I (as the Sobantu Resident) request an urgent intervention from the aforementioned State Department/ Agency because the issue has been reported to the local municipality (uMsunduzi) and nothing was done. This becomes an emergency given the mentioned effects but also the fire breakouts that are starting to become a norm in the dumping site.

Last Name: ZONDI

First Name: SHABONGA

Signature: 

in association with





Sobantu Township
 Pietermaritzburg
 3210
 August 2020

ATT: The South African Human's Right Commission

Petition Consent Letter against the Violations of Human Rights of the Sobantu Residents within Ward 35

In terms of the environmental right that is stipulated in the Constitution of the Republic of South Africa, Act 108 of 1996 (hereafter referred to as "The Constitution"). As per Section 24 of which enshrines environmental rights in South Africa can be interpreted into a two-fold purpose. The first part guarantees a healthy environment to every person. The second part mandates the State to ensure compliance with the first part mentioned above. The State is prohibited from infringing on the right to environmental protection and is further required to provide protection against any harmful conduct towards the environment.

Section 24 states as follows:

1. Everyone has the right –
 - (a) To an environment that is not harmful to their health or well-being; and
 - (b) To have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that –
 - (i) prevent pollution and ecological degradation;
 - (ii) promote conservation; and
 - (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

This Section also incorporates International Environmental Law which includes the duty of care and that the "Polluter" will pay for polluting the environment, which creates liability for environmental damage caused.

2. *The concept of health and well-being – Section 24(a)*

Critics agree that "health" relates to human health that includes both mental and physical integrity. However, "well-being" is more difficult to define and often questioned. Usually "well-being" is regarded in the wider sense that includes spiritual or psychological characteristics and an individual's need to be able to connect with nature. Environmental issues, such as conservation and the maintenance of biodiversity, are brought within the ambit of the above right.

in association with

VMA D

REGISTERED

SP

Sobantu Township
 Pietermaritzburg
 3210
 August 2020

ATT: The South African Human's Right Commission

Petition Consent Letter against the Violations of Human Rights of the Sobantu Residents within Ward 35

In terms of the environmental right that is stipulated in the Constitution of the Republic of South Africa, Act 108 of 1996 (hereafter referred to as "The Constitution"). As per Section 24 of which enshrines environmental rights in South Africa can be interpreted into a two-fold purpose. The first part guarantees a healthy environment to every person. The second part mandates the State to ensure compliance with the first part mentioned above. The State is prohibited from infringing on the right to environmental protection and is further required to provide protection against any harmful conduct towards the environment.

Section 24 states as follows:

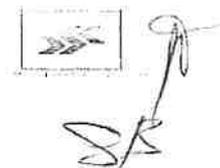
1. Everyone has the right –
 - (a) To an environment that is not harmful to their health or well-being; and
 - (b) To have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that –
 - (i) prevent pollution and ecological degradation;
 - (ii) promote conservation; and
 - (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

This Section also incorporates International Environmental Law which includes the duty of care and that the "Polluter" will pay for polluting the environment, which creates liability for environmental damage caused.

2. *The concept of health and well-being – Section 24(a)*

Critics agree that "health" relates to human health that includes both mental and physical integrity. However, "well-being" is more difficult to define and often questioned. Usually "well-being" is regarded in the wider sense that includes spiritual or psychological characteristics and an individual's need to be able to connect with nature. Environmental issues, such as conservation and the maintenance of biodiversity, are brought within the ambit of the above right.

in association with



3. *Sustainable development – Section 24(b)*

Before the State fulfils its mandate in terms of Section 24(b), it will have to ensure that there is a balance, not only in environmental considerations, but also social and economic considerations - namely sustainable development. To achieve sustainability in most cases, the economic inequalities need to be reduced and social welfare concerns need to be addressed.

4. *Pollution and ecological degradation – Section 24(b)*

The section provides a mandate on the State to ensure environmental protection and ecologically sustainable development. The previously mentioned is achieved by way of laws and regulations. Private individuals, corporate entities and public authorities need to comply with such laws and regulations by way of putting the appropriate measures in place and, where compliance is lacking, enforcement mechanisms. Courts and the judiciary further play a key role in ensuring the enforcement of environmental rights.

The Sobantu Human's Right Violation Case

However, the Msunduzi Local Municipality and the awarded / previously awarded contractor that manages the New England Road Landfill site, for a lengthy period, have violated these environmental rights. As the community of Sobantu, we have witnessed the drastic changes in the area due to the lack of proper management of the dumping site.

(a) To an environment that is not harmful to their health or well-being

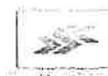
We also heard that the weighbridge is not working so the waste that enters the site is unknown and this affects the quality of the air we breathe. There have been recent atmospheric pollution all over the Pietermaritzburg regions due to smoke emissions from the landfill site. However, this was not the first or the last incidents that the Ward 35 residents have been faced with.

This leads to the majority of people suffering from respiratory illnesses such as Tuberculosis (T.B) and Asthma. In addition to this, the community is experiencing great number of flies and rats. These rats also feeds on the community Garden Dumping Site, located on the river bank extending this waste issue to food security.

(b) To have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures

The landfill site and dumping area at the Garden Courts area allows access to anyone and this has led to the increase in crime rate. The dumpsite has become a hotspot for drugs and some murders have taken place in these areas.

in association with



[Handwritten signature]
[Handwritten initials]

(i) *prevent pollution and ecological degradation;*

There are even informal residents inside the dumpsite because the fence is broken. The waste pickers end up giving directive to the waste truck drivers and as results the waste ends up in uncontrolled isolated piles and not compacted. Currently they are trying put out the fires using water, there's no way water can be a fire suppressant on methane gas. These become a problem when there has been a heavy rains/winds as most of the waste ends up in uMsunduzi River which runs between the residential area and the dumpsite.

(ii) *sustainable development;*

There are currently NGOs, companies and qualified professionals that reside within the Sobantu Township that have the potential as well as credentials to be employed at the landfill/ dump sites. Even so, the old and young residents do not participate in any recycling or waste picking activities even though the towship is located next to New England landfill site and Umngeni Darvill Waste Water Treatment Site (Sewage).

Sobantu is a predominantly black and typical South African township and one of the oldest in Pietermaritzburg. Sobantu falls within the uMsunduzi Local Municipality and the township is managed economically by the municipality as part of the Eastern area of the Pietermaritzburg city. Sobantu is not exempted from the social, economic and environmental challenges the entire municipality faces. Therefore, in most occurrences, the township is not immune and isolated from it neighbouring townships' socioeconomic confronts; the township shares somewhat similarly demographic statistics with the entire Msunduzi municipality.

I (as the Sobantu Resident) request an urgent intervention from the aforementioned State Department/ Agency because the issue has been reported to the local municipality (uMsunduzi) and nothing was done. This becomes an emergency given the mentioned effects but also the fire breakouts that are starting to become a norm in the dumping site.

Last Name: Mbambo
 First Name: Mhleti
 Signature: [Handwritten Signature]

in association with



[Handwritten initials/signature]

Sobantu Township
 Pietermaritzburg
 3210
 August 2020

ATT: The South African Human's Right Commission

Petition Consent Letter against the Violations of Human Rights of the Sobantu Residents within Ward 35

In terms of the environmental right that is stipulated in the Constitution of the Republic of South Africa, Act 108 of 1996 (hereafter referred to as "The Constitution"). As per Section 24 of which enshrines environmental rights in South Africa can be interpreted into a two-fold purpose. The first part guarantees a healthy environment to every person. The second part mandates the State to ensure compliance with the first part mentioned above. The State is prohibited from infringing on the right to environmental protection and is further required to provide protection against any harmful conduct towards the environment.

Section 24 states as follows:

1. Everyone has the right –
 - (a) To an environment that is not harmful to their health or well-being; and
 - (b) To have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that –
 - (i) prevent pollution and ecological degradation;
 - (ii) promote conservation; and
 - (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

This Section also incorporates International Environmental Law which includes the duty of care and that the "Polluter" will pay for polluting the environment, which creates liability for environmental damage caused.

2. The concept of health and well-being – Section 24(a)

Critics agree that "health" relates to human health that includes both mental and physical integrity. However, "well-being" is more difficult to define and often questioned. Usually "well-being" is regarded in the wider sense that includes spiritual or psychological characteristics and an individual's need to be able to connect with nature. Environmental issues, such as conservation and the maintenance of biodiversity, are brought within the ambit of the above right.

in association with



Handwritten signature or initials.

Handwritten initials SB.

3. *Sustainable development – Section 24(b)*

Before the State fulfils its mandate in terms of Section 24(b), it will have to ensure that there is a balance, not only in environmental considerations, but also social and economic considerations – namely sustainable development. To achieve sustainability in most cases, the economic inequalities need to be reduced and social welfare concerns need to be addressed.

4. *Pollution and ecological degradation – Section 24(b)*

The section provides a mandate on the State to ensure environmental protection and ecologically sustainable development. The previously mentioned is achieved by way of laws and regulations. Private individuals, corporate entities and public authorities need to comply with such laws and regulations by way of putting the appropriate measures in place and, where compliance is lacking, enforcement mechanisms. Courts and the judiciary further play a key role in ensuring the enforcement of environmental rights.

The Sobantu Human's Right Violation Case

However, the Msunduzi Local Municipality and the awarded / previously awarded contractor that manages the New England Road Landfill site, for a lengthy period, have violated these environmental rights. As the community of Sobantu, we have witnessed the drastic changes in the area due to the lack of proper management of the dumping site.

(a) To an environment that is not harmful to their health or well-being

We also heard that the weighbridge is not working so the waste that enters the site is unknown and this affects the quality of the air we breathe. There have been recent atmospheric pollution all over the Pietermaritzburg regions due to smoke emissions from the landfill site. However, this was not the first or the last incidents that the Ward 35 residents have been faced with.

This leads to the majority of people suffering from respiratory illnesses such as Tuberculosis (T.B) and Asthma. In addition to this, the community is experiencing great number of flies and rats. These rats also feeds on the community Garden Dumping Site, located on the river bank extending this waste issue to food security.

(b) To have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures

The landfill site and dumping area at the Garden Courts area allows access to anyone and this has led to the increase in crime rate. The dumpsite has become a hotspot for drugs and some murders have taken place in these areas.

in association with

VM-D

MINISTERIUM

[Handwritten signature]
[Handwritten initials]

(i) *prevent pollution and ecological degradation;*

There are even informal residents inside the dumpsite because the fence is broken. The waste pickers end up giving directive to the waste truck drivers and as results the waste ends up in uncontrolled isolated piles and not compacted. Currently they are trying put out the fires using water, there's no way water can be a fire suppressant on methane gas. These become a problem when there has been a heavy rains/winds as most of the waste ends up in uMsunduzi River which runs between the residential area and the dumpsite.

(ii) *sustainable development;*

There are currently NGOs, companies and qualified professionals that reside within the Sobantu Township that have the potential as well as credentials to be employed at the landfill/ dump sites. Even so, the old and young residents do not participate in any recycling or waste picking activities even though the township is located next to New England landfill site and Umngeni Darvill Waste Water Treatment Site (Sewage).

Sobantu is a predominantly black and typical South African township and one of the oldest in Pietermaritzburg. Sobantu falls within the uMsunduzi Local Municipality and the township is managed economically by the municipality as part of the Eastern area of the Pietermaritzburg city. Sobantu is not exempted from the social, economic and environmental challenges the entire municipality faces. Therefore, in most occurrences, the township is not immune and isolated from its neighbouring townships' socioeconomic confronts; the township shares somewhat similarly demographic statistics with the entire Msunduzi municipality.

I (as the Sobantu Resident) request an urgent intervention from the aforementioned State Department/ Agency because the issue has been reported to the local municipality (uMsunduzi) and nothing was done. This becomes an emergency given the mentioned effects but also the fire breakouts that are starting to become a norm in the dumping site.

Last Name: Kheub
First Name: Mthlonzo
Signature: [Handwritten Signature]

in association with

[Handwritten mark]

SB

Sobantu Township
 Pietermaritzburg
 3210
 August 2020

ATT: The South African Human's Right Commission

Petition Consent Letter against the Violations of Human Rights of the Sobantu Residents within Ward 35

In terms of the environmental right that is stipulated in the Constitution of the Republic of South Africa, Act 108 of 1996 (hereafter referred to as "The Constitution"). As per Section 24 of which enshrines environmental rights in South Africa can be interpreted into a two-fold purpose. The first part guarantees a healthy environment to every person. The second part mandates the State to ensure compliance with the first part mentioned above. The State is prohibited from infringing on the right to environmental protection and is further required to provide protection against any harmful conduct towards the environment.

Section 24 states as follows:

1. Everyone has the right –
 - (a) To an environment that is not harmful to their health or well-being; and
 - (b) To have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that –
 - (i) prevent pollution and ecological degradation;
 - (ii) promote conservation; and
 - (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

This Section also incorporates International Environmental Law which includes the duty of care and that the "Polluter" will pay for polluting the environment, which creates liability for environmental damage caused.

2. *The concept of health and well-being – Section 24(a)*

Critics agree that "health" relates to human health that includes both mental and physical integrity. However, "well-being" is more difficult to define and often questioned. Usually "well-being" is regarded in the wider sense that includes spiritual or psychological characteristics and an individual's need to be able to connect with nature. Environmental issues, such as conservation and the maintenance of biodiversity, are brought within the ambit of the above right.

in association with

PA
SB

3. *Sustainable development – Section 24(b)*

Before the State fulfils its mandate in terms of Section 24(b), it will have to ensure that there is a balance, not only in environmental considerations, but also social and economic considerations - namely sustainable development. To achieve sustainability in most cases, the economic inequalities need to be reduced and social welfare concerns need to be addressed.

4. *Pollution and ecological degradation – Section 24(b)*

The section provides a mandate on the State to ensure environmental protection and ecologically sustainable development. The previously mentioned is achieved by way of laws and regulations. Private individuals, corporate entities and public authorities need to comply with such laws and regulations by way of putting the appropriate measures in place and, where compliance is lacking, enforcement mechanisms. Courts and the judiciary further play a key role in ensuring the enforcement of environmental rights.

The Sobantu Human's Right Violation Case

However, the Msunduzi Local Municipality and the awarded / previously awarded contractor that manages the New England Road Landfill site, for a lengthy period, have violated these environmental rights. As the community of Sobantu, we have witnessed the drastic changes in the area due to the lack of proper management of the dumping site.

(a) To an environment that is not harmful to their health or well-being

We also heard that the weighbridge is not working so the waste that enters the site is unknown and this affects the quality of the air we breathe. There have been recent atmospheric pollution all over the Pietermaritzburg regions due to smoke emissions from the landfill site. However, this was not the first or the last incidents that the Ward 35 residents have been faced with.

This leads to the majority of people suffering from respiratory illnesses such as Tuberculosis (T.B) and Asthma. In addition to this, the community is experiencing great number of flies and rats. These rats also feeds on the community Garden Dumping Site, located on the river bank extending this waste issue to food security.

(b) To have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures

The landfill site and dumping area at the Garden Courts area allows access to anyone and this has led to the increase in crime rate. The dumpsite has become a hotspot for drugs and some murders have taken place in these areas.

in association with

YMAD

MINISTERIUM

[Handwritten signature]

SB

(i) *prevent pollution and ecological degradation;*

There are even informal residents inside the dumpsite because the fence is broken. The waste pickers end up giving directive to the waste truck drivers and as results the waste ends up in uncontrolled isolated piles and not compacted. Currently they are trying put out the fires using water, there's no way water can be a fire suppressant on methane gas. These become a problem when there has been a heavy rains/winds as most of the waste ends up in uMsunduzi River which runs between the residential area and the dumpsite.

(ii) *sustainable development;*

There are currently NGOs, companies and qualified professionals that reside within the Sobantu Township that have the potential as well as credentials to be employed at the landfill/ dump sites. Even so, the old and young residents do not participate in any recycling or waste picking activities even though the township is located next to New England landfill site and Umngeni Darvill Waste Water Treatment Site (Sewage).

Sobantu is a predominantly black and typical South African township and one of the oldest in Pietermaritzburg. Sobantu falls within the uMsunduzi Local Municipality and the township is managed economically by the municipality as part of the Eastern area of the Pietermaritzburg city. Sobantu is not exempted from the social, economic and environmental challenges the entire municipality faces. Therefore, in most occurrences, the township is not immune and isolated from it neighbouring townships' socioeconomic confronts; the township shares somewhat similarly demographic statistics with the entire Msunduzi municipality.

I (as the Sobantu Resident) request an urgent intervention from the aforementioned State Department/ Agency because the issue has been reported to the local municipality (uMsunduzi) and nothing was done. This becomes an emergency given the mentioned effects but also the fire breakouts that are starting to become a norm in the dumping site.

Last Name: Xulu
First Name: NONJABULO
Signature: [Handwritten Signature]

in association with

[Handwritten initials/signature]

Sobantu Township
Pietermaritzburg
3210
August 2020

ATT: The South African Human's Right Commission

Petition Consent Letter against the Violations of Human Rights of the Sobantu Residents within Ward 35

In terms of the environmental right that is stipulated in the Constitution of the Republic of South Africa, Act 108 of 1996 (hereafter referred to as "The Constitution"). As per Section 24 of which enshrines environmental rights in South Africa can be interpreted into a two-fold purpose. The first part guarantees a healthy environment to every person. The second part mandates the State to ensure compliance with the first part mentioned above. The State is prohibited from infringing on the right to environmental protection and is further required to provide protection against any harmful conduct towards the environment.

Section 24 states as follows:

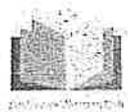
- 1. Everyone has the right –
 - (a) To an environment that is not harmful to their health or well-being; and
 - (b) To have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that –
 - (i) prevent pollution and ecological degradation;
 - (ii) promote conservation; and
 - (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

This Section also incorporates International Environmental Law which includes the duty of care and that the "Polluter" will pay for polluting the environment, which creates liability for environmental damage caused.

2. *The concept of health and well-being – Section 24(a)*

Critics agree that "health" relates to human health that includes both mental and physical integrity. However, "well-being" is more difficult to define and often questioned. Usually "well-being" is regarded in the wider sense that includes spiritual or psychological characteristics and an individual's need to be able to connect with nature. Environmental issues, such as conservation and the maintenance of biodiversity, are brought within the ambit of the above right.

in association with



EB

3. Sustainable development – Section 24(b)

Before the State fulfils its mandate in terms of Section 24(b), it will have to ensure that there is a balance, not only in environmental considerations, but also social and economic considerations - namely sustainable development. To achieve sustainability in most cases, the economic inequalities need to be reduced and social welfare concerns need to be addressed.

4. Pollution and ecological degradation – Section 24(b)

The section provides a mandate on the State to ensure environmental protection and ecologically sustainable development. The previously mentioned is achieved by way of laws and regulations. Private individuals, corporate entities and public authorities need to comply with such laws and regulations by way of putting the appropriate measures in place and, where compliance is lacking, enforcement mechanisms. Courts and the judiciary further play a key role in ensuring the enforcement of environmental rights.

The Sobantu Human's Right Violation Case

However, the Msunduzi Local Municipality and the awarded / previously awarded contractor that manages the New England Road Landfill site, for a lengthy period, have violated these environmental rights. As the community of Sobantu, we have witnessed the drastic changes in the area due to the lack of proper management of the dumping site.

(a) To an environment that is not harmful to their health or well-being

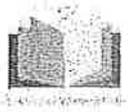
We also heard that the weighbridge is not working so the waste that enters the site is unknown and this affects the quality of the air we breathe. There have been recent atmospheric pollution all over the Pietermaritzburg regions due to smoke emissions from the landfill site. However, this was not the first or the last incidents that the Ward 35 residents have been faced with.

This leads to the majority of people suffering from respiratory illnesses such as Tuberculosis (T.B) and Asthma. In addition to this, the community is experiencing great number of flies and rats. These rats also feeds on the community Garden Dumping Site, located on the river bank extending this waste issue to food security.

(b) To have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures

The landfill site and dumping area at the Garden Courts area allows access to anyone and this has led to the increase in crime rate. The dumpsite has become a hotspot for drugs and some murders have taken place in these areas.

in association with



Handwritten signature and initials.

(i) *prevent pollution and ecological degradation;*

There are even informal residents inside the dumpsite because the fence is broken. The waste pickers end up giving directive to the waste truck drivers and as results the waste ends up in uncontrolled isolated piles and not compacted. Currently they are trying put out the fires using water, there's no way water can be a fire suppressant on methane gas. These become a problem when there has been a heavy rains/winds as most of the waste ends up in uMsunduzi River which runs between the residential area and the dumpsite.

(ii) *sustainable development;*

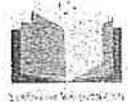
There are currently NGOs, companies and qualified professionals that reside within the Sobantu Township that have the potential as well as credentials to be employed at the landfill/ dump sites. Even so, the old and young residents do not participate in any recycling or waste picking activities even though the towship is located next to New England landfill site and Umngeni Darvill Waste Water Treatment Site (Sewage).

Sobantu is a predominantly black and typical South African township and one of the oldest in Pietermaritzburg. Sobantu falls within the uMsunduzi Local Municipality and the township is managed economically by the municipality as part of the Eastern area of the Pietermaritzburg city. Sobantu is not exempted from the social, economic and environmental challenges the entire municipality faces. Therefore, in most occurrences, the township is not immune and isolated from it neighbouring townships' socioeconomic confronts; the township shares somewhat similarly demographic statistics with the entire Msunduzi municipality.

I (as the Sobantu Resident) request an urgent intervention from the aforementioned State Department/ Agency because the issue has been reported to the local municipality (uMsunduzi) and nothing was done. This becomes an emergency given the mentioned effects but also the fire breakouts that are starting to become a norm in the dumping site.

Last Name: Nkombo
First Name: Malandela
Signature: [Handwritten Signature]

in association with



[Handwritten initials/signature] SB

Petition to _____

| | |
|---------------------------------|--|
| Petition summary and background | |
| Action petitioned for | |

| Printed Name | Signature | Address | Comment | Date |
|--------------|--------------------|-------------|------------------------|------|
| Maret | <i>[Signature]</i> | 80 Lake | collation | 22 |
| Milo | <i>[Signature]</i> | 158 Silver | cinemas | " |
| Marue | <i>[Signature]</i> | 121 Jubilee | no security | " |
| Vyta | <i>[Signature]</i> | 152 Jubilee | bad smell | " |
| Maudauro | <i>[Signature]</i> | 159 Jubilee | stuck | " |
| Rzela | <i>[Signature]</i> | 34 Jubilee | noise | " |
| Onica | <i>[Signature]</i> | 55 " | carpenter | " |
| Shenbale | <i>[Signature]</i> | 156 " | bad smell about people | " |
| Leahua | <i>[Signature]</i> | 157 " | people drinking | " |
| Marsbank | <i>[Signature]</i> | 158 " | Bad smell | " |
| Mrs Simpson | <i>[Signature]</i> | 159 " | TB | " |
| Mrs Zinger | <i>[Signature]</i> | 160 " | Athna | 22 |

[Handwritten initials]

Petition to _____

| | |
|---------------------------------|--|
| Petition summary and background | |
| Action petitioned for | |

| Printed Name | Signature | Address | Comment | Date |
|--------------|-------------|-----------------|--|------|
| Beauty | [Signature] | 1086 Mele | Pollution | 22 |
| 8im1 | [Signature] | 1003 Bengale | crime | " |
| Veli | [Signature] | 1015 Mele | no security | " |
| Rugur | [Signature] | 1579 Mammang Rd | Bole | " |
| Kuski | [Signature] | 1082 Mele | people dead | " |
| Boungani | [Signature] | 1015 " | bridge | " |
| Zanna | [Signature] | 1052 " | Bad smell | " |
| Tahiale | [Signature] | 97 Main Road | Explores, c/c | " |
| Mandora | [Signature] | 152 Jubilee | etc anti-social | " |
| Spangila | [Signature] | 1033 Zeizele | long over stays | " |
| Tames | [Signature] | 1030 " | Exhausts affect a lot | " |
| Thakod | [Signature] | 1031 " | Municipality of NS not even about NS. | 22 |

NS

| Printed Name | Signature | Address | Comment | Date |
|---------------|-----------|--------------------|------------------------|------|
| Henrice | mm | 21 Sharpa Street | Good 18 network | 19 |
| Musa Shingwe | MS | 34 Khanyo Street | Good Smart | " |
| Shale Mungwa | SP | 19 Phalca | Long over due | " |
| Phalca Nawa | PN | 33 Khanya St | No security | " |
| Mordaka Shale | MS | 35 Khanya St | ganger star | " |
| Musa Shingwe | MS | 12 Sharpa Street | good overheard | " |
| Ms. Zuma | MS | 11 Sharpa - | people obnoxious | " |
| Mordaka | MS | 33 Khanya " | not safe | " |
| Valera Mawane | XK | 36 Khanya " | bad street | " |
| Mxolo Shale | MS | 14 Khanya " | holsters | " |
| Mordaka Shale | MS | " " | holsters | " |
| Mordaka Shale | MS | 9 " " | embarrassed | " |
| Kato Ngweny | KN | 140 Mordaka St | Small a lot people | " |
| Kato Mordaka | MS | 141 " " | sick and tired | " |
| Mordaka Shale | MS | 1001 Mordaka St | Mordaka by responsible | " |
| Mordaka Shale | MS | 198 Mordaka Street | holsters | 19 |

MS

| Printed Name | Signature | Address | Comment | Date |
|--------------|---|-----------------------------|----------------------|------|
| My Bird |  | 131 131 Musardun | change | 21 |
| Pangsendi |  | 133 " " | Dangos | " |
| Relly |  | 134 " " | halo sape | " |
| PS Spicula | SON | 129 " " | halo suati | " |
| Mt Genar | GB | 478E Musardun | keppel diting | " |
| Mt Genar | TB | 186 Musardun | halo suati | " |
| Mak Mumpun |  | 141 Musardun | keppel diting | " |
| Reager |  | 25 Kemupa st | Maspaka responsible | " |
| Bulle |  | 184 Haurbulan Dr 1 rd | halo suati | " |
| Dato |  | 1132 " " | Companable | " |
| Proesi | SDP | Zensela Street | health on Reef | " |
| Reed kulaka |  | 179 Sigunang st | seek and enjoy | " |
| Ruka Setar |  | 117B " " | petraua people (BEB) | " |
| Purno | OS | 180 " " | Beese TB | " |
| Fikale | FB | 181 " " | ganes star | " |
| Zen |  | 102 " " | no sape | 21 |



| Printed Name | Signature | Address | Comment | Date |
|---------------|-------------|-------------------|---|------|
| Justice Nkomo | [Signature] | Jabalast | High risk | 5/8 |
| Bengoni | [Signature] | Turner Street | crime | " |
| Kana | Nec | Turner Street | collaborator | " |
| Nomukosi | A B C | 140 N/S Sinala St | bad source | " |
| Zanola | [Signature] | 102 Jubilee | rafter | " |
| Mansongor | [Signature] | 1081 Nkale St | no bridge | " |
| Makuleto | [Signature] | 1081 " " | not safe | " |
| Manga | [Signature] | 1081 Nkale St | Municipality must do something about the bridge | " |
| Nekozola | NE | 1081 " " | bridge is broken | " |
| Mosikwa | [Signature] | 1081 " " | bridge is broken | " |
| Mwene | ma | 136 Mswandzwa St | people are dying | " |
| Mos Nkos | [Signature] | 138 " " | not safe | " |
| Mos Mswandzwa | [Signature] | 137 Mswandzwa St | about our health | " |
| Senzo | [Signature] | 130 " " | long bus drive | " |
| kuh | [Signature] | 131 " " | no security | 2/0 |
| Andiso | [Signature] | Nkale St | crime | 0/0 |

[Handwritten signature]

| Printed Name | Signature | Address | Comment | Date |
|-------------------|-----------|---------------------|---|-----------|
| SPHESITHLE . E. | | 1033 ZENZELE Street | NEGATIVE Impact on our HEALTH AS RESIDENTS | 16/AUG/20 |
| Noobile . Ndu. | | 1033 ZENZELE Street | Remove Dump, It's killing us | 16/08/20 |
| Zama ngubene | | 1033 ZENZELE Street | THE SMOKE FROM THE DUMP IS TOXIC | 16/08 |
| CEAILE Mawura | | 1117 NKELE STREET | ITS BECAUSE WE LIVE WITH A DUMP. | 17/08/20 |
| NONAMUZENA Mawura | | 1117 NKELE STREET | The smoke is spreading our health and its bad to breathe and we can see it clearly. | 17/08/20 |
| D. SHEZI | | 1099 NKELE STREET | Dumpfire cause sickness | 17/08/20 |
| SWAZI HLOKUNOGE | | 1103 ZENZELE ST | Remove Dumps Killing us | 17/08/20 |
| Hlophelani Mhlogi | | 1105 NKELE Street | Killing us | 17/08/20 |
| Thokozam Mhlongo | | 1105 NKELE Street | Killings. | 17/08/20 |
| Wandie Mhlongo | | 1105 NKELE Street | NOT GOOD FOR OUR health and environment | 17/08/20 |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

| Printed Name | Signature | Address | Comment | Date |
|------------------|-----------|-------------------|---------------------------------------|------------|
| ADAMPIO ZONDI | | 1086 NYELE STR. | REMOVE DUMP SITE | 16/08/20 |
| LONDIWE ZONDI | | 1086 NYELE STR | REMOVE DUMP SITE | 16/08/20 |
| NKOSINATHI SHANE | | 1117 NYELE STREET | REMOVE DUMP SITE | 20/08/20 |
| Mbongweni Mulya | | 1101 NYELE Street | Dump causes air pollution | 20/08/20 |
| M. MABONDO | | 1097 NYELE STREET | WE NEED compensation FROM HEALTH RISK | 20/08/2020 |
| Melusi Zama | | 1110 NYELE Street | Paper management | 20/08/20 |
| N. Xulu | | 1111 NYELE STR | BAD SMELL FROM DUMP | 20/08/2020 |
| N. Lethuli | | 1112 NYELE Street | Air Pollution | 20/08/20 |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

Petition to _____

| | |
|---------------------------------|--|
| Petition summary and background | |
| Action petitioned for | |

| Printed Name | Signature | Address | Comment | Date |
|--------------------|---------------------------|---------------------|-----------------|------------|
| Ericke Sibizi | <i>Ericke Sibizi</i> | 172 Mgadi Road | Remove Landfill | 16/05/2020 |
| Zanele Ndlovu | <i>Zanele Ndlovu</i> | 237 Zimu Rd Sincisa | Remove Landfill | 16/05/2020 |
| Shumbile Ntshaba | <i>S. Ntshaba</i> | 201 Mgadi Rd | Remove | 16/05/2020 |
| Thandiso Isheane | <i>T.P. Isheane</i> | 229 Zimu Road | Affect us | 16/05/2020 |
| Musa Dube | <i>Musa Dube</i> | 14720000 | REMOVE | 16/05/2020 |
| Mngi Roshale | <i>Mngi Roshale</i> | 169 Mgadi Rd | Affected us | 16/05/2020 |
| Sibongile Modlale | <i>Sibongile Modlale</i> | 176 Zimu Road | AFFECT US | 16/05/2020 |
| Indicent mawu | <i>Indicent mawu</i> | 168 Mgadi Rd | AFFECTED US | 16/05/2020 |
| Madim | <i>Madim</i> | 170 Mgadi Rd | Seems to much | 16/05/2020 |
| Shangile | <i>Shangile</i> | 174 Zimu Rd | Remove | 16/05/2020 |
| Rebecca Mkhabela | <i>Rebecca Mkhabela</i> | 174 Zimu Rd | clean | 16/05/2020 |
| Devinquthup Ndlovu | <i>Devinquthup Ndlovu</i> | 171 Mgadi D.D | Remove it Plz | 16/05/2020 |

9/23

| Printed Name | Signature | Address | Comment | Date |
|--------------|-----------|----------------------------------|------------------------|-----------|
| Darius | | 700 Main Rd | Smelling stomach | 17/08/20 |
| Patience | Khanyile | 425 Sontseuse | Bad Smell | 19-08-20 |
| Jurdisse | Majimela | 434 Sontseuse Rd | affected for Smell | 19/08/20 |
| Smee / | X | 425 Sontseuse Rd | Bad Smelling | 19/08/20 |
| Ebulari | Reabebe | 424 Sontseuse Rd | Smell | 19/08/20 |
| Makulunga | Aandilezi | 804 Villakazi Dr Skhosane Rd | Smoke coming from Dump | 19/08/20 |
| Ndimiso | | 821 St Skhosane Rd | Smelling | 19/08-20 |
| Mandli | | 835 Vilakazi Drive | Smelling / bad | 19/08/20 |
| Sandile | | 783 Dube Drive | Smellias | 19/08/20 |
| Ntozank | | 809 Min Rd | Air Pollution | 20/08/20 |
| Bucen | X | 784 Dube Drive | Smelling | 20/08/20 |
| Monusa | Ndilela | 786 Dube Drive | Bad Smell | 20/08/20 |
| Tenny | Mkhiz | 785 T Dube Dr | Kuyanyanya | 20/8/2020 |
| Melazi | X | 797 Skhosane Rd | Smelling | 20-08-20 |

SR

| Printed Name | Signature | Address | Comment | Date |
|---------------------|--------------|-------------------|--|------------|
| Rokamisiile Shisi | | 112 mngali Rd | Remove it Ple | 16/08/2022 |
| Principskume MASHAM | P.M. | 202 Zimu Rd | clean it | 16/08/2022 |
| Makuduzi Mbathe | | 202 ZIMU RD | Affected Remove | 16/08/2022 |
| NXO MASHAM | M.M. | 202 Zimu RD | Remove | 16/08/2022 |
| Zandile Ginala | | 209 Zimu RD | it as sent us | 16/08/2022 |
| MUVYATE MD | | 266 MASHAM ST | AFFECTED-ASMATIC TH | 16/08/2022 |
| " LUYENSA | LM | " " " | " | 16/08/2022 |
| " SENZOKHWE | | " " " | " | 16/08/2022 |
| DENIUS MASHAM | | 269 XABA RD | (REMOVAL OF THE DUMP) AFFECTED RESIDENT | 16/08/2022 |
| Iecob Kadebe | I. Kadebe | 254 Xaba RD | Remove | 16/08/2022 |
| Shongile Dube | S. Dube | 254 Xaba RD | AFFECTED TB | 16/08/2022 |
| Mendy Mkhize | M.P. Mkhize | 269 Xaba RD | Remove Dump chest - painful eyes | 16/08/2022 |
| M M QAU | P. Dladla | 614 MSHAM ST | P. Dladla Remove | 16/08/2022 |
| dondoka-nxumalo | L.P. Nxumalo | 152 Mthlangane RD | Remove it | 16/08/2022 |
| H Khosa | | 226 MASHAM ST | Remove - it | 17/08/22 |

Petition to _____

| | |
|---------------------------------|--|
| Petition summary and background | |
| Action petitioned for | |

| Printed Name | Signature | Address | Comment | Date |
|---------------------------|------------------------|----------------------------|--|----------|
| ANNE NOMBEIN | <i>[Signature]</i> | 1363 SOBAMU | WE NEED CLEAN AIR | 15/04/20 |
| LEBO MHLIWA | <i>[Signature]</i> | 604 SKL SEAN E | REMOVE THE DUMPING SITE | 15/04/20 |
| Maomi Yaba | <i>[Signature]</i> | 290 RD. Hamilton | REMOVE THE DUMP SITE ARE FIRE DUMPING SITES | 15/04/20 |
| Themba Hadebe | <i>[Signature]</i> | 330 RD Hamilton | Compensation to help people if there are fires | 15/04/20 |
| Zanele Sibaya | <i>[Signature]</i> | 330 Rd Hamilton | We want clean air | 15/04/20 |
| Siyabonga Zondi | <i>[Signature]</i> | 1086 Nxele Street | We need clean air | 15/04/20 |
| M. M. M. M. M. | [Signature] | 111 + Nxele Street | Remove the dump site or find other way | 16/08/20 |
| Nontsha Mkhomo | <i>[Signature]</i> | 1103 Nxele street | Remove the dump site or find other way | 15/03/20 |
| N N Nxele | <i>[Signature]</i> | 1108 Nxele street | WE need compensation | 16/02/20 |
| D. Ntsebezo | <i>[Signature]</i> | 1108 Nxele street | Remove the dumping site | 16/08/20 |
| S. N. Nxele | <i>[Signature]</i> | 1108 Nxele street | We need compensation | 16/02/20 |
| Basetsama Mnyama | <i>[Signature]</i> | 1108 Nxele Street | We need to clean air | 16/08/20 |

[Handwritten signature]

| Printed Name | Signature | Address | Comment | Date |
|--------------------------|----------------------|-----------------------|---|----------|
| Sande choro | | 192 Mthalane Rd sbebe | compensation | 16/08/20 |
| Musikhe Mhema | S. Mhema | 199 Mthalane Rd sbe | SUSA DIFHO MANJE | 13/08/20 |
| Chawe Zimw | | 174 Zimw rd | SUSA tento / compensation waphatumulwen angika right | 16/08/20 |
| Gine Sibisi | | 104 Msimanga rd | Dump site relocation | 16/08/20 |
| Agenda Ziyeta | | 208 Zimw Rd | Remove | 16/08/20 |
| Mude Zimw | | 174 Zimw Rd | Remove | 16/08/20 |
| Sanele Nandi | | 1314 Msimanga Rd | isihukumezile naokomanya | 16/08/20 |
| Bawolo | M. Bawolo | 1357 Msimanga RD | Remove | 16/08/20 |
| Lungeleni Gwama | | 1356 mtshali Road | Remove | 16/08/20 |
| Sibesihle Gwama | | 1356 mtshali Road | Remove | 16/08/20 |
| Thokozani Zuma | | 167 magu bantle Rd | Remove | 16/08/20 |
| Zola Manku | | 225 Magu bantle | Remove | 16/08/20 |
| Same Ndlovu | | 267 Ksiba Road | Remove | 16/08/20 |
| Zenale ndlovu | | 267 Ksiba rd | Remove | 16/08/20 |
| Balobole Nyab | | 236 Zimw | Remove | 16/08/20 |
| Ni Manyoni | | 231 Zimw | Remove | 16/08/20 |

Petition to _____

| | |
|---------------------------------|--|
| Petition summary and background | |
| Action petitioned for | |

| Printed Name | Signature | Address | Comment | Date |
|--------------------|-----------|---------------------------|-----------------------------------|------------|
| NKUTIBULU Mthumane | | 210 Zimu Rd, Ssbantu | Make the landfill to another site | 16/08/2020 |
| Wang Lamodoi | | 210 Zimu Rd, Ssbantu | Make the landfill | 16/08/2020 |
| Thobiso Kutshela | | 210 Zimu Rd, Ssbantu | Clean the landfill site | 16/08/2020 |
| Nomelo Bululezi | | 212 Zimu Rd, Ssbantu | Clean the landfill site | 16/08/2020 |
| Pinkie Mthumane | | 210 Zimu Rd, Ssbantu | Clean the landfill site | 16/08/2020 |
| Nomusa Kutshela | | Mshayeni Ssbantu | Clean the landfill site | 15/08/2020 |
| Munwelele Kutshela | | Mshayeni Ssbantu, Ssbantu | Clean the landfill site | 16/08/2020 |
| Kindine Mthani | | 286 Kolonwe Rd A-D | Remove the landfill site | 16/08/2020 |
| Sipho Masubane | | 1270 Msimanga Road | Remove the landfill site | 16/08/2020 |
| Thando Lutshu | | 227 Mphahlele St. Ssbantu | Remove the landfill site | 17/08/2020 |
| BHEKI DAMINI | | 228 MPHASE ST SSBANTU | REMOVE LAND SITE | 17.8.2020 |
| Faith Nkambule | | 752 Dube Drive Ssbantu | Remove the landfill site | 17/08/2020 |

SR

| Printed Name | Signature | Address | Comment | Date |
|----------------|-----------|---------------------|----------------------|----------|
| JARU SAMPLE | D | 971 TABULA DRIVE | SMOKE - AFFECTED | 15/08/20 |
| BANELE ZONSI | RZ | 371 SOMSETU ST | AFFECTED + CHEST | 15/08/20 |
| SANE ZYUMA | Sanna | 46 GARDNER ST | " " | 15/08/20 |
| TIBANDI MUKIZE | TM | 269 MUEZENI ST | SMOKETS TOO MUCH | " |
| TIBANDI MUKIZA | T. Nku | 289 HAMILTON RD. | " " | " |
| SIOHO ZONSI | Esomali | 89/12 KUMBUKA DRIVE | " " | " |
| P. NDIRA | P. Ndira | 269 MUEZENI ST | " " | " |
| TIBANDI MUKIZE | Tibandi | " " | " " | " |
| BUSI MUBANZA | Ruvase | 268 " " | AFFECTED EYES | 16/08/20 |
| NELE MUBABI | N. Mubabi | 330 MUEZENI ST | PROBLEM IN BREATHING | 16/08/20 |
| TIBANDI MUBUTI | | 265 MUBANZA ST | " " | " |
| MABILE ZONSI | MB. | 371 SOMSETU ST | " " | " |
| MUSA MUBANZA | MS | 161 MUBANZA ST | " " | " |
| SABINA KHAMALA | SK | BUSE DRIVE | CHEST PROBLEM | " |
| GI. ZONSI | GI Zonzi | 371 SOMSETU ST | AFFECTED | " |
| SILE NDILOVA | NDILOVA | 52 GARDNER ST | " " | " |

SK

Petition to _____

| | |
|---------------------------------|--|
| Petition summary and background | |
| Action petitioned for | |

| Printed Name | Signature | Address | Comment | Date |
|--------------|------------|-------------------|------------------------|----------|
| THEMBI | T. Mthembu | 799 Vilakazi Str. | Bad Smell from Dump. | 17-08-20 |
| THOKAZANI | T. Shoba | 800 Vilakazi Str | Bad Smell from Dump | 17-08-20 |
| Tobalwa | T. Mbowiso | 821 Vilakazi Dr | Smell coming from dump | 17-08-20 |
| Swindle | S. Mthembu | 791 Shosangwe Dr | Bad Smelling | 18-08-20 |
| Busiswe | B. Mthembu | 822 Vilakazi Dr. | Lot of flies in Sunns | 18-08-20 |
| Gladys Cele | m.s. cele | 820 Vilakazi Dr | lots of flies smell | 18-08-20 |
| Bongani | NENE | 818 Vilakazi Pr. | LET THE VILAGE DOUBT | 18-08-20 |
| MALANHA | WENE | 678 LEWISTON | 18-Fire Alarms - Bad | 18/08/20 |
| NONHANTHA | HLONGWANE | 804 Vilakazi Dr | smell, flies, smell | 18/08/20 |
| ROSE | Makanya | 817 Vilakazi Ave | Bad Smell from Dump | 18/08/20 |
| Mabile | Mabile | 822 Vilakazi | Smell | 18/08/20 |

9
20

Petition to _____

| | |
|---------------------------------|--|
| Petition summary and background | |
| Action petitioned for | |

| Printed Name | Signature | Address | Comment | Date |
|--------------------|---------------|------------------|-----------------------|----------|
| 2 Ladys B Simelane | E.B. Simelane | 1034 ZENZELE ST | PSIHICAL SEKETE KATHE | 16/08/20 |
| Amanda | A.C. Simelane | 1034 ZENZELE ST | AKUPHEFUMULEKI KATH | 16/08/20 |
| Siphwe | S.N.M. | 1034 ZENZELE ST | | 16/08/20 |
| NANDU | A.D. MATHAMBA | 1030 ZENZELE ST | SIPAGULA I BOPELA | 16-08-20 |
| THEMBACILE | T. MATHAMBA | 1035 ZENZELE STR | AKUPHEFUMULEKI | 16-08-20 |
| Thembele | Zuma | 998 Vuma Str. | AKUPHEFUMULEKI KATH | 16-08-20 |
| Zine | Zuma | 998 Vuma Str. | Giyane nanginxaphuthu | 16-08-20 |
| JANET | THUSI | 999 VUMA STR | ZINI KUPHEFUMULEKI | 16.08.20 |
| Luyensha | Musoni | 999 VUMA STR | AKUPHEFUMULEKI KATH | 16.08.20 |
| LINDIVWE | THUSI | 999 VUMA STR | SIPAGUVE IMPHEK | 16.08.20 |
| SIPHEMANDLE | SITHOLE | 999 VUMA STR | AKUPHEFUMULEKI KATH | 16.08.20 |
| MOSIPHO | THUSI | 999 VUMA STR | AKUPHEFUMULEKI KATH | 16.08.20 |

THU ABITI SHILOEN

OR

| Printed Name | Signature | Address | Comment | Date |
|-------------------|-----------|---------------------|---|----------|
| Sisinda Ngabo | | 857 Khumbula Drive | INETHU base-Dumir ngabo umyazi veru/mshicile | 16/08/20 |
| Shehile Zuma | | 356 Somsewu Drive | Its made us sick Pheloni | 16/08/20 |
| Dure Ngabo | | 1030 Zenzele St | Sankalana, ngishawu kakhuluka abantaba Inethu ngasigulisa | 18/08/20 |
| Ninshi Zuma | | 356 Somsewu Street | | 18/08/20 |
| Esier Zuma | | 356 Somsewu St | | 19/08/20 |
| Zandile Zuma | | 356 Somsewu St | | 19/08/20 |
| Nozipho Zuma | | 356 Somsewu St | | 19/08/20 |
| Manooba Neng | | 1034 Zenzele Street | | 19/08/20 |
| Nkamiso NENE | | 1034 Zenzele Street | | 19/08/20 |
| Shamsikazi Mkhali | | 5 Links Road | | 19/08/20 |
| Kwanda Mzindle | | 336 Somsewu Street | | 19/08/20 |
| Mkhulu Rabin | | 956 Nwami Street | | 19/08/20 |
| Levum & Simeon | | 1034 Zenzele St | ESIMUBUYE kaPheloni code si ngalobu/obu/obu | 19/08/20 |
| VUSI NENE | | 1034 ZENZELE St | | 19/08/20 |

AB

| Printed Name | Signature | Address | Comment | Date |
|-------------------|-----------|-----------------------|--|------------|
| Siphwe B. Radebe | | 957 Vuma Str. Sobantu | My chest is sore | 16/08/20 |
| Agonda N Malunga | | 957 Vuma Str. Sobantu | Agibetezeleleli zi fuba zibhalungu | 16/08/20 |
| Jaralesile Radebe | | 957 Vuma Str. Sobantu | Affected my chest | 16/08/20 |
| Sheli Radebe | | 337 Vuma Street | Affected my chest | 16/08/20 |
| Rhodes Sanele | | 956 Vuma Street | Source of asthma and tight chest | 16/08/20 |
| Sida Jamini | | 959 Vuma Street | Size of asthma and cough | 16/08/20 |
| BR DIDIDI | | 997 Vuma Street | Siyagula sisibisi ukhuhuzi | 16/08/20 |
| THULANI | | 993 Vuma Street | Isithintle rizingane | 16/08/20 |
| Gladhile Mbose | | 992 Vuma Street | Ive sorely have fever and have cough | 16/08/20 |
| Senzi Mogen | | 990 Vuma Street | Affected our breathing | 16/08/2020 |
| Busizwe Khandiwe | | 989 Vuma Street | Affected my chest & we couldn't breathe because the chest was sore | 16/08/2020 |
| Nomvula Mepela | | 988 Vuma Street | Highly chest pain | 16/08/2020 |
| Nomvula Memeza | | 998 Vuma Street | Affected our chest we had trouble breathing | 16/08/2020 |
| MBAI DLAMINI | | 973 Vuma Street | BRONCHIAL ASTHMA | 16/08/2020 |
| Siboniso Simelane | | 1034 Dandale St | Siyagula sisibisi my chest is sore | 16/08/20 |
| Musa Nene | | 1034 Dandale St | My chest is sore | 16/08/20 |

Handwritten initials or marks at the bottom of the page.

| Printed Name | Signature | Address | Comment | Date |
|--------------|-----------|----------------------------|--|------------|
| Simplice | | 921 Shhosane Road, Sobantu | The has to be action ^{happy} taken because people are not | 18/05/2020 |
| Thoko | | 823 Shhosane Road | Kuyambisa | 18/09/20 |
| Fikile | X | 825 Shhosane Rd | Kuyambisa | 18/08/20 |
| Nhlanhla | N. N. N. | 795 Shhosane Rd | clean up | 18/08/20 |
| Toye | X | 831 Khumbela Du | Storage bad Smell | 18/05/20 |
| Happy | | 832 Khumbela Du | Smell | 18/09/20 |
| Bongive | | 835 Khumbela Du | Isibangela, T.B. | 18/09/20 |
| Fika | X | 837 Khumbela Du | Smoke bad | 18/09/20 |
| Melindy | X | 826 Shhosane Rd | Siyakukhumbela | 18/09/20 |
| Thokozane | | 796 Shhosane Rd | hotspot of drugs | 18-08-20 |
| Zainabonke | | 796 Shhosane Rd | Clean up | 18/08/20 |
| Khando | | 797 Shhosane | Kuhlalalama Bpa | 18/08/20 |
| Lucky | | 799 Main Rd | Smell | 18-08-20 |
| Mandane | M. S. S. | 780 Shhosane | Tomuwa thaka | 18/08/20 |
| Thandoy | X | 801 Victoria Du | amokabab smell | 18/08/20 |
| Windy | X | 8257 Main Rd | Kungqalile | 19/08/20 |

"JBS15"



I am Nonhlanhla Mhlophe from Hlanganani Ma-Afrika Recycling cooperative of waste pickers in Pietermaritzburg, we affiliated to the national mother body called South African Waste Pickers Association, (SAWPA). Other than the above cooperative, we actually have 3 more cooperative at the New England Road Landfill (NERL) which were established between 2010 and 2015. We derive our livelihoods through picking, sorting and selling waste to different middlemen who are dealing in recyclables.

We do not have a proper livelihood or decent job but we are making an honest living without stealing or infringing on anybody's right. Our families are relying on us to provide and our children depend on waste picking/recycling work that we are do to make a living. Our concern with Msunduzi Local Municipality is that they are not taking our livelihoods seriously, as we have engaged them in the last decade to recognize us and work with us. Recognition through each member registration and issuing access cards will make working on the landfill easier for both parties.

We have even engaged the uMgungundlovu District Municipality (UMDM) to come to the party which they did successfully in an extend that they managed to apply and recieved funding from Department of Cooperative Governance and Traditional Affairs (COGTA) to build a materials recovery facility to employ all of us at the landfill at that time. R21 million had to be returned to COGTA while our livelihoods have not been recognized/formalized by Msunduzi Local Municipality. This was really a disgrace as we experience accidents every year which results to fatalities amongst waste pickers, the MRF was going to reverse that. The fires that we are often blamed for are not sparked by us but are caused by municipal failure to make sure that only permitted waste gets into site as we sometimes see hot ash entering the site from nearby factories. We cannot recover materials and end up starting fires that will end up burning our recyclable materials.

Msunduzi possible intervention is to work with waste pickers in making sure that both parties win. They also have to implement the "Waste Picker's Integration Guidelines" which guides municipalities nationally as to how they can integrate waste pickers into their waste management systems. Working relations will result to the protection of livelihoods and at the same time they save landfill airspace due to our existence.

We as waste pickers are really concerned about crime and corruption that takes place at the New England Road Landfill. The waste pickers and municipal officials are creating divisions amongst waste pickers by fueling tribal conflicts (e.g. Sotho's and Zulus) as they are also divided as officials. It is not only tribal wars but also drug sale as well as stolen diesel sale.

Challenges that are experienced can be easily solved if we work together with municipality. The site is almost full and we suggest that they convert the site into a MRF and even the new site has to have a mini MRF in making sure whatever escapes from the current site MRF will be recovered at the new landfill/MRF. We are pleading with the commission to safeguard our livelihoods not only in Pietermaritzburg but nationally. We hope that this investigation will set a precedent for all other municipalities not to ignore waste pickers. We also hope that the commission will recommend that every municipality must have a database of all waste pickers in their jurisdiction. We also hope that

SA

the commission will recommend that we as a country should not be a throw-away society where we dispose and bury waste which is a resource to us as waste pickers.

Nonhlanhla Mhlophe

N. C. Mhlophe

Secretary South African Waste Pickers Association

082 703 1915

Nonhlanhlahmlophe2@gmail.com

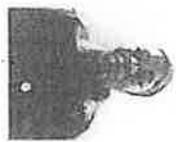
A

SB



**Winnie Shilaluke
Tshwane**

City of Tshwane



**Full Name
City**

Municipality



**Ronny Sekati
Tshwane**

City of Tshwane



**Moipane Morake
Tshwane**

City of Tshwane

813

"JBS16"

407

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

1st Floor,
136 Margaret Mncadi Avenue
Durban
4001

PO BOX 1456
DURBAN
4000

Tel.: 031 304 7323/4/5
Fax: 086 439 3581



14 July 2020

**Ms Nelisiwe Ngcobo
The Acting Municipal Manager:
Msunduzi Municipality
242 Langalibalele Street
Pietermaritzburg, 3200**

Per Email: municipal.manager@msunduzi.gov.za / Nelisiwe.Ngcobo@msunduzi.gov.za
Madeleine.Jackson@msunduzi.gov.za /
ngangenkosi.mpsi@msunduzi.gov.za

Our Ref: KZ/1920/0363/PP

Dear Sir/Madam,

**RE: OWN INITIATIVE COMPLAINT RELATING TO THE STATE AND POOR
MANAGEMENT OF THE NEW ENGLAND ROAD LANDFILL SITE, PIETERMARTIZBURG**

The South African Human Rights Commission ("the Commission") was set up to investigate violations of the provisions of the Bill of Rights, which is in Chapter 2 of the Constitution of the Republic of South Africa 1996.

The Commission is tasked with the mandate to promote respect for human rights, to oversee the development and attainment of human rights, and to monitor the observance of these rights. The powers of the Commission are detailed, in chapter 9 of the Constitution, and in the South African Human Rights Commission Act 40 of 2013. (Hereinafter referred to as the 'SAHRC Act') These constitutional and legislative enactments empower the Commission, to:

1. Investigate allegations of human rights violations;
2. Where appropriate to mediate or conciliate these matters;
3. If necessary hold public enquiries or;
4. Litigate if required.

The SAHRC Act also empowers the Commission to subpoena people to appear before it, to provide information or supply documents and records required for the purposes of investigation. We endeavor to the extent possible, to settle disputes in a manner that is consistent with the values, purport and objects of our Constitution. The relevant sections of the Constitution and the text of the SAHRC Act can be found on our website www.sahrc.org.za.

Transforming society. Securing rights. Restoring dignity.

Chairperson: B C Majola; **Deputy Chairperson:** D P S Jana; **Commissioners (Full-Time):** M S Ameerina; A H Gaum; A M Makweta;
B Majatji Commissioners (Part-Time): A C Nissen, J B Sibanyoni; **Chief Executive Officer:** T Thipanyane

9
SR

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

1st Floor,
136 Margaret Mncadi Avenue
Durban
4001

PO BOX 1456
DURBAN
4000

Tel.: 031 304 7323/4/5
Fax: 086 439 3581



The Commission has registered an own initiative complaint in this matter in accordance with section 13 (3) (a) of the SAHRC Act which stipulates that the Commission is competent to investigate on its own initiative any alleged violation of human rights and if it is established that there is substance it must assist the complainant/s to secure appropriate redress.

The Commission was alerted to the poor state and deterioration of the New England Road Landfill Site in Pietermaritzburg via various media articles that were published by local media houses such as the Natal Witness. The said articles reported on the on-going fires at the site which was causing a considerable, negative and harmful impact on the environment and all those within its surrounding community. In summary the articles alleged the following:

1. That the municipality attributed the on-going fires at the site to waste-pickers;
2. That the site was being "poorly managed" and further that poor security measures were identified as a cause for scavenging at the site;
3. That the site had been left to denigrate into a toxic health hazard forcing residents to inhale harmful and strong fumes;
4. That the toxic fumes and gases are a significant cause of pollution and have also adversely impacted on the health and well-being of residents and/or the local community;
5. That the lifespan of the landfill site had been flagged as being close to exhaustion sometime in 2008 and therefore the available airspace has been reduced drastically and is now significantly compromised;
6. That the local schools in the area have partnered to establish a non-profit company to challenge the violations emanating from the site;
7. That the Department of Economic Development, Tourism and Environmental Affairs (EDTEA) is responsible for monitoring of compliance with the relevant standards and has issued many compliance notices due to the municipality's failure to comply with the conditions of its waste management licence, this included the municipality's failure to effectively address the on-going issues at the site, to safeguard and protect the environmental rights of the citizens of Msunduzi. Further that MEC for EDTEA had opened criminal charges against the municipality for its alleged conduct in respect of the site and its management.

In line with the Commission's constitutional mandate, it has an obligation to ensure that children have an environment that is conducive to learning and further that communities have access to an environment that is not harmful to their state of health and well-being. The Commission is accordingly concerned that this conduct could *prima facie* constitute a violation of a number of rights, but more specifically:

Transforming society. Securing rights. Restoring dignity.

Chairperson: B C Majola; Deputy Chairperson: D P S Jara; Commissioners (Full-Time): M S Aneermia; A H Gauri; A M Makweta; B Malatji; Commissioners (Part-Time): A C Nissen, J E Sibanyoni; Chief Executive Officer: T Thipanyane

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

1st Floor,
136 Margaret Mncadi Avenue
Durban
4001

PO BOX 1456
DURBAN
4000

Tel.: 031 304 7323/4/5
Fax: 086 439 3581



- Section: (10), which states that "Everyone has inherent dignity and the right to have their dignity respected and protected."
- Section: (24) (a) which states that "Everyone has the right to an environment that is not harmful to their health or wellbeing."
- Section: (24) (b) which states that "Everyone has the right to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that-
 - i) Prevent pollution and ecological degradation;
 - ii) Promote conservation..."

And

- Section: 33, which states that "Everyone has the right to administrative action that is lawful, reasonable and procedurally fair.....the right to be given written reasons....."

The Commission has therefore been conducting extensive research relating to the operation and current state of the New England Road landfill site and accordingly confirms that the Commission has commenced with an investigation regarding same.

The Commission hereby requests the Municipality to submit copies of all documents and/or information relating to the landfill site for assessment and for consideration by the Commission. Same should include the Municipality's own current assessment of the landfill site as well as details of all steps taken to date by the municipality in order to address the on-going challenges at the site. To this extent, the Commission also requests that the municipality's response should include a copy of the Municipality's time-bound plan to attend to and resolve all present concerns at the site as well as it's the city's plans for general waste management going forward.

In view of the above we would be grateful if you could kindly provide us with the municipality's response herein on or before **31 July 2020**. Any additional information that may assist us herein would also be appreciated.

We await your prompt response.

Yours faithfully,

Adv. Lloyd Lotz

Provincial Manager: KZN

NB: Please quote reference number in all your correspondence to us.

Transforming society. Securing rights. Restoring dignity.

Chairperson: B C Majola; **Deputy Chairperson:** D P S Jana; **Commissioners (Full-Time):** M S Amecemia; A H Gaum; A M Makwetla; B Malatji; **Commissioners (Part-Time):** A C Nissen, J B Sibanyoni; **Chief Executive Officer:** T Thipanyane

**IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG**

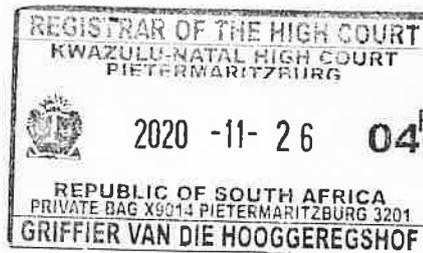
Case No: 8407/20P

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

Applicant

and

MSUNDUZI LOCAL MUNICIPALITY



First Respondent

**HEAD OF THE DEPARTMENT OF
ECONOMIC DEVELOPMENT,
TOURISM AND ENVIRONMENTAL AFFAIRS,
KWAZULU-NATAL PROVINCIAL GOVERNMENT**

Second Respondent

**MEMBER OF THE EXECUTIVE COUNCIL
FOR ECONOMIC DEVELOPMENT,
TOURISM AND ENVIRONMENTAL AFFAIRS,
KWAZULU-NATAL PROVINCIAL GOVERNMENT**

Third Respondent

INDEX BUNDLE 6

| | | |
|----|--|---------|
| 20 | 'JBS17' - First Compliance Notice issued on 15 May 2019 | 410-425 |
| 21 | 'JBS18' - First Respondent's representations dated 14 February 2020 which includes the First Respondent's "Action Plan – Turnaround Strategy for the New England Landfill Site". | 426-436 |
| 22 | 'JBS19' - Revised Compliance Notice dated 18 February 2020 | 437-458 |

| | | |
|----|--|---------|
| 23 | 'JBS20' - First Respondent's correspondence dated 19 February 2020 | 459-460 |
| 24 | 'JBS21' - Varied Revised Compliance Notice dated 5 March 2020 | 461-463 |
| 25 | 'JBS22' - Warning Letter issued by the Second Respondent to the First Respondent on 10 March 2020 | 464-467 |
| 26 | 'JBS23' - Second Variation to the Revised Compliance Notice dated 23 March 2020 | 468-70 |
| 27 | 'JBS24' -Section 30 Directive issued by the Second Respondent to the First Respondent on 29 July 2020 | 471-472 |
| 28 | 'JBS25' - Presentation by the First Respondent informing the Premier of the KwaZulu-Natal Provincial Government that the Dump is a high-risk facility, dated 5 August 2020 | 473-491 |
| 29 | 'JBS26' - Third Variation to the Revised Compliance Notice dated 17 August 2020 | 492-494 |
| 30 | 'JBS27' - Interim Investigation Report with CAS Number: Alexandra Road CAS 58/09/2019 | 495-503 |

"JBS17"



Department :
Economic Development, Tourism and
Environmental Affairs
PROVINCE OF KWAZULU-NATAL

Enquiries: K.S. Dhaver
Reference: DC22/WML/0061/2016
Physical Address: 8 Warwick Road, Cascades
Tel: (033) 347 1826, Fax: (033) 347 1826
Postal Address: Private Bag X87,
Pietermaritzburg, 3202
www.kznded.gov.za
Date: 15 May 2019

Directorate: Environmental Services: uMqungundlovu District

The Administrator: Mr. Sibusiso Sithole

Email:

Msunduzi Municipality

Private Bag X321

Pietermaritzburg

3200

PER HAND AND EMAIL

Attention

Msunduzi Municipality

Former: Acting Municipal Manager: Ms. Nelisiwe Ngcobo

Email: nelisiwe.ngcobo@msunduzi.gov.za

General Manager- Community Services: Ms. Bontwe Zulu

Email: bontwe.zulu@msunduzi.gov.za

Former: Manager- Solid Waste Management: Mr. Cyril Naidoo

Email: cyril.naidoo@msunduzi.gov.za

Landfill Site Foreman: Mr. Innocent Mhlongo

Email: innocent.mhlongo@msunduzi.gov.za

Cc: Current Landfill Site Manager: Mr. Mandla Zuma

Email: mandla.zuma@msunduzi.gov.za

Dear Mesdames/Sirs

COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AS AMENDED: NON-COMPLIANCE WITH THE VARIATION WASTE MANAGEMENT LICENCE (WML) ISSUED IN TERMS SECTION 49 (1) AND 54 (1) OF THE NATIONAL ENVIRONMENTAL WASTE MANAGEMENT ACT (NEM:WA) 59 OF 2008 (REF NO. DC22/WML/0061/2016) FOR THE NEW ENGLAND LANDFILL SITE, PIETERMARITZBURG, MSUNDUZI LOCAL MUNICIPALITY.

1. DECISION

I, Kim Lea van Heerden in my capacity as a Grade 1 Environmental Management Inspector, having considered the matter, am of the view that Msunduzi Municipality, Ms. Nelisiwe Ngcobo, Ms. Bontwe

Department of Economic
Development, Tourism and
Environmental Affairs

Compliance Notice

DC22/WML/0061/2016
New England Road,
Landfill Site

Initials:

Page 1 of 16

[Handwritten signature]
SR

Zulu, Mr. Cyril Naidoo and Mr. Innocent Mhlongo who, respectively were/are responsible for specific functions in respect of Waste Management, have failed to adhere to the provisions of the law in respect of activities conducted at the New England Landfill site on Lot 1853 of the Farm Darvill 15036 within Msunduzi Municipality, UMgungundlovu District Municipality.

Accordingly, I hereby issue you, I hereby issue the Msunduzi Municipality; and, Ms. Neliswa Ngcobo (Former: Acting Municipal Manger-Msunduzi Municipality); Ms. Boniwa Zulu (General Manager: Community Services); Mr. Cyril Naidoo (Landfill Site Manager-Solid Waste Management); and Mr. Innocent Mhlongo (Landfill Site Foreman-New England Landfill Site) with a compliance notice in terms of section 31L of the National Environmental Management Act, 1998 (Act No.107 of 1998), hereinafter referred to as "NEMA" read with Regulation 8 of the Regulations Relating To Qualification Criteria, Training and Identification of, and Forms to be used by Environmental Management Inspectors (Government Notice Regulations, (GNR) 480 dated 31 May 2017).

2. INTRODUCTION

2.1 Following a comprehensive audit undertaken by the Department on 10 March 2015 it had become evident to the Department that the management and operation of the landfill site was not meeting several of the requirements of the landfill permit dated 22 April 1998 issued in terms of the Environmental Conservation Act in 1998, Reference No. 16/27/1/203/D3/Z1.

2.2 Accordingly, the Department issued the Msunduzi Municipality and municipal officials a warning letter, dated 2 June 2015, documenting the areas of non-compliance and requesting urgent actions be undertaken to address these non-compliance issues. Copy attached for ease of reference (Annexure A).

2.3 Following the issuing of the warning letter, the Municipality took steps to address some of the non-compliances. As part of these steps, a Variation WML was issued by the Department which substituted the former landfill site permit with a WML in terms of the National Environmental Management Waste Act 59 of 2008.

2.4 This Variation Waste Management License issued on the 3rd July 2017 to the Msunduzi Municipality for New England Landfill Site on Lot 1853 of the Farm Darvill No. 15036, New England Road, Pietermaritzburg was issued in terms of section 49(1) and 54(1) of NEM:WA 59 of 2008 (Ref No.

[Handwritten signature]

[Handwritten initials]

DC22/WML/0061/2016) (hereafter referred to as the "WML,") provides the requirements and conditions under which the landfill site must be managed and operated.

- 2.5 On 25 October 2017, a comprehensive joint compliance audit by the Compliance Monitoring and Enforcement Units and Pollution and Waste Management Units of the Department; together with officials from the Msunduzi Municipality, was undertaken at the New England Landfill Site (hereinafter referred to as the "Site") in order to monitor compliance with applicable environmental legislation and with the requirements and the conditions of the WML issued in terms of such legislation.
- 2.6 The audit revealed that the Msunduzi Municipality had failed to comply with a substantial number of conditions contained within the WML issued for the operation and management of the New England Landfill Site. A copy of the audit report and its findings had been provided to the then Acting Manager: Solid Waste Management, Mr R Jogiati, who had been seconded from the UMgungundlovu District Municipality to assist with solid waste management within Msunduzi. Mr Jogiati met with the Department on 09 March 2018 to discuss matters of solid waste management within the Municipality and to advise the Department that he had been seconded to assist in addressing matters at the landfill site and in respect of waste collection more broadly. It has subsequently been established that Mr Jogiati was only seconded for a period of three months.
- 2.7 On 28 July 2018 a fire at the landfill site occurred which resulted in the air quality of the surrounding areas being severely compromised, resulting in the closure of schools. It was established that the landfill site plant had been non-functional and there was insufficient resources to attend to the blaze effectively.
- 2.8 A preliminary meeting was then convened on 14 August 2018 with the then Acting Senior Manager (Waste Division), Mr. Cyril Naidoo to discuss the day to day management and operations of the landfill site. The Department informed Mr. Naidoo that there were many conditions which were not being complied with and that a formal site inspection would be conducted to verify adherence to the conditions of the WML.
- 2.9 On 30 August 2018, Departmental officials had a meeting with Mr. M. Hope (Recycling Manager) and Mr. J. Mhlongo (Landfill Site Manager) and thereafter conducted a site inspection at the New England Landfill Site. At the site inspection it was noted that recycling activities continued to be undertaken in an uncontrolled manner in unauthorized areas; leachate from the workface had entered the receiving

[Handwritten signature]
[Handwritten initials]

environment; there were holes in the fences which facilitated unauthorized access; the workforce was not adequately compacted and therefore remained as a fire hazard; there was limited control of access on the workforce; and, there was mixing of domestic and garden waste. Apart from these observations, there were other non-compliances relating to the conditions of the WML that were identified at the site visit. These non-compliances were brought to the attention of the relevant officials and an opportunity was provided for these to be rectified.

2.10 A follow up inspection was conducted on the 13 of December 2018 to verify if there had been attempts made to comply with the conditions of the WML, however the Department observed that the state of the site had deteriorated further, which was of significant concern. On the 13th of January 2019, a further fire occurred.

2.11 The Municipality submitted a Section 30 Incident Report dated 13 January 2019 which was received on the 04 of February 2019 in accordance with the requirements of NEMA and, while the root cause of the fire has not been identified, poor compaction was cited as one of the contributory factors. Departmental officials undertook two further site inspections following this particular incident and observed that the lack of site supervision, poor compaction and cover, uncontrolled access and other non-compliances with the WML may have been contributory factors to the fire.

2.12 The Department subsequently issued a Pre-Compliance Notice to Msunduzi Municipality and, Ms. Nelisiwe Ngcobo (Former Acting Municipal Manager-Msunduzi Municipality); Ms. Boniwe Zulu (General Manager: Community Services); Mr. Cyril Naidoo (Landfill Site Manager- New England Landfill Site); and Mr. Innocent Mhlongo (Landfill Site Foreman-New England Landfill Site) on 22 February 2019 given the history of the matter and the repeated non-compliances.

2.13 The Department only received representations from Mr. Cyril Naidoo (Landfill Site Manager: New England Landfill Site) on 12 March 2019. Ms. Nelisiwe Ngcobo (Acting Municipal Manager- Msunduzi Municipality); Ms. Boniwe Zulu (General Manager: Community Services); and Mr. Innocent Mhlongo (Landfill Site Foreman-New England Landfill Site) failed to provide representations to the Department in respect of the Pre-Compliance Notice issued on 22 February 2019 regarding their areas of responsibility in respect of the management and operation of the landfill site.

2.14 The representations received from Mr. Cyril Naidoo on 12 March 2019 did not address all of the instructions of the Pre-Compliance Notice and the Department requested that a formal response be sent to the Department detailing the Municipality's plan of action to address the non-compliances.

| | | | | |
|---|-------------------|---|-----------------------|--------------|
| Department of Economic Development, Tourism and Environmental Affairs | Compliance Notice | DCEWML/0001120/6 New England Landfill Site | Initials <i>JN</i> | Page 4 of 16 |
|---|-------------------|---|-----------------------|--------------|

2.15 Mr. Cyril Naidoo then provided an amended representation to the Department on 18 March 2019.

2.16 In addition, according to the Witness, published on 27 March 2019, it was alleged that New England Road Landfill Site had come to a halt and that rubbish was being dumped on the side of the municipal road. A Departmental official enquired from Mr. Cyril Naidoo on 28 March 2019, as to what the status of the landfill site was. Mr. Cyril Naidoo informed the Department that machinery had been broken and would be repaired however machinery was hired as an interim measure.

2.17 The Department is of the opinion that the issuing of a Compliance Notice is justifiable and appropriate given the history of the matter and the repeated non-compliances particularly in respect of key operational issues such as poor compaction and coverage; unauthorized and uncontrolled access to the workface and the site in general; poor supervision on the workface; inadequate final leachate disposal; and, uncontrolled informal recycling.

2.18 During the intervening period, the Municipality has been placed under Administration and, accordingly the Administrator, Mr. S. Sithole has been appointed to oversee the running of the Msunduzi Municipality, and is accordingly copied into this Notice, as is the current Acting Landfill Site Manager, Mr. Mandla Zuma.

3. DETAILS OF NON-COMPLIANCE

3.1 The details of the specific failures to comply with the provisions of the law are given below in tabular form:

| Act/ Regulation Name | Section / Regulation Number | Legal Provision (i.e. wording of the section/condition) | Finding |
|--|-----------------------------|--|---|
| Waste Management Licence DC22/WML/006 1/2017 | 5.1.5 | The licence holder must notify every registered interested and affected party (including State departments identified during the application) in writing and within 14 (fourteen) days of the date that this licence was issued. | The WML has not been advertised in the public domain. |
| | 5.1.6 | The notification referred to in 5.1.5 must – <ul style="list-style-type: none"> • indicate the decision of the Department; • specify the date on which the licence was issued; | The WML has not been advertised in the public domain. |

Department of Economic Development, Tourism and Environmental Affairs

Compliance Notice

DC22/WML/006/2016
New England Road,
Landfill Site

Initials:

Page 5 of 16

Handwritten signature and initials, possibly 'SR'.

| | | |
|--------|--|--|
| | <ul style="list-style-type: none"> advise the interested and affected party that a copy of the licence, including reasons for the decision, will be provided on request; inform the public where the decision can be accessed; and <p>advise the interested and affected party that the prescribed appeal forms can be obtained from the Department, the licence holder, or the Environmental Assessment Practitioner.</p> | |
| 5.1.7 | The licence holder must publish a notice, within 14 (fourteen) days of the date that this licence was issued, in the newspaper/s which were used for the placing of notices as part of the public participation process. | The WML has not been advertised in the public domain. |
| 5.3.7 | Waste disposed of at the site may be reclaimed. The sorting may take place at a designated area allocated by Landfill Site Management and must not interfere with the daily operation of the site. In this regard the licence holder must take measures to ensure that an appropriate area for reclamation is identified and implemented within one (1) year of the date of this licence. | Informal recycling has continued to take place on the workface and not in a formalized designated area. Recycling is taking place in an uncontrolled manner and is interfering with the day to day operations of the site. |
| 5.3.9 | Waste disposed of must be compacted and covered at the end of each working day with a minimum of 150mm of soil or other material approved by the licensing authority. | During the site inspections conducted on 30 August and 13 December 2018 respectively, it was observed that the waste had not been adequately covered or compacted. |
| 5.3.12 | The license holder may only accept waste on the active working area of the site between 07h00 and 16h00 during weekdays and between 07h00 and 15h00 on Saturdays | The WML permits the acceptance of waste from Monday to Saturday from 07h00 until 16h00 and until |

SW

SB

| | | |
|--------|--|---|
| 5.3.14 | The license holder must ensure that the site is fully fenced with an installed lockable gate, legible notice board written in at least two (2) appropriate languages and must include operation hours; contact and emergency details; types of wastes allowed, and tariffs. Appropriate warning signs must be displayed at the entrance on the notice board. | 15h00 on a Saturday however the site accepts waste on a Sunday as well. It was noted that there were holes in the fences which facilitated unauthorised access. |
| 5.3.15 | Notices prohibiting unauthorized persons from entering the site, as well as an internationally accepted sign indicating the risks involved in unauthorized entry must be displayed at 100 meter intervals along the boundary of the site. | The notices were not observed at the time of the inspection undertaken on 30 August 2018. |
| 5.3.17 | The licence holder must take all reasonable steps to ensure that the site is operated in such a manner that nuisance conditions or health hazards or the creation of nuisance conditions or health hazards including vermin and odour are prevented. | The work face has not been compacted regularly and the exposure of the wastes to the recyclers and employees remained a health hazard |
| 5.3.18 | No smoking, burning of waste or naked flames are allowed on the site. | Ash was observed on site indicating that burning had taken place which is strictly prohibited. |
| 5.3.19 | Litter scattered by wind must be collected on a daily basis and the licence holder must use movable fences to control wind-blown waste where practicable. | Waste was observed scattered throughout the site and along the fence line of the property. |
| 5.3.21 | Indigenous trees must be established on the screening berm around the site to effectively screen the site from nearby roads and residential areas. | Screening is limited and comprises alien wildlife species. |

Handwritten initials

Handwritten initials: SA

5.3.22

During the operative life of the site, the licence holder must take all reasonable steps, such as suitable zoning, written agreements with adjacent landowners, buying out land and/or obtaining a servitude to prevent the development of further residential and/or light industrial areas closer to the Site than -165 metres to the north-west, 180 metres to the North, and 600 metres to the east, south and west.

To date the Department has not been informed as to whether the holder has notified relevant parties in the Municipality (i.e. Planning) or adjacent land owners of the limitations on development within the buffer area. The Municipality itself has permitted developments within the buffers.

5.3.26

Runoff water must comply with quality requirements of the General and Special Standard prescribed by the Department of Water and Sanitation, as amended from time to time.

The Department could find no evidence that storm water has been tested before being channelled into the Blackborough River. To date, the Department has not been notified if there has been monitoring of runoff water. Leachate stormwater from the stream.

5.3.33

All leachate emanating from the site including contaminated runoff water shall be treated to comply with the aforementioned standard and discharged in a legal manner; be evaporated in a lined dump and/or be discharged into a sewer if accepted by the authority in control of that sewer.

The Water Quality, Leachate and Gas Monitoring Report produced by Enviroch Solutions dated April 2017 did not monitor for the variables listed in Annexure VI of the WAIL, or for the variables listed in the Annexure of the previous Waste Permit.

5.3.37

Monitoring of the ground and surface water quality network must be conducted at the locations specified in the Water Quality Monitoring Plan and must monitor the variables listed in Annexure VI at the frequencies reflected therein.

SA

5.3.38 If, in the opinion of this Department, the water quality variables referred to 5.3.37 and listed in Annexure VI shows an increasing trend, the licence holder shall initiate a monthly monitoring programme.

The Water Quality, Leachate and Gas Monitoring Report produced by Envitech Solutions dated April 2017 did not monitor for the variables listed in Annexure VI of the WML, or for the variables listed in the Annexure of the previous Waste Permit. There is no trend analysis to establish if more frequent monitoring was required.

5.3.42 The atmospheric levels in the atmosphere of
(a) carbon dioxide must not exceed 0.5%; and
(b) methane must not exceed 1%, by volume in air at the monitoring locations.

The Water Quality, Leachate and Gas Monitoring Report produced by Envitech Solutions dated April 2017 (Document No. 4) indicated that the atmospheric levels of carbon dioxide had exceeded 0.5% v/v at gas monitoring points GMP1, GMP2, GMP3, GMP4, GMP5, GMP6, GMP7, GMP8, GMP9, GMP10, GMP13, GMP14, GMP15, GMP20, GMP21 and boreholes P1S, P1D, P2S and P3S.

The Water Quality, Leachate and Gas Monitoring Report produced by Envitech Solutions dated April 2017 (Refer to Document No. 4) indicated that the

5.3.43

Should the atmospheric levels of flammable gas be between 0.1% and 1%, a higher frequency of monitoring must be instituted. Should levels above 1% be detected in buildings on the site, the buildings must be evacuated and the contingency plan implemented.

atmospheric levels of methane have exceeded 1.0% v/v in boreholes P1S, P1D and P2S.

The Water Quality, Leachate and Gas Monitoring Report produced by Envitech Solutions dated April 2017 (Refer to Document No. 4) indicated that the atmospheric levels of flammable gases have exceeded the specified levels and a higher frequency of monitoring has not been instituted.

5.3.44

Should measurements of the gas monitoring network at any time exceed the limits specified, the licence holder must report this as an incident.

The Water Quality, Leachate and Gas Monitoring Report produced by Envitech Solutions dated April 2017 (Refer to Document No. 4) indicated that the atmospheric levels of flammable gases have exceeded the specified levels which has been not reported as an incident.

5.3.46

The licence holder must within 60 (sixty days) from the date of issue of this licence, submit a proposal for a comprehensive air quality, gas and dust monitoring programme for approval by the licensing authority. Once approved the licence holder must implement this monitoring programme.

No monitoring programme has been submitted to the Department for approval.

JP

SP

| | | |
|--------|---|--|
| 5.3.48 | The licence holder must submit quarterly environmental audit reports, prepared by the licence holder, to this Department, unless otherwise agreed to in writing by this Department. | The Department has not received quarterly audit reports from Msunduzi Municipality |
| 5.3.50 | The licence holder must establish a landfill Monitoring Committee that will meet twice a year and not later than 30 days after the external audit report specified in condition 5.3.53 has been submitted. The monitoring committee must include interested and affected parties, this Department, the licence holder and Department of Water and Sanitation. | The Landfill Monitoring Committee has not been in existence for an extensive period of time although it is acknowledged that attempts to resuscitate the Monitoring Committee have been taken. |
| 5.3.51 | The licence holder must ensure that minutes of the Monitoring Committee meetings are kept and must ensure that these minutes are distributed to all members of the Monitoring Committee within 14 days after a meeting | This has not been complied with as the Monitoring Committee is not functional. |
| 5.3.52 | The licence holder must appoint an independent, suitably qualified external auditor to audit the site annually | The last external report received by the Department was in April 2017. The external audit report for 2018 was not done and therefore has not been submitted to the Department for review. |
| 5.3.53 | The external audit report referred to in 5.3.52 must include: An evaluation of the compliance with the conditions of this licence for the reporting period; Actions taken to rectify the non-compliances identified. | The last external report received by the Department was in April 2017. The external audit report for 2018 was not done and has subsequently not been submitted to the Department for review. |
| 5.3.54 | The external audit report referred to in 5.3.52 must | The last external report |

SR

be submitted to the Department within 90 (ninety) days of the audit being conducted.

received by the Department was in April 2017. The external audit report for 2019 was not done and has subsequently not been submitted to the Department for review.

5.3.55

The licence holder must, within 24 hours notify this Department of occurrence or detection of any incident on the site which has the potential to cause environmental impact or water pollution.

The fire that took place on 13 January 2019 was not reported within 24 hours of the occurrence of the fire.

5.3.56

The licence holder must, within 14 days or shorter time if specified by this Department, from the occurrence or detection of any incident referred to condition 5.3.55, submit to this Department an action plan which must include a detailed time schedule of measures taken for:

The incident report was submitted 22 days from the date of the occurrence of the fire.

5.3.56.1 correct the impact resulting from the incident;

5.3.56.2 prevent the incident from causing any further impacts; and 5.3.56.3 prevent the recurrence of a similar incident.

4. INSTRUCTIONS OF THE COMPLIANCE NOTICE

4.1 I, Kim Lea van Heerden, in my capacity as a Grade 1 Environmental Management Inspector, hereby issue you with a Compliance Notice in terms of Section 31L of NEMA, which requires you to do the following.

4.1.1 With immediate effect of issuing of the Compliance Notice, ensure that Waste disposed of is covered and compacted on a daily basis with a minimum of 150mm of soil or other material approved by the licensing authority.

4.1.2 Provide written reports to the Department on a weekly basis confirming that waste has been covered and compacted on a daily basis, or if this has not been possible provide

Department of Environmental Management
Atteridgeville, Tlokweng Road
Pretoria, 0001

Compliance Notice

Environmental Management
Water Pollution Control
Unit

Issue Date: 12 July 2019

*Distribution of a Radically Transformed, Inclusive and Sustainable Economic Growth for the South African

Handwritten signature and initials.

written reasons why this has not occurred. The weekly reporting requirement must continue until such time as varied or agreed to in writing by the Department.

- 4.1.3 Ensure that appropriate landfill plant, required to cover and compact the disposed waste, is functioning and serviced, and that within 14 (fourteen) days of receipt of the Compliance Notice measures are put in place in the event of failure of the landfill plant required for covering and compaction.
- 4.1.4 A contingency plan must be submitted to the Department within 14 (fourteen) days of receipt of the Compliance Notice that addresses the measures that will be in place to ensure that the covering and compacting plant is repaired and/or replaced within a maximum of 48 hours of a failure.
- 4.1.5 Within 14 (fourteen) days of receipt of the Compliance Notice provide written confirmation of the measures which have been taken to ensure proper on site supervision and access to the landfill site and, to prevent uncontrolled access and dumping outside of the workface.
- 4.1.6 Within 1 (one) month of receipt of the Compliance Notice identify and demarcate an appropriate designated area, in consultation with Department of Water and Sanitation and this Department, for the recycling/reclamation of waste to take place. This area must be suitable for collection and storage to take place and must be situated off the active area of the site and must not interfere with the daily operation of the site, nor may it compromise areas of environmental sensitivity.
- 4.1.7 Within 3 (three) months of receipt of the Compliance Notice appoint a suitably qualified specialist/engineer to assess the stormwater management system and provide recommendations to ensure that all leachate emanating from the site including contaminated runoff water shall be treated to comply with the water quality standards and discharged in a legal manner; or be evaporated in a lined dam and /or, be discharged into a sewer if accepted by the authority in control of that sewer.
- 4.1.8 Within 30 (thirty) days after appointment, to submit specialist reports and recommendations compiled by the specialist/engineer referred to in 4.1.7 above, to the Department as well as the Department of Water Affairs and Sanitation. Once approved, implement such recommendations within 2 (two) months.

4.1.9 Within 1 (one) month of receipt of the Compliance Notice provide an Action Plan to the Department for approval which must provide the actions required, the allocation of responsibilities, timeframes and budgets to address all the other non-compliances noted in the table contained on pages 4 (four) to 11 (eleven). Once such Action Plan is approved in writing by the Department, to diligently adhere to the approved Action Plan.

4.1.10 Within 6 (six) months of receipt of the Compliance Notice provide a written submission to the Department outlining the Municipality's plans towards identifying an alternate site noting the limitations of the current landfill site in the medium to long term.

5. PROCEDURAL ARRANGEMENTS

5.1 If you would like me to vary this compliance notice, including by extending the period to which it relates, you may make representation to me to do so.

5.2 If you wish to lodge an objection to this compliance notice, you may do so by making representations, in writing to the Member of the Executive Council for Economic Development, Tourism & Environmental Affairs (the MEC), within 30 days of receipt of this notice.

5.3 You may also make representations to the MEC to suspend the operation of the compliance notice pending finalisation of the objection. The contact details of the MEC are as follows:

The MEC: Hon. Mr. S. Zikalala

Department of Economic Development, Tourism & Environmental Affairs

| | |
|--|---|
| POSTAL: Private Bag X 9162 Pietermaritzburg 3200 | PHYSICAL ADDRESS (DURBAN): 181 Hoosen Haffjee Street (formerly Berg Street), Pietermaritzburg 3201 |
| TELEPHONE: 033 328 8000 | ATTENTION: Appeals Administrator: Mr. Haresh Inderlal |
| MOBILE: 081 731 7361 | EMAIL: haresh.inderlal@kznedtea.gov.za |

5.4 Irrespective of any representation you may make to me or to the MEC, you must comply with this compliance notice within the time period stated in the notice unless the MEC agrees to suspend the operation of the compliance notice.

HI
SR

6. FAILURE TO COMPLY

6.1 Should you fail to comply with this compliance notice:

- (a) you will have committed an additional offence in terms of section 49A(1)(k) of NEMA. Kindly take note that Environmental Management Inspectors (EMI) from this Department are given wide powers in terms of NEMA to investigate whether or not you have complied or are complying with this compliance notice, and to exercise certain powers in order to enforce any contravention thereof, including but not limited to the power to seize items used in the commission of an offence as well as the power of arrest; and
- (b) the Department will be entitled to take the required steps on your behalf and to claim from you any costs incurred in so doing.

7. CONCLUSION

7.1 If you are unclear about any aspects of this compliance notice, kindly contact the person indicated for enquiries in writing as soon as possible; or if no such person is indicated then the EMI who has signed this notice.

Signed on this 15 day of MAY 2019 at PIETERMARITZBURG



Signed by: Ms. Kim Lea van Heerden

Environmental Management Inspector (Grade 1)

Department of Economic Development, Tourism and Environmental Affairs





"JBS18"

The Msunduzi Municipality

Private Bag X 321
Pietermaritzburg
3200
(033) 392 2002

City Hall, Chief Albert Luthuli Street
Pietermaritzburg
3201
www.msunduzi.gov.za



Enq: S Sithole Tel. 033 3922002

E-mail: Sibusiso.Sihtole@msunduzi.gov.za

Date: 14 February 2020

Attention: Ms K van Heerden

EDTEA Department
Private Bag X07
Pietermaritzburg
3202

Dear Madam,

NOTICE OF INTENTION TO ISSUE A REVISED COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENT MANAGEMENT ACT, 1998 (Act No. 107 of 1998)

The Notice of Intention to issue a revised Compliance notice in terms of Section 31L of NEMA, dated 7 February 2020 and served on me and the Acting Municipal Manager refers. We hereby respond thereto as follows:

- 1) The municipality has appointed resources to assist with capacity to manage the landfill site, consistent with the requirements of the Operating Permit. These resources will be available within a week, and will be duly introduced to all Stakeholders including EDTEA.
- 2) The Terms of Reference of the Landfill site monitoring Committee will be sent to Council for Approval by end of February 2020.
- 3) We have developed a comprehensive response to the issues raised in paragraph 3 of the notice of intention to issue a revised compliance notice dated 7 February 2020, under heading "Details of Non-Compliance".
 - We deal with these ad seriatum, as per annexure A. In addition to what is provided herein, we also attach the Action Plan to turn around the Landfill Site operations marked annexure B. With regard to the latter document, we also extend invitation for inputs from EDTEA.
 - We note the allegations in paragraph 3.2 and believe that the Action Plan in Annexure A addresses the concerns.
 - We have also noted the time period contained in paragraph 4, and have reasonably responded to in Annexure A.

OFFICE OF THE CITY MANAGER

Telephone/fuCingo: 033 3922002
Facsimile/fiFekisi: 0866047309

Private Bag / Isikhwama: X321
Pietermaritzburg/Pietermaritzburg 3200

[Handwritten signature]

Annexure A

Date: February 2020

Completed by: August 2020

| Action required | Strategic link | Who will do this? | By when? | Where will it be reported? |
|--|--|----------------------|----------|--|
| The WML has not been advertised in the public domain | Advertise licence in the public domain to comply with the provisions of the Licence using the same Media platform that was used to put notice public participation process | Senior Manager Waste | 2 Weeks | To the Project Manager and the client. |
| The WML permits the acceptance on waste from Monday to Saturday from 07h00 until 16h00 and until 15h00 on a Saturday however, the site accepts waste on a Sunday as well | The landfill site needs to repair and restore access control and put new notice boards and signage to publish, Working hours, directions, speed limits, designated areas, new tariffs and different facilities within the sides. | Senior Manager Waste | 4 Weeks | To the Project Manager and the client. |
| The notices were not observed at the time of the numerous inspections undertaken at the site | Supply and install notices boards prohibiting an authorised person on site must be displayed at every 100 m intervals | Senior Manager Waste | 4 Weeks | To the Project Manager and the client. |

[Handwritten signature]

| Action required | Strategic link | Who will do this? | By when? | Where will it be reported? |
|--|--|----------------------|----------|--|
| The notices were not observed at the time of the numerous inspections undertaken at the site | Supply and install notices boards prohibiting an authorised person on site must be displayed at every 100 m intervals | Senior Manager Waste | 4 Weeks | To the Project Manager and the client. |
| Service roads have not been maintained in a condition which ensures unimpeded access to the site for vehicles transporting waste and has not kept the roads free of waste. | Restore Road access and remove all waste onto roads to allow free two-way Road access in all internal roads of the landfill site | Senior Manager Waste | 2 weeks | To the Project Manager and the client. |
| The working face has not been compacted regularly and the exposure of the waste to the recycles and the employees remained a health hazard. | Strict rules and regulations must be implemented and all staff and waste pickers must be trained on health and safety of Fire and punitive measures must be communicated in writing and accepted by all participants. Failure to adhere to "No smoking" will result in immediate removal from site by security and suspension. | Senior Manager Waste | 2 Weeks | To the Project Manager and the client. |

[Handwritten signature]

| | | | | |
|--|--|--|-----------------|---|
| <p>frequency of monitoring has not been instituted</p> | <p>plan and evacuation plan will be prepared and implemented</p> | | <p>4 Weeks</p> | <p>To the Project Manager and the client.</p> |
| <p>The water quality in the shade and in gas monitoring reports produced by Envitech solutions dated April 2017 (Refer to document No. 4) indicated that the atmospheric levels of flammable gases have exceeded the specified levels which have been not reported as an incident.</p> | <p>Gas monitoring network must be recorded daily and data analysis to be communicated and report any level that exceeds the sets limits as incident and institute evacuation plans</p> | <p>Independent Specialist</p> | <p>4 Weeks</p> | <p>To the Project Manager and the client.</p> |
| <p>No monitoring programme has been submitted to the Department for approval</p> | <p>Supply and install air quality, gas and dust monitoring equipment and record daily reading to monitor compliance with permit</p> | <p>Independent Specialist</p> | <p>4 Weeks</p> | <p>To the Project Manager and the client.</p> |
| <p>The Landfill Monitoring Committee has not been in existence for an extensive period of time although it is acknowledged that attempts resuscitate the monitoring committee has been taken.</p> | <p>Revive LSMC</p> | <p>General Manager: Community Services</p> | <p>2 Weeks</p> | <p>To the Project Manager and the client.</p> |
| <p>The Department has not received a quarterly audit report from the Msunduzi Municipality.</p> | <p>Audit the landfill site quarterly by an Independent Auditor and submit report DGDTEA</p> | <p>Independent Auditor</p> | <p>3 Months</p> | <p>To the Project Manager and the client.</p> |
| <p>The last external report received by the Department was in April 2017. The external audit report for</p> | <p>Appoint Independent external auditor to assess compliance progress and</p> | <p>Independent Auditor</p> | <p>3 Months</p> | <p>To the Project Manager and the client.</p> |

[Handwritten signatures]

Annexure B

| Project | Description | Budget | Source | Ward | Nature of bottleneck | Proposed Action | Intervention | Start | Finish |
|---------------|--|--|--|------|---|---|---|----------|------------------|
| Landfill site | Sites specially designed, prepared and constructed to minimize environmental and health impacts, that are licensed and operated under a permit issued by the Council. | R20 000.00 (advertise for community participation) | MIG, Private Sector and inter-nal budget, EDTA | 35 | Lack of on-site management, non-functioning equipment | Hours of availability to accommodate public need service need (internal and external service providers) Hazardous waste site is operated by Msunduzi council and must offer a service that will not cause illegal dumping | Secure MIG, Internal and Private Sector funds And EDTA as per This programme of action implement on-site management systems and resources | 17/02/20 | 31/03/20 ongoing |
| | Step 1: Immediate requirement to establish the Landfill Site Monitoring Committee (LFSMC); and expand this to address recycling and landfill diversion opportunities for the city. | | | | Long process in consulting with the relevant community and stakeholders | Development of draft terms of references Advertise the formation of committee Submission of the reports and terms of references to the relevant committees For approval | Immediate Council approval of Terms of Reference for Committee as per permit requirements | 21/02/20 | 31/03/20 |
| | Step 2: Secure the appointment of a qualified Landfill | R535800.00 | Inter-nal | | Existing suspension of vacant | The Municipality will seek support from ETHekevint Municipality | Resolve disciplinary issues | 17/02/20 | 31/03/20 |

| Project | Description | Budget | Source | Ward | Nature of bottleneck | Proposed Action | Intervention | Start | Finish |
|---------|---|---|----------------------------|------|----------------------|--|--|--------------|----------|
| | Step4 Reviewing tariffs to reflect cost benefit | | | | | The municipality will engage SCM to enter the maintenance agreement of the weighbridge with the services | | 31/0 203 | 30/05/30 |
| | Step 5 Implement critical daily waste management on the landfill as per the permit conditions. | Capex R51,1M Capex Fuel R900,000.00 | EDTE A, Inter nal | 35 | Insufficient funding | Removal of waste from access road to active cell level, Compact and cover using the cover material soil Level and compacting waste in the previous work cells and cover with cover material soil | The following equipment is required urgently to respond to this challenges 3 Land fill compactors R24m 3 trucks to remove the waste R 9.6M 2 Pay loaders R6M | 17/0 2/20 | ongoing |

SK

| Project | Description | Budget | Source | Ward | Nature of bottleneck | Proposed Action | Intervention | Start | Finish |
|---------|---|---|------------------------|------|---|--|--|---------|----------|
| | Step 7: Start air emission monitoring and leachate management | R2m | Inter national | 35 | We have pure leachate pouring into the Duzi river killing life and poisoning downstream inhabitants | comply until we have a covered area and the site is being run properly. Once we have 6 months of good weighbridge data then we can assess the alternative options for Waste Beneficiation and the LFSMIC will assist the city in establishing different solutions providers to make offers to the city. This needs to be done on a small-scale Enterprise Development model that empowers local community members | Comply with the legislated permit requirement | 05/2020 | ongoing |
| | Step 8 Consider proposal for waste incineration and alternative energy production | To be funded via private, public, private partnership | Private, international | 35 | Delay in considering proposal from service provider | Invite the proposal from service providers | Evaluation of proposals that make business sense and compliance with relevant legislations | 01/30 | 30/06/20 |

| Project | Description | Budget | Source | Ward | Nature of bottleneck | Proposed Action | Intervention | Start | Finish |
|---------|--|-------------|-----------|------|----------------------|--|--|------------|---|
| | Servicing and maintaining condition which ensures unimpeded access to the site for vehicles transporting waste | | | | | Compact, shape and cover Daily maintenance of the site | general workers secondment of three truck drivers with the competency certificate Appointment of secondment of 14 operators to temporarily catch up. | | |
| | Step 11 External land field audit | R140 000.00 | MIG fundi | 35 | none | Lechate Management Finding of the causes of the sinkholes and implement recommendations Provide sufficient waste management equipment's Establishment of wet weather cell | Consolidating of waste dumped off the active cell. | 01/11/2019 | The audit is complete we are implementing the recommendatic |

| Project | Description | Budget | Source | Ward | Nature of bottleneck | Proposed Action | Intervention | Start | Finish |
|---------|---|--|----------------|------|---|---|--|----------|----------|
| | Step 13 Lack of funds to repair and acquire new equipment The Municipality seeks the commitment of the private sector to collaborate with the Municipality in terms of sourcing of funds for acquiring and repairing equipment. | To be confirmed later once the private sector commit | Private Sector | 35 | No existing MOU between the Municipality and the Private Sector | This issue will be placed on the agenda at the first meeting of the landfill site monitoring committee. The business unit will have engaged in identifying savings with a view to reallocating funds to undertake immediate repairs The business unit will make provision in the 20/21 budget for repairing and acquiring equipment in anticipation of funds being approved in the 20/21 budget, the Fleet management unit has been tasked to draw up specifications to expeditiously acquire new equipment through the Supply Chain process in the new financial year. A report is being prepared seeking council resolution to raise a loan from the | Support to partner with the Private Sector on the waste management programme | 01/04/20 | 30/05/20 |

| Project | Description | Budget | Source | Ward | Nature of bottleneck | Proposed Action | Intervention | Start | Finish |
|---------|---|---|--------|------|-------------------------|--|--|----------|----------|
| | The current perimeter fencing is inadequate, and there are no funds to repair the existing fence. | None | N/A | 35 | Lack supervisory skills | Apart from the imminent appointment of the acting Landfill Site manager, the existing supervisors underwent training on supervision on 3 February 2020. And the Senior Manager will develop and submit a weekly itenary for the landfill site and provide a performance report monthly | Training of supervisors | 01/03/20 | On going |
| | Step 19 Management of staff at the Landfill Site There is a poor performance and fighting at the Landfill Site | | | | | | | | |
| | Step 20 Supply and install notices boards prohibiting an authorized person on site | Engage infrastructure department for the Budget | inter | 35 | Insufficient funds | Supply and install notices boards prohibiting an authorized person on site must be displayed at every 100 m intervals | Support from infrastructure department | 01/04/20 | On going |
| | Step 21 Healthy and safety compliance for employees | HR budget | inter | 35 | none | Immunization of employees Provision of protective clothing | Corporate services support | 01/03/20 | On going |

| Project | Description | Budget | Source | Ward | Nature of bottleneck | Proposed Action | Intervention | Start | Finish |
|---------|---|-------------|--------|------|---|---|--|----------|---------|
| | requesting information or reporting unusual activities. | | | | system where this hotline will be intergraded at. | | regulate appropriate waste management practices, including illegal dumping aimed at meeting the objectives of the policy and in the interest of human and environmental health | | |
| | Step 24 Education and Awareness Campaigns To provide educational campaign for waste illegal dumping. | R 200,00.00 | Inter | 35 | Lack of funds | Education and awareness programmes (introduce mascot) Landscaping of islands Tree boxes beautification Clean up campaigns – "litter free Thursday" – "friends of the city" Introduce City Litter Mascot | Support to acquire the funding for this project | 01/04/20 | Ongoing |

SB

"JBS19" 437



edtea

Department
Economic Development, Tourism and
Environmental Affairs

PROVINCE OF KWAZULU-NATAL

Enquiries: Ms. K. van Heerden
Reference: DC22/WML/0061/2016
Physical Address: 8 Warwick Road, Cascades
Tel: (033) 347 1820, Fax: (033) 347 1826
Postal Address: Private Bag X07,
Pietermaritzburg, 3202
www.kznded.gov.za

Date: 18 February 2020

REVISED COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (Act No. 107 OF 1998)

MSUNDUZI MUNICIPALITY

Postal Address:

Private Bag X321

PIETERMARITZBURG, 3200

AND

BY HAND AND EMAIL

MR. SIBUSISO SITHOLE

Email: Sibusiso.Sithole@msunduzi.gov.za

Administrator, Msunduzi Municipality

AND

MRS. NELISIWE NGCOBO

Email: Nelisiwe.Ngcobo@msunduzi.gov.za

Acting Municipal Manager, Msunduzi Municipality

Dear Sir/Madam

REVISED COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AS AMENDED: NON-COMPLIANCE WITH THE VARIATION WASTE MANAGEMENT LICENCE (WML) ISSUED IN TERMS SECTION 49 (1) AND 54 (1) OF THE NATIONAL ENVIRONMENTAL WASTE MANAGEMENT ACT (NEM:WA) 59 OF 2008 (REF NO. DC22/WML/0061/2016) FOR THE NEW ENGLAND LANDFILL SITE, PIETERMARITZBURG, MSUNDUZI LOCAL MUNICIPALITY

1. DECISION

I, Kim Lea van Heerden in my capacity as a Grade 1 Environmental Management Inspector, having considered the matter, am of the view that **MSUNDUZI MUNICIPALITY**; **Mr. SIBUSISO SITHOLE**, the duly appointed Administrator for Msunduzi Municipality; and, **Mrs. NELISIWE NGCOBO** the Acting Municipal Manager for Msunduzi Municipality, who, respectively were/are responsible for specific functions in respect of Waste Management, have failed to adhere to the provisions of the law in respect of waste

| | | | | |
|---|-------------------|--|-------------------------|--------------|
| Department of Economic Development, Tourism and Environmental Affairs | Compliance Notice | DC22/WML/0061/2016 New England Road, Landfill Site | Initials: <i>KLH</i> | Page 1 of 22 |
|---|-------------------|--|-------------------------|--------------|

KLH
SR

management activities conducted at the New England Landfill site on Lot 1853 of the Farm Darvill 15036 within Msunduzi Municipality, UMgungundlovu District Municipality.

Accordingly, I hereby issue **MSUNDUZI MUNICIPALITY**; **Mr. SIBUSISO SITHOLE**, the duly appointed Administrator for Msunduzi Municipality; and, **Mrs. NELISIWE NGCOBO** the Acting Municipal Manager for Msunduzi Municipality, the with a Revised Compliance Notice in terms of section 31L of the National Environmental Management Act, 1998 (Act No.107 of 1998), hereinafter referred to as "NEMA" read with Regulation 8 of the Regulations Relating To Qualification Criteria, Training and Identification of, and Forms to be used by Environmental Management Inspectors (Government Notice Regulations, (GNR) 480 dated 31 May 2017).

2. INTRODUCTION

- 2.1 Following a comprehensive audit undertaken by the Department on 10 March 2015 it had become evident to the Department that the management and operation of the New England Road landfill site was not meeting several of the requirements of the Waste Permit dated 22 April 1998 issued in terms of the Environmental Conservation Act in 1998, Reference No. 16/2/7/U203/D3/Z1
- 2.2 Accordingly, the Department issued the Msunduzi Municipality and municipal officials a warning letter, dated 2 June 2015, documenting the areas of non-compliance and requesting urgent actions be undertaken to address these non-compliance issues
- 2.3 Following the issuing of the warning letter, the Municipality took steps to address some of the non-compliances. As part of these steps, Msunduzi Municipality made an application to replace and vary the Waste Permit with a Waste Management Licence (WML) in terms of the National Environmental Management Waste Act 59 of 2008. This Varied WML was issued by the Department on the 3rd July 2017 and substituted the former Waste Permit with a WML
- 2.4 This Variation Waste Management License issued on the 3rd July 2017 to the Msunduzi Municipality for New England Landfill Site on Lot 1853 of the Farm Darvill No. 15036, New England Road, Pietermaritzburg was issued in terms of section 49(1) and 54(1) of NEM:WA 59 of 2008 (Ref No. DC22/WML/0061/2016) (hereafter referred to as the "WML") and provides the requirements and conditions under which the landfill site must be managed and operated.

| | | | | |
|---|---------------------------|--|------------------------|--------------|
| Department of Economic Development, Tourism and Environmental Affairs | Revised Compliance Notice | DC22/WML/0061/2016 New England Road, Landfill Site | Initials: <i>NS</i> | Page 2 of 22 |
|---|---------------------------|--|------------------------|--------------|

NS

SB

- 2.5 On 25 October 2017, a comprehensive joint compliance audit by the Compliance Monitoring and Enforcement Units and Pollution and Waste Management Units of the Department, together with officials from the Msunduzi Municipality, was undertaken at the New England Landfill Site (hereafter referred to as the "Site") in order to monitor compliance with applicable environmental legislation and with the requirements and the conditions of the WML issued in terms of such legislation.
- 2.6 The audit revealed that the Msunduzi Municipality had failed to comply with a substantial number of conditions contained within the WML issued for the operation and management of the New England Landfill Site. A copy of the audit report and its findings was hand delivered to the Msunduzi Municipality on the 13th February 2018. On the 9th March 2018 the then Acting Manager: Solid Waste Management, Mr. R. Jogiat, who had been seconded from the UMgungundlovu District Municipality to assist with solid waste management within Msunduzi met with the Department on to discuss matters of solid waste management within the Municipality and to advise the Department that he had been seconded to assist in addressing matters at the landfill site and in respect of waste collection more broadly. It has subsequently been established that Mr. Jogiat was only seconded for a period of three months.
- 2.7 On 28 July 2018 a fire at the landfill site occurred which resulted in the air quality of the surrounding areas being severely compromised, resulting in the closure of schools. It was established that the landfill site plant had been non-functional and there was insufficient resources to attend to the blaze effectively.
- 2.8 A preliminary meeting was then convened on 14 August 2018 with the then Acting Senior Manager (Waste Division), Mr. Cyril Naidoo to discuss the day to day management and operations of the landfill site. The Department informed Mr. Naidoo that there were many conditions of the WML which were not being complied with and that a formal site inspection would be conducted to verify adherence to the conditions of the WML.
- 2.9 On 30 August 2018, Departmental officials had a meeting with Municipal officials, Mr. M. Hope (Recycling Manger) and Mr. I. Mhlongo (Landfill Site Manager) and thereafter conducted a site inspection at the New England Landfill Site. At the site inspection it was observed that recycling activities continued to be undertaken in an uncontrolled manner and within unauthorized areas; leachate from the workface had entered the receiving environment; there were holes in the fence which facilitated unauthorized access, the workface was not adequately compacted and therefore remained as a fire hazard; there was limited control of access on the workface; and, there was mixing of domestic and garden waste. Apart from these observations, other non-compliances relating to the conditions of the WML that were identified at the site

| | | | | |
|---|------------------------------|---|---------------|--------------|
| Department of Economic Development, Tourism and Environmental Affairs | Revised Compliance Notice | DC22/WML/0061/2018 New England Road Landfill Site | Initials M | Page 3 of 22 |
|---|------------------------------|---|---------------|--------------|

SA
SB

visit were brought to the attention of the relevant officials and an opportunity was provided for these to be rectified.

- 2.10 A follow up inspection was conducted on the 13 of December 2018 to verify if there had been attempts made to comply with the conditions of the WML, however the Department observed that the state of the site had deteriorated further, which was of significant concern as it was apparent that actions were not being taken to address the non-compliance issues of the site. On the 13th of January 2019, a further fire occurred.
- 2.11 On the 04 of February 2019, the Municipality submitted a Incident Report (dated dated 13 January 2019) in terms of Section 30 of the National Environmental Management Act, 1998, to the Department which identified poor compaction as one of the contributory factors that caused the fire. Departmental officials undertook two further site inspections following this particular incident and observed that the lack of site supervision; poor compaction and cover; uncontrolled access; and, other non-compliances with the WML may have been contributory factors to the fire.
- 2.12 The Department subsequently issued a Pre-Compliance Notice to **Msunduzi Municipality** and, **Ms. Nelisiwe Ngcobo** (Acting Municipal Manger-Msunduzi Municipality), **Ms. Boniwe Zulu** (General Manager, Community Services); **Mr. Cyril Naidoo** (Landfill Site Manager- New England Landfill Site); and **Mr. Innocent Mhlongo** (Landfill Site Foreman-New England Landfill Site) on 22 February 2019 given the history of the matter and the repeated non-compliances.
- 2.13 The Department **only received representations from Mr. Cyril Naidoo** (Landfill Site Manager; New England Landfill Site) on 12 March 2019. Ms. Nelisiwe Ngcobo (Acting Municipal Manger-Msunduzi Municipality); Ms. Boniwe Zulu (General Manager, Community Services); and Mr. Innocent Mhlongo (Landfill Site Foreman- New England Landfill Site) failed to provide representations to the Department in respect of the Pre-Compliance Notice issued on 22 February 2019 regarding their areas of responsibility in respect of the management and operation of the landfill site.
- 2.14 The representations received from Mr. Cyril Naidoo on 12 March 2019 did not address the intended instructions provided within the Pre-Compliance Notice and the Department requested that a formal response be sent to the Department detailing the Municipality's plan of action to address the non-compliances. Mr. Cyril Naidoo then provided an amended representation to the Department on 18 March 2019.

| | | | | |
|---|------------------------------|--|------------------|--------------|
| Department of Economic Development, Tourism and Environmental Affairs | Revised Compliance Notice | DC22ANMLU0001/2016 New England Road, Landfill Site | initials P.M. | Page 4 of 22 |
|---|------------------------------|--|------------------|--------------|

[Handwritten signature]
SR

- 2.15 In a newspaper report published in the Witness, on the 27th March 2019, it was alleged that New England Road Landfill Site had come to a halt and that rubbish was being dumped on the side of the municipal road. A significant amount of waste was deposited outside of the landfill site blocking roads and causing significant environmental pollution due to machinery being broken and non-payment of invoices for outsourced services. Mr. Cyril Naidoo informed the Department on 28 March 2019 that machinery had been broken and that this had resulted in waste being disposed of outside of the landfill site. He further informed the Department that the machinery would be repaired and that machinery was hired as an interim measure.
- 2.16 In April 2019 the Municipality was placed under Administration and, accordingly an Administrator, Mr. S. Sithole was appointed as a Ministerial Appointee to oversee the running of the Msunduzi Municipality including inter alia to perform services to ensure that the Municipality implements measures to urgently improve its operations and maintenance programmes related to waste management.
- 2.17 A Compliance Notice in terms of section 31L of NEMA was then issued to the municipality and individual officials of the municipality responsible for waste management on the 15 May 2019. The Department, in accordance with co-operative governance prescripts, met the with newly appointed Administrator and municipal officials on 20 June 2019 where the content of the Compliance Notice was outlined and the Administrator and officials were informed that the Compliance Notice is in force and effect; that non-compliance with a Compliance Notice is a criminal offence; and, that each person may be held criminally liable in their individual capacity. Mr. Sibusiso Sithole stated that capacity and financial constraints were a challenge however committed to supply the representations to the Department by 28 June 2019. No representation on the Compliance Notice was received by this date.
- 2.18 A landfill site inspection was conducted by the Department on the 24 July 2019 with Mr. Sipho Dubazana who had been appointed as the Acting Manager for Waste Management at Msunduzi Municipality. Mr. Sipho Dubazana raised the issues around security challenges and financial constraints which affected overall operations at the site. The key non-compliances and environmental concerns identified at the landfill site remained unchanged and had worsened. It was observed that waste pickers had uncontrolled access to the landfill site and had built shelters on the site; waste was disposed of outside of the approved landfill area; there was no clearly defined working face; there was insufficient machinery to compact and cover the waste; and, there was a lack of cover material to cover the waste on a daily basis as is required.

| | | | | |
|---|------------------------------|--|--------------------------------|--------------|
| Department of Economic Development, Tourism and Environmental Affairs | Revised Compliance Notice | DC22/WML/0061/2016 New England Road, Landfill Site | Initials <i>[Signature]</i> | Page 5 of 22 |
|---|------------------------------|--|--------------------------------|--------------|

- 2.19 Mr. Siphso Dubazana submitted a draft action plan to the Department on the 26 July 2019 as to how Msunduzi Municipality plans to address the issues of non-compliances outlined in the Compliance Notice. He confirmed that reports were being prepared for Council's urgent attention.
- 2.20 On the weekend of 24-25 August 2019 another fire started at the landfill site with investigations indicating that this was caused by the lack of site supervision and security; poor compaction and cover; uncontrolled access of significant numbers of waste pickers, and other non-compliances with the WML.
- 2.21 Given the repeated non-compliances; the failure to comply with the requirements of the Compliance Notice and the poor response by the Municipality to effectively address the issue; and, to safeguard and protect the environmental rights of the citizens of Msunduzi a complaint was lodged with SAPS on 27 September 2019 and a criminal case has been opened. The case is currently under investigation by Departmental Environmental Management inspectors.
- 2.22 Over the weekend of the 05-06 October 2019, the New England Road landfill site was once again on fire. The smoke and particulate matter has compromised the air quality of the municipal area and schools in the area were forced to close.
- 2.23 An urgent meeting was convened on 07 October 2019 to ascertain the cause of the fire and to obtain the plan of action proposed by the Municipality to address the matter. The appointed Administrator of Msunduzi Municipality; the Acting Municipal Manager; Heads of Community Services and the fire Department were in attendance together with the Acting DDG of COGTA and Senior Departmental officials.
- 2.24 Mr. Sithole indicated that there are many challenges around the operation of the landsite which included inter alia: absence of an appointed Landfill site manager; lack of financial and technical resources; lack of suitable plant and equipment; and security risks associated with the waste pickers.
- 2.25 The Department, together with Department of Cooperative Governance and Traditional Affairs reiterated the magnitude and seriousness of the resultant impacts of the landfill site fire, and requested for immediate intervention and a comprehensive Action Plan to address the management of the site in order to avoid a repeated incidents of this nature.

2.26 On the weekend of the 1st and 2nd February 2020 a further large fire occurred at the Landfill site. The smoke and particulate matter compromised the air quality of the municipal area. Site inspections were undertaken by Environmental Management Inspectorate officials of the Department and the National Department of Environmental Affairs and Forestry on the 3rd and 4th of February 2020. It was observed that the management of the landfill site had substantially deteriorated and it was evident that:

- significant volumes of waste had been disposed of along access roads and open areas outside of the approved and lined waste disposal area;
- uncontrolled access was evident and gates were unmanned and remained open;
- no management by the municipality was taking place at the landfill site and waste disposal was being directed by the waste pickers;
- contaminated storm water with direct access to adjoining streams and rivers was observed;
- No cover material was available on site and no compaction or cover of waste being disposed was taking place;
- access roads to the approved landfill area were degraded and prevented access to the disposal area, and/or were covered with waste;
- uncontrolled human access to the waste site and areas of the site that were burning, were exposing people to significantly harmful situations that could pose risk to life; and,
- the situation was posing a direct threat to human and environmental rights

2.27 On the 7th February 2020 the Department issued **Msunduzi Municipality**, **Mr. Sibusiso Sithole**, the duly appointed Administrator for Msunduzi Municipality; and, **Mrs. Nelisiwe Ngcobo** the Acting Municipal Manager for Msunduzi Municipality, with a notice of intention to issue a Revised Compliance Notice in terms of section 31L of the National Environmental Management Act, 1998 (Act No.107 of 1998). On the 12th February 2020 motivation to vary the period within which representation may be made was submitted and the Department granted extension to the period within which to make representations, until 16h00 on Friday 14th February 2020.

2.28 On the 12th and 14th February 2020 representation was submitted by Msunduzi Municipality, although it remains unclear if this representation is on behalf of all or only one of the relevant parties

2.29 The representation submitted on the 12 February 2020 and the 14th February 2020 relates to the development of a plan to address the identified non-compliance issues associated with the Landfill site and does not provide any compelling reasons for me not to issue the Revised Compliance Notice. The action plan/s submitted on the 14th of February 2020 made input on the intended actions and timeframes

| | | | | |
|---|------------------------------|--|--------------------------------|--------------|
| Department of Economic Development, Tourism and Environmental Affairs | Revised Compliance Notice | DC22/WML/0061/2016 New England Road, Landfill Site | Initials <i>[Signature]</i> | Page 7 of 22 |
|---|------------------------------|--|--------------------------------|--------------|

[Signature]
SR

contained within the Notice of intention to issue a Revisited Compliance Notice and these inputs have been used where appropriate, to adjust the actions and associated timeframes within the Revised Compliance Notice

2.30 The draft plan/s submitted as part of the representation received on the 14th February 2020 can be used as the basis to respond to the required Action Plan as outlined in the Instructions of this Compliance Notice found at paragraph 4.1.16. The Department will review the draft submitted and provide input in order to assist in the finalisation of this action plan.

2.31 The need for a Revised Compliance Notice has come about due to the continued and significant deterioration of the management of the landfill site. This has resulted in the need to supplement the requirements previously issued in the Compliance Notice issued on 15 May 2019 to ensure immediate emergency measures are implemented to bring the landfill site under control, and to urgently reduce the human health and environmental risks that the site currently poses.

2.32 Given the apparent lack of urgency in addressing the poor management and operations at the landfill site; the lack of compliance with the WML and previous notices issued; and, balanced with the need to ensure a safe and healthy environment as prescribed by S24 of NEMA, the Department is of the opinion that the issuing of a Revised Compliance Notice is justifiable and appropriate.

3. DETAILS OF NON-COMPLIANCE

3.1 The details of the specific failures to comply with the provisions of the Waste Management Licence are given below in tabular form

| Act/ Regulation Name | Section / Regulation Number | Legal Provision (i.e. wording of the section/condition) | Finding |
|--|-----------------------------|---|---|
| Waste Management Licence DC22/WML/0061/ 2017 | 5.1.5 | The licence holder must notify every registered interested and affected party (including State departments identified during the application) in writing and within 14 (fourteen) days of the date that this licence was issued. | The WML has not been advertised in the public domain. |
| | 5.1.6 | The notification referred to in 5.1.5 must - <ul style="list-style-type: none"> • indicate the decision of the Department; • specify the date on which the licence was issued; | The WML has not been advertised in the public domain. |

[Handwritten signature]
[Handwritten initials]

| | | | |
|--|--------|--|---|
| | | <ul style="list-style-type: none"> advise the interested and affected party that a copy of the licence, including reasons for the decision, will be provided on request; inform the public where the decision can be accessed, and advise the interested and affected party that the prescribed appeal forms can be obtained from the Department, the licence holder, or the Environmental Assessment Practitioner. | |
| | 5.1.7 | The licence holder must publish a notice, within 14 (fourteen) days of the date that this licence was issued, in the newspaper/s which were used for the placing of notices as part of the public participation process. | The WML has not been advertised in the public domain. |
| | 5.3.7 | Waste disposed of at the site may be reclaimed. The sorting may take place at a designated area allocated by Landfill Site Management and must not interfere with the daily operation of the site. In this regard the licence holder must take measures to ensure that an appropriate area for reclamation is identified and implemented within one (1) year of the date of this licence. | Informal recycling has continued to take place on the workface and not in a formalized designated area. Recycling is taking place in an uncontrolled manner and is interfering with the day to day operations of the site |
| | 5.3.9 | Waste disposed of must be compacted and covered at the end of each working day with a minimum of 150mm of soil or other material approved by the licensing authority. | During the numerous and repeated site inspections conducted it was observed that the waste had not been adequately covered or compacted. |
| | 5.3.12 | The license holder may only accept waste on the active working area of the site between 07h00 and 16h00 during weekdays and between 07h00 and 15h00 on Saturdays | The WML permits the acceptance of waste from Monday to Saturday from 07h00 |

SP

| | | | |
|--|--------|--|---|
| | | | until 16h00 and until 15h00 on a Saturday however the site accepts waste on a Sunday as well. |
| | 5.3.14 | The licence holder must ensure that the site is fully fenced with an installed lockable gate, legible notice board written in at least two (2) appropriate languages and must include operation hours; contact and emergency details; types of wastes allowed, and tariffs. Appropriate warning signs must be displayed at the entrance on the notice board. | It was noted that there were holes in the fences which facilitated unauthorised access. |
| | 5.3.15 | Notices prohibiting unauthorized persons from entering the site, as well as an internationally accepted sign indicating the risks involved in unauthorized entry must be displayed at 100 meter intervals along the boundary of the site. | The notices were not observed at the time of the numerous inspections undertaken at the site. |
| | 5.3.17 | The licence holder must take all reasonable steps to ensure that the site is operated in such a manner that nuisance conditions or health hazards or the creation of nuisance conditions or health hazards including vermin and odour are prevented. | The work face has not been compacted regularly and the exposure of the waste to the recyclers and employees remained a health hazard. |
| | 5.3.18 | No smoking, burning of waste or naked flames are allowed on the site. | Ash was observed on site indicating that burning had taken place which is strictly prohibited. |
| | 5.3.19 | Litter scattered by wind must be collected on a daily basis and the licence holder must use movable fences to control wind-blown waste where practicable. | Waste was observed disposed of and scattered throughout the site and along the fence line of the property. |

T
SB

| | | | |
|--|--------|---|--|
| | 5.3.21 | Indigenous trees must be established on the screening berm around the site to effectively screen the site from nearby roads and residential areas. | Screening is limited and comprises alien wattle species. |
| | 5.3.22 | During the operative life of the site, the licence holder must take all reasonable steps, such as suitable zoning, written agreements with adjacent landowners, buying out land and/or obtaining a servitude to prevent the development of further residential and/or light industrial areas closer to the Site than – 165 metres to the north-west, 180 metres to the North, and 800 metres to the east, south and west. | To date the Department has not been informed as to whether the holder has notified relevant parties in the Municipality (i.e. Planning) or adjacent land owners of the limitations on development within the buffer area. The Municipality itself has permitted developments within the buffers. |
| | 5.3.26 | Runoff water must comply with quality requirements of the General and Special Standard prescribed by the Department of Water and Sanitation, as amended from time to time. | The Department could find no evidence that storm water has been tested before being channelled into the Black borough River. To date, the Department has not been notified if there has been monitoring of runoff water. |
| | 5.3.33 | All leachate emanating from the site including contaminated runoff water shall be treated to comply with the aforementioned standard and discharged in a legal manner, be evaporated in a lined dam and/or, be discharged into a sewer if accepted by the authority in control of that sewer. | Leachate/ stormwater dam has a spillway linked direct to the stream. Contaminated stormwater has direct access to water resources posing significant threat to |

[Handwritten signature]
S.B.

| | | | |
|---|--------|--|--|
| | | | human health and the environment. |
| | 5.3.37 | Monitoring of the ground and surface water quality network must be conducted at the locations identified in the Water Quality Monitoring Plan and must monitor the variables listed in Annexure VI at the frequencies reflected therein. | The Water Quality, Leachate and Gas Monitoring Report produced by Envitech Solutions dated April 2017 did not monitor for the variables listed in Annexure VI of the WML, or for the variables listed in the Annexure of the previous Waste Permit |
| x | 5.3.38 | If, in the opinion of this Department, the water quality variables referred to 5.3.37 and listed in Annexure VI shows an increasing trend the licence holder shall initiate a monthly monitoring programme. | The Water Quality, Leachate and Gas Monitoring Report produced by Envitech Solutions dated April 2017 did not monitor for the variables listed in Annexure VI of the WML, or for the variables listed in the Annexure of the previous Waste Permit. There is no trend analysis to establish if more frequent monitoring was required |
| | 5.3.42 | The atmospheric levels in the atmosphere of (a) carbon dioxide must not exceed 0.5%, and (b) methane must not exceed 1%, by volume in air at the monitoring locations. | The Water Quality, Leachate and Gas Monitoring Report produced by Envitech Solutions dated April 2017 (Document No. 4) |

70
8B

| | | | |
|--|--------|---|---|
| | | | <p>indicated that the atmospheric levels of carbon dioxide had exceeded 0.5% v/v at gas monitoring points GMP1, GMP2, GMP3, GMP4, GMP5, GMP6, GMP7, GMP8, GMP9, GMP10, GMP13, GMP14, GMP15, GMP20, GMP21 and boreholes P1S, P1D, P2S and P3S.</p> <p>The Water Quality, Leachate and Gas Monitoring Report produced by Envitech Solutions dated April 2017 (Refer to Document No. 4) indicated that the atmospheric levels of methane have exceeded 1.0% v/v in boreholes P1S, P1D and P2S.</p> |
| | 5.3.43 | <p>Should the atmospheric levels of flammable gas be between 0.1% and 1%, a higher frequency of monitoring must be instituted. Should levels above 1% be detected in buildings on the site, the buildings must be evacuated and the contingency plan implemented.</p> | <p>The Water Quality Leachate and Gas Monitoring Report produced by Envitech Solutions dated April 2017 (Refer to Document No. 4) indicated that the atmospheric levels of flammable gases have</p> |

[Handwritten Signature]
SR

| | | | |
|--|--------|---|---|
| | | | exceeded the specified levels and a higher frequency of monitoring has not been instituted. |
| | 5.3.44 | Should measurements of the gas monitoring network at any time exceed the limits specified, the licence holder must report this as an incident. | The Water Quality, Leachate and Gas Monitoring Report produced by Envitech Solutions dated April 2017 (Refer to Document No. 4) indicated that the atmospheric levels of flammable gases have exceeded the specified levels which has been not reported as an incident. |
| | 5.3.46 | The licence holder must within 60 (sixty days) from the date of issue of this licence submit a proposal for a comprehensive air quality, gas and dust monitoring programme for approval by the licensing authority. Once approved the licence holder must implement this monitoring programme. | No monitoring programme has been submitted to the Department for approval. |
| | 5.3.48 | The licence holder must submit quarterly environmental audit reports, prepared by the licence holder, to this Department, unless otherwise agreed to in writing by this Department | The Department has not received quarterly audit reports from Msunduzi Municipality |
| | 5.3.50 | The licence holder must establish a landfill Monitoring Committee that will meet twice a year and not later than 30 days after the external audit report specified in condition 5.3.53 has been submitted. The monitoring committee must include interested and affected parties, this Department, the licence holder and Department of Water and Sanitation. | The Landfill Monitoring Committee has not been in existence for an extensive period of time although it is acknowledged that attempts to resuscitate the Monitoring Committee have been |

[Handwritten Signature]
SB

| | | | |
|--|--------|---|--|
| | | | taken. |
| | 5.3.51 | The licence holder must ensure that minutes of the Monitoring Committee meetings are kept and must ensure that these minutes are distributed to all members of the Monitoring Committee within 14 days after a meeting | This has not been complied with as the Monitoring Committee is not functional. |
| | 5.3.52 | The licence holder must appoint an independent, suitably qualified external auditor to audit the site annually. | The last external report received by the Department was in April 2017. The external audit report for 2018 was not done and therefore has not been submitted to the Department for review. |
| | 5.3.53 | The external audit report referred to in 5.3.52 must include- An evaluation of the compliance with the conditions of this licence for the reporting period; Actions taken to rectify the non-compliances identified | The last external report received by the Department was in April 2017. The external audit report for 2018 was not done and has subsequently not been submitted to the Department for review. |
| | 5.3.54 | The external audit report referred to in 5.3.52 must be submitted to the Department within 90 (ninety) days of the audit being conducted. | The last external report received by the Department was in April 2017. The external audit report for 2018 was not done and has subsequently not been submitted to the Department for review. |
| | 5.3.55 | The licence holder must, within 24 hours notify this Department of occurrence or detection of any incident on the site which has the potential to cause | Fires that have taken place have not reported within 24 |

J
SB

| | | | |
|--|--------|--|--|
| | | environmental impact or water pollution. | hours of the occurrence of the fire. |
| | 5.3.56 | The licence holder must, within 14 days or shorter time if specified by this Department, from the occurrence or detection of any incident referred to condition 5.3.55, submit to this Department an action plan which must include a detailed time schedule of measures taken to: 5.3.56.1 correct the impact resulting from the incident; 5.3.56.2 prevent the incident from causing any further impacts; and 5.3.56.3 prevent the recurrence of a similar incident. | The incident reports have not been submitted in respect of the incidents that have occurred on site. |

3.2 Furthermore, the Compliance Notice relates to the Department's reason to believe that that you have not complied with the provisions of the following set of environmental legislation:

- (1) Section 19(1)(a) and (b) of the National Water Act, 1998 (Act No. 36 of 1998) [hereafter referred to as NWA];
- (2) Section 21(f) and (g) of the NWA;
- (3) Section 151(i) and (j) of the NWA;
- (4) Section 16(1)(c), (d) and/or (e) of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) [hereafter referred to as NEM:WA];
- (5) Section 26(1)(a) and (b) of the NEM:WA; and,
- (6) Sections 49A(1)(e) and/or (f) of the National Environmental Management Act, 1998 (Act No. 107 of 1998 (as amended)) (hereafter referred to as NEMA).

The Department has reason to believe that you have contravened the provisions of **Section 19(1)(a) and (b) of the NWA** by causing, or having caused, pollution of a water resource and not taking all reasonable measures to prevent such pollution from occurring.

The Department also has reason to believe that you have contravened the provisions of **Section 21(f) and/or (g) of the NWA** by discharging waste or water containing waste into a water resource through a pipe or other conduit, and/or disposing of waste in a manner which may detrimentally impact on a water resource.

[Handwritten Signature]
SB

The Department also has reason to believe that you have contravened the provisions of **Section 151(i) and/or (j) of the NWA** by unlawfully and intentionally or negligently committing an act or omission which pollutes, or is likely to pollute or detrimentally effect a water resource.

The Department also has reason to believe that you have contravened the provisions of **Section 16(1)(c), (d) and/or (e)** of the NEM:WA by not taking all reasonable measures to -

- (1) where waste must be disposed of, ensure that the waste is treated and disposed of in an environmentally sound manner;
- (2) manage the waste in such a manner that it does not endanger health or the environment or cause a nuisance through noise, odour or visual impacts; and,
- (3) prevent any employee or any other person under his or her supervision from contravening this Act.

The Department also has reason to believe that you have contravened the provisions of **Section 26(1) (a) and (b)** of the NEM:WA by -

- (1) disposing of waste, or knowingly or negligently causing or permitting waste to be disposed of, in or on any land, water-body or at any facility unless the disposal of that waste is authorised by law; and
- (2) disposing of waste in a manner that is likely to cause pollution of the environment or harm to health and well-being.

The Department also has reason to believe that you have contravened the provisions of **Section 67(1) (h)** of the NEM:WA by contravening or failing to comply with a condition or requirement of a waste management licence issued in terms of section 49(1) of the NEM:WA.

The Department has reason to believe that you have contravened the provisions of **Section 49A(1)(e) and/or (f)** of the NEMA by -

- (1) unlawfully and intentionally or negligently committing an act or omission which caused significant pollution or degradation of the environment or is likely to cause significant pollution or degradation of the environment; and/or
- (2) unlawfully and intentionally or negligently committing an act or omission which has detrimentally affected the environment or is likely to detrimentally affect the environment.

4. INSTRUCTIONS OF THE COMPLIANCE NOTICE

4.1 I, Kim Lea van Heerden, in my capacity as a Grade 1 Environmental Management Inspector, hereby issue you with a Compliance Notice in terms of Section 31L of NEMA, which requires you to do the following:

- 4.1.1 **Within three days of the issuing of the Compliance Notice**, ensure that a **senior manager** with appropriate experience and skills is based at and is given the mandate and responsibility to oversee and manage the daily functions of the New England Road Landfill site; and, that this senior manager is provided the requisite resources in terms of staffing, equipment, and finances to manage and operate the landfill site;
- 4.1.2 **Within three days of the issuing of the Compliance Notice**, provide the Department, in writing, the name and contact details of the senior manager that will be based at the New England Road Landfill site to oversee and manage the daily functions of the site;
- 4.1.3 **Within 14 (fourteen) days of the issuing of the Compliance Notice**, ensure that waste disposed of at the New England Road Landfill site is covered and compacted on a daily basis with a minimum of 150mm of soil or other material approved by the licensing authority;
- 4.1.4 Provide written reports to the Department **on a weekly basis** confirming that waste has been covered and compacted on a daily basis, or if this has not been possible provide written reasons why this has not occurred. The weekly reporting requirement must continue until such time as varied or agreed to in writing by the Department;
- 4.1.5 **Within 14 (fourteen) days of the issuing of the Compliance Notice** ensure that the landfill disposal site service roads are repaired and maintained in a condition which ensures unimpeded access to the site for vehicles transporting waste and are kept free of waste.
- 4.1.6 **Within 14 (fourteen) days of the issuing of the Compliance Notice** ensure that **all waste brought to be disposed of at the New England Road Landfill site** is disposed of within the waste disposal area, approved in terms of the Waste Management Licence dated 3 July 2017 issued to the Msunduzi Municipality for New England Landfill Site (Ref No DC22/WML/0061/2016);

Handwritten initials: A and SB

- 4.1.7 **Within 7 (seven) days** of the issuing of the Compliance Notice provide the Department with an Action Plan for the immediate removal of the significant volumes of waste had been disposed of along access roads and open areas outside of the approved and lined waste disposal area, and the disposal of this waste in a lawful manner. Once approved by the Department, to diligently and immediately implement this action plan and ensure the rehabilitation of the areas impacted by the unlawful waste disposal;
- 4.1.8 Ensure that appropriate landfill plant, required to cover and compact the disposed waste, is functioning and serviced, and that **within 7 (seven) days** of the issuing of the Compliance Notice ensure that a contingency plan is put in place in the event of failure of the landfill plant required for covering and compaction;
- 4.1.9 This contingency plan must be submitted to the Department **within 7 (seven) days** of the issuing of the Compliance Notice and must address the measures that will be implemented to ensure that the covering and compacting plant is repaired and/or replaced **within a maximum of 48 hours** of a failure;
- 4.1.10 **Within 7 (seven) days** of the issuing of the Compliance Notice provide written confirmation of the measures which have been taken to ensure proper on-site security and access to the landfill site and, to prevent uncontrolled access and dumping outside of the workface;
- 4.1.11 **Within 14 (fourteen) days** of the issuing of the Compliance Notice appoint a suitably qualified landfill site specialist to conduct and finalise a Technical Assessment Report of the New England Road Landfill site within 30 (thirty) days of appointment, with the objective of:
- 4.1.11.1 reviewing and assessing the current situation;
- 4.1.11.2 identifying the most appropriate and technically acceptable measures to be implemented to manage the current waste backlogs and re-establish effective and safe landfill site disposal practices;
- 4.1.11.3 identifying appropriate interventions and measures needed to ensure that the site is managed and operated in accordance with the Waste Management Licence conditions; relevant legislation; and industry best practice; and,
- 4.1.11.4 to identify appropriate timeframes to implement the identified actions and measures


SB

- 4.1.12 The Technical Assessment Report must be submitted to the Department within **30 (thirty) days** of the appointment of the suitably qualified landfill site specialist. Once the Technical Assessment Report is approved in writing by the Department, to immediately and diligently adhere to and implement the approved report within the timeframes identified in the report.
- 4.1.13 Within **1 (one) month** of the issuing of the Compliance Notice identify and demarcate an appropriate designated area, in consultation with Department of Water and Sanitation and this Department for the recycling/reclamation of waste to take place. This area must be suitable for collection and storage to take place and must be situated off the active area of the site and must not interfere with the daily operation of the site, nor may it compromise areas of environmental sensitivity.
- 4.1.14 Within **1 (one) month** of the issuing of the Compliance Notice appoint a suitably qualified specialist/engineer to assess the stormwater management system and provide recommendations to ensure that all leachate emanating from the site including contaminated runoff water shall be treated to comply with the water quality standards and discharged in a legal manner, or be evaporated in a lined dam and /or; be discharged into a sewer if accepted by the authority in control of that sewer.
- 4.1.15 Within **30 (thirty) days** after appointment of the specialist/engineer, to submit specialist reports and recommendations and associated timeframes for implementation compiled by the specialist/engineer referred to above; to the Department and to the Department of Water Affairs and Sanitation for approval. Once approved, to immediately implement such recommendations and ensure that these approved recommendations and associated timeframes for implementation are adhered to.
- 4.1.16 Within **14 (fourteen) days** of the issuing of the Compliance Notice provide a **detailed and comprehensive Action Plan** that addresses all the other non-compliances noted in the table contained in section 3.1 of this Compliance Notice to the Department for approval. This Action Plan must include all actions required; the allocation of responsibilities; and, the timeframes and budgets necessary to manage and operate the New England Road Landfill site in accordance with the Waste Management Licence conditions and the requirements of the National Environmental Management: Waste Act, 1998. Once the Action Plan is approved in writing by the Department, to immediately and diligently adhere to and implement the approved Action Plan.

4.1.17 Within 3 (three) months of the issuing of the Compliance Notice appoint an independent and suitably qualified landfill site specialist, registered with a relevant professional body, to develop a Decommissioning and Rehabilitation plan for the landfill site; and within 6 (six) months of the issuing of the Compliance Notice provide a written submission to the Department outlining the Municipality's plans towards decommissioning and rehabilitating the New England Road Landfill site, noting the limitations of the current landfill site in the medium to long term and in identifying an alternate landfill site. The Decommissioning and Rehabilitation plan must contain clearly defined recommendations and mitigation measures; and, clearly defined responsibilities and timeframes for implementing these recommendations and measures.

4.1.18 Immediately upon approval of the Decommissioning and Rehabilitation plan by the Licencing Authority diligently initiate and implement the Decommissioning and Rehabilitation plan in accordance with the timeframes specified in the plan.

5. PROCEDURAL ARRANGEMENTS

5.1 If you would like me to vary this compliance notice, including by extending the period to which it relates, you may make representation to me to do so.

5.2 If you wish to lodge an objection to this compliance notice, you may do so by making representations, in writing to the Member of the Executive Council for Economic Development, Tourism & Environmental Affairs (the MEC), within 30 days of receipt of this notice.

5.3 You may also make representations to the MEC to suspend the operation of the compliance notice pending finalisation of the objection. The contact details of the MEC are as follows:

The MEC: **Hon. Mrs. N. Dube-Ncube**

Department of Economic Development, Tourism & Environmental Affairs

| | |
|--|--|
| POSTAL: Private Bag X 9162 Pietermaritzburg 3200 | PHYSICAL ADDRESS (DURBAN): 181 HoosenHaffee Street (formerly Berg Street) Pietermaritzburg 3201 |
| TELEPHONE: 033 328 8000 | ATTENTION: Appeals Administrator: Mr. Haresh Inderfall |
| MOBILE: 081 731 7361 | EMAIL: haresh.inderfall@kznedtea.gov.za |

5.4 Irrespective of any representation you may make to me or to the MEC, you must comply with this compliance notice within the time period stated in the notice unless the MEC agrees to suspend the operation of the compliance notice.

| | | | | |
|---|---------------------------|---|---------------------|---------------|
| Department of Economic Development, Tourism and Environmental Affairs | Revised Compliance Notice | DC22/WMI/0061/2016 New England Road Landfill Site | Initials: <i>HI</i> | Page 21 of 22 |
|---|---------------------------|---|---------------------|---------------|

HI
215

6. FAILURE TO COMPLY

6.1 Should you fail to comply with this compliance notice:

- (a) you will have committed an additional offence in terms of section 49A(1)(k) of NEMA. Kindly take note that Environmental Management Inspectors (EMI) from this Department are given wide powers in terms of NEMA to investigate whether or not you have complied or are complying with this compliance notice, and to exercise certain powers in order to enforce any contravention thereof, including but not limited to the power to seize items used in the commission of an offence as well as the power of arrest; and
- (b) the Department will be entitled to take the required steps on your behalf and to claim from you any costs incurred in so doing.

7. CONCLUSION

7.1 If you are unclear about any aspects of this compliance notice, kindly contact the person indicated for enquiries in writing as soon as possible; or if no such person is indicated then the EMI who has signed this notice.

Signed on this 18 day of February 2020 at Pietermaritzburg

[Handwritten Signature]

Signed by: Ms. Kim Lea van Heerden

Environmental Management Inspector (Grade 1)

Department of Economic Development, Tourism and Environmental Affairs

Acknowledgement of Receipt:

REVISED COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998: NON-COMPLIANCE WITH THE VARIATION WASTE MANAGEMENT LICENCE (WML) ISSUED IN TERMS SECTION 49 (1) AND 54 (1) OF THE NATIONAL ENVIRONMENTAL WASTE MANAGEMENT ACT (NEM:WA) 59 OF 2008 (REF NO. DC22/WML/0061/2016) FOR THE NEW ENGLAND LANDFILL SITE, PIETERMARITZBURG, MSUNDUZI LOCAL MUNICIPALITY

Received by Mr./Ms. _____

On behalf of the company _____

on this _____ day of _____, 2020, at _____

Signature _____

| | | | | |
|---|---------------------------|--|---|---------------|
| Department of Economic Development, Tourism and Environmental Affairs | Revised Compliance Notice | DC22/WML/0061/2016 New England Road, Landfill Site | Initials <i>[Handwritten Initials]</i> | Page 22 of 22 |
|---|---------------------------|--|---|---------------|

[Handwritten Signature]
[Handwritten Initials]

"JBS20"

The Msunduzi Municipality

Private Bag X 321
Pietermaritzburg
3200
(033) 392 2002

City Hall, Chief Albert Luthuli Street
Pietermaritzburg
3201
www.msunduzi.gov.za



Enq: M Mathe

Tel. 033 392 2880

E-mail: Mbongeni.Mathe@msunduzi.gov.za

19 February 2020

KZN Edtea
8 Warwick Road Cascades
Pietermaritzburg
3201

Dear Sirs

REVISED COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998)

Your above mentioned revised compliance notice received by the Msunduzi Municipality on 16 February 2020 refers.

We hereby acknowledge receipt of same .

We refer to the response of the Msunduzi Municipality to the pre-compliance notice served on you on 14 February 2020 and re-affirm what is stated therein. For the sake of brevity, we do not intend to repeat the details of our response.

We also note the contents of the revised notice and do so without prejudice and reserve our rights to supplement this response if it becomes necessary.

In the meanwhile, kindly be advised that the Msunduzi Municipality is at an advanced stage in appointing a service provider for the landfill site to, inter alia, assist in dealing with and addressing any issue of non-compliance.

OFFICE OF THE CITY MANAGER

Telephone/Cingo: 033 3922002
Faksimili/Fakisi: 0868047309

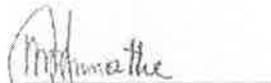
Private Bag / Ikhwama: X321
Pietermaritzburg/Pietermaritzburg 3200

AM
SB

We shall in consultation with the service provider carefully consider the time lines of the revised notice. If it becomes necessary, we shall invoke the invitation outlined in paragraph 5 of your revised notice.

We trust that in going forward, all actions herein will be conducted in a manner consistent with the spirit of the National Environmental Management Act No 107 of 1998.

Yours faithfully



M MATHE
ACTING GENERAL MANAGER



M N NGCOBO
ACTING CITY MANAGER

OFFICE OF THE CITY MANAGER

Telephone/Cingo: 033 3922002
Facsimile/Fekisi: 0868047309

Private Bag / Isikhwama: X321
Pietermaritzburg/ePietermaritzburg 3200



"JBS21"



edtea

Department:
Economic Development, Tourism and
Environmental Affairs

PROVINCE OF KWAZULU-NATAL

Enquiries: Ms. K. van Heerden
Reference: DC22/WML/0061/2016
Physical Address: 8 Warwick Road, Cascades
Tel: (033) 347 1820, Fax: (033) 347 1826
Postal Address: Private Bag X07,
Pietermaritzburg, 3202
www.kzded.gov.za

Date: 05 March 2020

VARIATION OF REVISED COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (Act No. 107 OF 1998)

MSUNDUZI MUNICIPALITY

Postal Address:

Private Bag X321

PIETERMARITZBURG, 3200

AND

BY EMAIL

MR. SCELO DUMA

Administrator: Msunduzi Municipality

Email: scelo.duma@msunduzi.gov.za

AND

MR. SIBUSISO SITHOLE

Former Administrator: Msunduzi Municipality

(Please forward to Mr. Sithole)

AND

MRS. NELISIWE NGCOBO

Acting Municipal Manager: Msunduzi Municipality

Email: Nelisiwe.Ngcobo@msunduzi.gov.za

Dear Sir/Madam

VARIATION OF REVISED COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AS AMENDED: NON-COMPLIANCE WITH THE VARIATION WASTE MANAGEMENT LICENCE (WML) ISSUED IN TERMS SECTION 49 (1) AND 54 (1) OF THE NATIONAL ENVIRONMENTAL WASTE MANAGEMENT ACT (NEM:WA) 59 OF 2008 (REF NO. DC22/WML/0061/2016) FOR THE NEW ENGLAND LANDFILL SITE, PIETERMARITZBURG, MSUNDUZI LOCAL MUNICIPALITY

1. Your correspondence dated 28 February 2020, the meeting held on 4 March 2020 and, your subsequent letter of the same date, regarding a request to vary the Revised Compliance Notice issued to you in terms of section 31L of the National Environmental Management Act 107 of 1998 ("NEMA") on the 18th February 2020, refers.

| | | | | |
|---|--------------------------------|--|------------------------|-------------|
| Department of Economic Development, Tourism and Environmental Affairs | Variation of Compliance Notice | DC22/WML/0061/2016 New England Road, Landfill Site | Initials: <i>MS</i> | Page 1 of 3 |
|---|--------------------------------|--|------------------------|-------------|

MS
SR

2. The Department acknowledges the submission of the request for the variation of the obligations provided in paragraphs 4.1.3 and 4.1.7 of the Compliance Notice issued to you on the 18th February 2020.
3. These obligations relate to the requirements to undertaken the following actions:
- **4.1.3: Within 14 (fourteen) days of the issuing of the Compliance Notice, ensure that waste disposed of at the New England Road Landfill site is covered and compacted on a daily basis with a minimum of 150mm of soil or other material approved by the licensing authority*; and;*
 - **4.1.7: Within 7 (seven) days of the issuing of the Compliance Notice provide the Department with an Action Plan for the immediate removal of the significant volumes of waste had been disposed of along access roads and open areas outside of the approved and lined waste disposal area, and the disposal of this waste in a lawful manner. Once approved by the Department, to diligently and immediately implement this action plan and ensure the rehabilitation of the areas impacted by the unlawful waste disposal.**
4. It is requested that the Compliance Notice be varied to allow for a period within which the landfill site can be surveyed and in order to develop an appropriate filling plan in accordance with best practice guidelines and engineering practices. It is submitted that the covering and compaction of waste can only occur following the survey the site and the development of the appropriate filling plan. It is requested that a reasonable period be granted in order to undertake these activities, prior to the requirement to cover and compact the waste being disposed of.
5. It is further requested that prior to developing the action plan for the removal of the significant volumes of waste that have been disposed of along roads and open areas outside of the approved and lined waste disposal area, that time be give to survey the quantity of waste that needs to be disposed of within the approved landfill working cell and to assess the approved landfill area. Specialists to undertaken this work are not readily available and can only undertake the survey work from the 2nd of March 2020. The Action Plan for the removal of the waste disposed of outside of the working cell can only therefore be submitted thereafter.
6. Taking into consideration the urgency of actions required; and, the motivations submitted to vary the timeframes contained within paragraphs 4.1.3 and 4.1.7 of the Revised Compliance Notice, the Department is satisfied that there is sufficient justification to accede to the requests and to vary the timeframes as provided below.
7. As a Grade 1 Environmental Management Inspector, I hereby vary paragraphs 4.1.3 and 4.1.7 of the Revised Compliance Notice to read as follows:
- 4.1.3** *By the 31st March 2020, ensure that waste disposed of at the New England Road Landfill site is covered and compacted on a daily basis with a minimum of 150mm of soil or other material approved by the licensing authority.*
- 4.1.7** *By the 13th March 2020, provide the Department with an Action Plan for the immediate removal of the significant volumes of waste had been disposed of along access roads and open areas outside of the approved and lined waste disposal area, and the disposal of this waste in a lawful manner. Once approved by the Department, to diligently and immediately implement this action plan and ensure the rehabilitation of the areas impacted by the unlawful waste disposal.*
8. This variation notice does not vary any other steps or timeframes contained in the Revised Compliance Notice issued to you on the 18th February 2020.

| | | | | |
|---|------------------------------|--|-------------------------|-------------|
| Department of Economic Development, Tourism and Environmental Affairs | Revised Compliance Notice | DC22/WML/0051/2018 New England Road, Landfill Site | Initials: <i>HLK</i> | Page 2 of 3 |
|---|------------------------------|--|-------------------------|-------------|

HLK
SR

9. Should you have any queries please feel free to contact the Department.

Signed on this 05 day of March 2020 at Pietermaritzburg

Kim Lea van Heerden

Signed by: Ms. Kim Lea van Heerden
Environmental Management Inspector (Grade 1)
Department of Economic Development, Tourism and Environmental Affairs

Acknowledgement of Receipt:

VARIATION OF REVISED COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998: NON-COMPLIANCE WITH THE VARIATION WASTE MANAGEMENT LICENCE (WML) ISSUED IN TERMS SECTION 49 (1) AND 54 (1) OF THE NATIONAL ENVIRONMENTAL WASTE MANAGEMENT ACT (NEM:WA) 59 OF 2008 (REF NO. DC22/WML/0061/2016) FOR THE NEW ENGLAND LANDFILL SITE, PIETERMARITZBURG, MSUNDUZI LOCAL MUNICIPALITY

Received by Mr./Ms _____

On behalf of the company _____

on this _____ day of _____ 2020, at _____

Signature: _____

| | | | | |
|---|---------------------------|--|-------------------------|-------------|
| Department of Economic Development, Tourism and Environmental Affairs | Revised Compliance Notice | DC22/WML/0061/2016 New England Road, Landfill Site | Initials: <i>KLH</i> | Page 3 of 3 |
|---|---------------------------|--|-------------------------|-------------|

KLH
SB



edlea
Department:
Economic Development, Tourism and
Environmental Affairs
PROVINCE OF KWAZULU-NATAL

Enquiries: Ms. K. van Heerden
Reference: DC22/WML/0061/2016
Physical Address: 8 Warwick Road, Cascades
Tel: (033) 347 1820, Fax: (033) 347 1826
Postal Address: Private Bag X07,
Pietermaritzburg, 3202
www.kznded.gov.za

Date: 12 March 2020

REVISED COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (Act No. 107 OF 1998)

MSUNDUZI MUNICIPALITY
Postal Address:
Private Bag X321
PIETERMARITZBURG, 3200

AND

BY EMAIL

MR. SCELO DUMA
Administrator: Msunduzi Municipality

Email: scelo.duma@msunduzi.gov.za

AND

MR. SIBUSISO SITHOLE
Former Administrator: Msunduzi Municipality

(Please forward to Mr. Sithole)

AND

MRS. NELISIWE NGCOBO
Acting Municipal Manager: Msunduzi Municipality

Email: Nelisiwe.Ngcobo@msunduzi.gov.za

Dear Sir/Madam

COMPLIANCE STATUS: REVISED COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AS AMENDED: NON-COMPLIANCE WITH THE VARIATION WASTE MANAGEMENT LICENCE (WML) ISSUED IN TERMS SECTION 49 (1) AND 54 (1) OF THE NATIONAL ENVIRONMENTAL WASTE MANAGEMENT ACT (NEM:WA) 59 OF 2008 (REF NO. DC22/WML/0061/2016) FOR THE NEW ENGLAND LANDFILL SITE, PIETERMARITZBURG, MSUNDUZI LOCAL MUNICIPALITY

1. The Revised Compliance Notice issued to you in terms of section 31L of the National Environmental Management Act 107 of 1998 ("NEMA") on the 18th February 2020, refers.

| | | | | |
|---|--|--|---------------------------------|-------------|
| Department of Economic Development, Tourism and Environmental Affairs | Compliance Status: Revised Compliance Notice | DC22/WML/0061/2016 New England Road, Landfill Site | Initials: <i>[Signature]</i> | Page 1 of 1 |
|---|--|--|---------------------------------|-------------|

[Handwritten initials]

2. The Department conducted a site inspection at the New England Road Landfill site and held a meeting with Municipal officials and the appointed service provider, Surg Sut (Pty) Ltd. on the 4th March 2020.
3. The Department undertook a further site inspection and meeting with Surg Sut (Pty) Ltd on the 9th March 2020 in order to monitor compliance with the Revised Compliance Notice.
4. Based on these site inspections and onsite discussions the following has been observed and noted:
 - 4.1. Security has been substantively improved at access gates and all vehicle and driver access records are being captured. Waste pickers on-site were being registered and all waste collectors leaving the site with recyclable material were being registered and waste volumes being recycled captured;
 - 4.2. Waste disposed of illegally within the "recycling" area has largely been removed and, the area along New England road has been cleared of waste;
 - 4.3. Actions to remove waste along the access roads was observed in order to allow access to the approved landfill area and crush material is being brought in to establish all weather access to the working face;
 - 4.4. All waste entering the site is now being disposed of at the "working face" with garden waste and cover material being disposed of outside of this area, within the approved landfill. Personnel at the access gate, along the roads and at the working face were observed directing waste disposal;
 - 4.5. Control of vehicle movements improved, however it was observed that municipal trucks and vehicles were disobeying instructions and driving through barriers and at excessive speed;
 - 4.6. Two working bulldozers (from the service provider) were active on site however the municipal compactor is non-functional;
 - 4.7. The Department was informed that there have been four fires on the landfill site on the 4th, 6th and 7th March 2020, although these have not been officially reported to the Department by the Municipality. It was suggested that these may be a combination of spontaneous combustion and potentially arson. It was suggested that the waste being disposed of by Willowton Oil and Prilla is not in a state that should be accepted at the landfill site and may be causing the spontaneous combustion. The Department was further informed that municipal machinery is either not working or is being taken off site. The site is also still awaiting cover material and does not have the equipment necessary to effectively manage the waste being disposed of at the site.

| | | | | |
|---|--|--|---------------------------------|-------------|
| Department of Economic Development, Tourism and Environmental Affairs | Compliance Status: Revised Compliance Notice | DC22/WML/0061/2016 New England Road, Landfill Site | Initials: <i>[Signature]</i> | Page 2 of 4 |
|---|--|--|---------------------------------|-------------|

[Handwritten initials: SA]

5. While it is acknowledged that the Municipality has submitted a Plan on responding to the obligations provided in the Revised Compliance Notice, there is currently non-compliance with the following obligations:
- 5.1. The obligation to have a senior manager based at and overseeing the implementation of the obligations of the Revised Compliance Notice in terms of paragraph 4.1.1, and 4.1.2, has not been met. While Surg Sut (Pty) Ltd has assigned experienced landfill site managers to manage the site, observations noted on site included **disobedience by municipal workers and refuse truck drivers in respect of instructions given by the appointed service providers which is undermining the management and control of the landfill site.** The intention to have a senior municipal manager present on site was to ensure that municipal workers respond to the actions required and adhere to reasonable instruction.
- 5.2. Weekly reports have not been submitted by the Municipality and municipal officials as required in terms of paragraph 4.1.4 of the Revised Compliance Notice. The only report addressing this requirement, to some extent, was submitted on the 28th February 2020.
- 5.3. Landfill plant needed to manage the site is required in terms of paragraphs 4.1.8 and 4.1.9 of the Revised Compliance Notice. Observations confirmed landfill site plant being non-functional and/or unavailable at the site. Based on discussions with the service provider, the following machinery is required to ensure the proper functioning and restoration of the landfill site in order to be compliant with the waste management licence: 1 X Excavator; 1 X waste compactors (preferably 2); 2 X Bulldozers; 4 X 20ton tipper trucks. It was noted that the new excavator provided recently to the Municipality by CoGTA for the landfill site, was not on site.
- 5.4. The service road access, particularly to the working face needed to be repaired to allow all weather access by the 4th March 2020 in terms of paragraph 4.1.5. It was observed that crush material had been deposited on the access ramp and that Leonmat engineers were on site, however the road access has not been repaired within the timeframes provided. The service provider, Surg Sut (Pty) Ltd, has indicated that a request to vary this requirements is to be made to the Department, however no request to vary has been made to the Department.
- 5.5. A detailed and comprehensive Action Plan that addresses all the other non-compliances noted in the table contained in section 3.1 of the Revised Compliance Notice was to have been submitted by the 4th March 2020 in terms of paragraph 4.1.16. This Action Plan has not yet been submitted.
6. Based on observations on site and from discussions with both the municipal officials and service providers it is noted that there has been general compliance with the obligations of the Revised Compliance Notice, **however some required actions as detailed above are outstanding** and these need to be addressed as a matter of urgency.

| | | | | |
|---|--|---|-----------|-------------|
| Department of Economic Development, Tourism and Environmental Affairs | Compliance Status: Revised Compliance Notice | DC22/AVML/0081/2016 New England Road, Landfill Site | Initials: | Page 3 of 4 |
|---|--|---|-----------|-------------|

Handwritten signature
S B

7. Further to this, the Department is concerned in respect of the type and nature of some of the industrial waste that is being disposed of at the site. The Licence Holder for the Waste Management Licence is obliged to screen waste proposed to be disposed of at the landfill site and must ensure that this waste is considered to be classified as General Waste in terms of the licence requirements and that the waste is in such a nature and form that it can be safely disposed of at the landfill site without causing environmental or human health and well-being risk. It is imperative to ensure that only waste classified as General Waste be disposed of at the site; and, in cases where there is reason to believe that waste may be contributing to or causing spontaneous combustion or fuelling uncontrolled fires, to reject this waste from disposal at the landfill site.
8. In respect of the flagrant disregard of instructions of the service provider appointed to manage the site by municipal workers, either employed on the site or through the collection and disposal of waste at the site, this cannot be allowed to persist and decisive action must be taken to ensure that these employees do not undermine the management and operation of the landfill site.
9. Should you have any queries please feel free to contact the Department.
10. Please acknowledge receipt of this correspondence.

Signed on this 16 day of March 2016 at Indipendence

Ms. Kim Lea van Heerden

Signed by: Ms. Kim Lea van Heerden
Environmental Management Inspector (Grade 1)
Department of Economic Development, Tourism and Environmental Affairs

| | | | | |
|---|---|---|------------------------|-------------|
| Department of Economic Development, Tourism and Environmental Affairs | Compliance Status: Revised Compliance Notice | DC22WML/0081/2016 New England Road, Landfill Site | Initials: <u>KL</u> | Page 4 of 4 |
|---|---|---|------------------------|-------------|

Handwritten initials: KL

"JBS23"



Department
Economic Development, Tourism and
Environmental Affairs
PROVINCE OF KWAZULU-NATAL

Enquiries: Ms. K. van Heerden
Reference: DC22/WML/0061/2016
Physical Address: 8 Warwick Road, Cascades
Tel: (033) 347 1820, Fax: (033) 347 1826
Postal Address: Private Bag X07,
Pietermaritzburg, 3202
www.kzndnd.gov.za

Date: 17 March 2020

2nd VARIATION OF REVISED COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (Act No. 107 OF 1998)

MSUNDUZI MUNICIPALITY

Postal Address:

Private Bag X321

PIETERMARITZBURG, 3200

AND

BY EMAIL

MR. SCELO DUMA

Email: sceio.duma@msunduzi.gov.za

Administrator Msunduzi Municipality

AND

MR. SIBUSISO SITHOLE

(Please forward to Mr. Sithole)

Former Administrator Msunduzi Municipality

AND

MRS. NELISIWE NGCOBO

Email: Nelisiwe.Ngcobo@msunduzi.gov.za

Acting Municipal Manager, Msunduzi Municipality

Dear Sir/Madam

2nd VARIATION OF REVISED COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AS AMENDED: NON-COMPLIANCE WITH THE VARIATION WASTE MANAGEMENT LICENCE (WML) ISSUED IN TERMS SECTION 49 (1) AND 54 (1) OF THE NATIONAL ENVIRONMENTAL WASTE MANAGEMENT ACT (NEM:WA) 59 OF 2008 (REF NO. DC22/WML/0061/2016) FOR THE NEW ENGLAND LANDFILL SITE, PIETERMARITZBURG, MSUNDUZI LOCAL MUNICIPALITY

1. Your correspondence dated 16 March 2020, including as Annexure B, the request to vary the Revised Compliance Notice issued to you in terms of section 31L of the National Environmental Management Act 107 of 1998 ("NEMA") on the 18th February 2020, refer.

| | | | | |
|---|------------------------------------|--|------------|-------------|
| Department of Economic Development, Tourism and Environmental Affairs | 2nd Variation of Compliance Notice | DC22/WML/0061/2016 New England Road, Landfill Site | 03/17/2020 | Page 1 of 3 |
|---|------------------------------------|--|------------|-------------|

Handwritten initials: JH, SB

2. The Department acknowledges the submission of the request for the variation of the obligations provided in paragraphs 4.1.3, 4.1.5, and 4.1.6 of the Revised Compliance Notice issued to you on the 18th February 2020 (as varied).

3. These obligations relate to the requirements to undertake the following actions

- 4.1.3. *By the 23rd March 2020, ensure that waste disposed of at the New England Road Landfill site is covered and compacted on a daily basis with a minimum of 150mm of soil or other material approved by the licensing authority, and;*
- 4.1.5. *Within 14 (fourteen) days of the issuing of the Compliance Notice ensure that the landfill disposal site service roads are repaired and maintained in a condition which ensures unimpeded access to the site for vehicles transporting waste and are kept free of waste.*
- 4.1.6. *Within 14 (fourteen) days of the issuing of the Compliance Notice ensure that all waste brought to be disposed of at the New England Road Landfill site is disposed of within the waste disposal area, approved in terms of the Waste Management Licence dated 3 July 2017 issued to the Msunduzi Municipality for New England Landfill Site (Ref No. DC22/WML/0061/2016).*

4. It is requested that the Compliance Notice be varied to allow for a period to develop an appropriate filling plan in accordance with best practice guidelines and engineering practices. It is noted that the landfill site has been surveyed however coordination between service providers and the Municipality is required to establish a practical operational plan for the filling and management of the site. It is submitted that the covering and compaction of waste can only occur following the development of the filling and operational plan. It is requested that a reasonable period be granted in order to undertake these activities, prior to the requirement to cover and compact the waste being disposed of.

5. It is further suggested that road repairs to the perimeter road and north access can only be undertaken following the removal of waste that has been illegally disposed of adjacent to the road way.

6. Taking into consideration the urgency of actions required and the motivations submitted to vary the timeframes contained within paragraphs 4.1.3, 4.1.5 and 4.1.6 of the Revised Compliance Notice, the Department is satisfied that there is sufficient justification to accede to the requests and to vary the timeframes as provided below.

7. As a Grade 1 Environmental Management Inspector, I hereby vary paragraphs 4.1.3, 4.1.5 and 4.1.6 of the Revised Compliance Notice to read as follows:

4.1.3 *By the 31st March 2020, ensure that waste disposed of at the New England Road Landfill site is covered and compacted on a daily basis with a minimum of 150mm of soil or other material approved by the licensing authority*

4.1.5 *By the 31st March 2020, ensure that the landfill disposal site service roads are repaired and maintained in a condition which ensures unimpeded access to the site for vehicles transporting waste and are kept free of waste.*

4.1.6 *By the 31st March 2020, ensure that all waste brought to be disposed of at the New England Road Landfill site is disposed of within the waste disposal area approved in terms of the Waste Management Licence dated 3 July 2017 issued to the Msunduzi Municipality for New England Landfill Site (Ref No. DC22/WML/0061/2016).*

8. This variation notice does not vary any other steps or timeframes contained in the Revised Compliance Notice issued to you on the 18th February 2020.

| | | | | |
|---|--|---|------------------------|-------------|
| Department of Economic Development, Tourism and Environmental Affairs | 2nd Variation of Revised Compliance Notice | DC22/WML/0061/2016 New England Road, Landfill Site | Initials: <i>SL</i> | Page 2 of 3 |
|---|--|---|------------------------|-------------|

JA
SR

9. Should you have any queries please feel free to contact the Department

Signed on this ... day of ... at ...

Signed by: Ms. Kim Lea van Heerden
Environmental Management Inspector (Grade 1)
Department of Economic Development, Tourism and Environmental Affairs

Acknowledgement of Receipt
2nd VARIATION OF REVISED COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998: NON-COMPLIANCE WITH THE VARIATION WASTE MANAGEMENT LICENCE (WML) ISSUED IN TERMS SECTION 49 (1) AND 54 (1) OF THE NATIONAL ENVIRONMENTAL WASTE MANAGEMENT ACT (NEM:WA) 59 OF 2008 (REF NO. DC22/WML/0061/2016) FOR THE NEW ENGLAND LANDFILL SITE, PIETERMARITZBURG, MSUNDUZI LOCAL MUNICIPALITY

Received by Mr /Ms _____

On behalf of the company _____

on this _____ day of _____ 2020, at _____

Signature: _____

| | | | | |
|---|--|--|----------|-------------|
| Department of Economic Development, Tourism and Environmental Affairs | 2nd Variation of Revised Compliance Notice | DC22/WML/0061/2016 New England Road, Landfill Site | Initials | Page 3 of 3 |
|---|--|--|----------|-------------|

Handwritten initials/signature

"JBS24"



KWAZULU-NATAL PROVINCE
ECONOMIC DEVELOPMENT, TOURISM
AND ENVIRONMENTAL AFFAIRS
REPUBLIC OF SOUTH AFRICA

DIRECTORATE: ENVIROMENTAL SERVICES: UMGUNGUNDLOVU DISTRICT

8 Warwick Road, Cascades
Tel: (033) 347 1820, Fax: (033) 347 1826
Postal Address: Private Bag X07, PIETERMARITZBURG, 3202
www.kzded.gov.za

Enquiries: Ian Felton
Reference: New England Rd Landfill

DATE: 29 JULY 2020

MSUNDUZI MUNICIPALITY

Postal Address:

Private Bag X321

PIETERMARITZBURG, 3200

AND

BY EMAIL

MR. MADODA KHATIDE

Municipal Manager: Msunduzi Municipality

Email: madoda.khalide@msunduzi.gov.za

AND

MR. SCELO DUMA

Ministerial Representative: Msunduzi Municipality

Email: sceLO.duma@kzncogta.gov.za

Dear Sir/s

**SECTION 30 INCIDENT REPORT: FIRE ON 21 JULY 2020 AT THE NEW ENGLAND LANDFILL SITE,
PIETERMARITZBURG, MSUNDUZI LOCAL MUNICIPALITY**

1. The initial Section 30 Incident Report produced by Msunduzi Municipality dated 21 July 2020 and received on the 22 July 2020, for the fire that occurred at the New England Road Landfill site on the evening of the 20/21 July 2020, refers.
2. Based on the initial Section 30 incident Report; site observations made by Environmental Management Inspectors of the Department; the significant number of complaints and concerns raised by the surrounding communities; and; the impacts that the incident has had on air quality and the socio-economic environment, the

| | | | | |
|---|---------------------------|---------------------------|-------------------------|-------------|
| Department of Economic Development, Tourism and Environmental Affairs | S30 Incident Directive | New England Road Landfill | Initials: <i>IFL</i> | Page 1 of 2 |
|---|---------------------------|---------------------------|-------------------------|-------------|

IFL
SP

Department considers that the Section 30 Incident Report must be supplemented by a more detailed assessment of the impacts and/or effects of the incident on the environment and on public health and safety.

3. The Department hereby directs the Msunduzi Municipality in terms of section 30(6) of the National Environmental Management Act (No. 107 of 1998) [NEMA] to supplement the section 30 Incident Report with a more detailed assessment of the impacts and/or effects of the incident on the environment and on public health and safety, in order to meet the Municipality's obligations provided in sections 30(4) and (5) of NEMA. This assessment must address, as a minimum the following:
 - 3.1. The nature of the incident and substances involved and the estimated quantity and toxicity of the potential substances emitted;
 - 3.2. The potential acute effect of substances emitted on persons and the environment;
 - 3.3. The measures taken during the incident to minimise impacts on people and the environment;
 - 3.4. The causes of the incident, including any equipment, technology, systems and/or management failures; and,
 - 3.5. The measures to be taken to avoid a reoccurrence of the incident.
4. The Detailed section 30 Assessment Report on the impacts and/or effects of the incident on the environment and on public health and safety, must be submitted to the Department within 60 (sixty) days from receipt of this Directive.
5. Should you have any queries please feel free to contact the Department.
6. Please acknowledge receipt of this correspondence.

Signed on this 29 day of July 2020 at Pietermaritzburg


Signed by: Ms. Kim Lea van Heerden

Environmental Management Inspector (Grade 1)

Department of Economic Development, Tourism and Environmental Affairs

| | | | | |
|---|------------------------|---------------------------|-------------------------|-------------|
| Department of Economic Development, Tourism and Environmental Affairs | S30 Incident Directive | New England Road Landfill | Initials: <i>KLH</i> | Page 2 of 2 |
|---|------------------------|---------------------------|-------------------------|-------------|



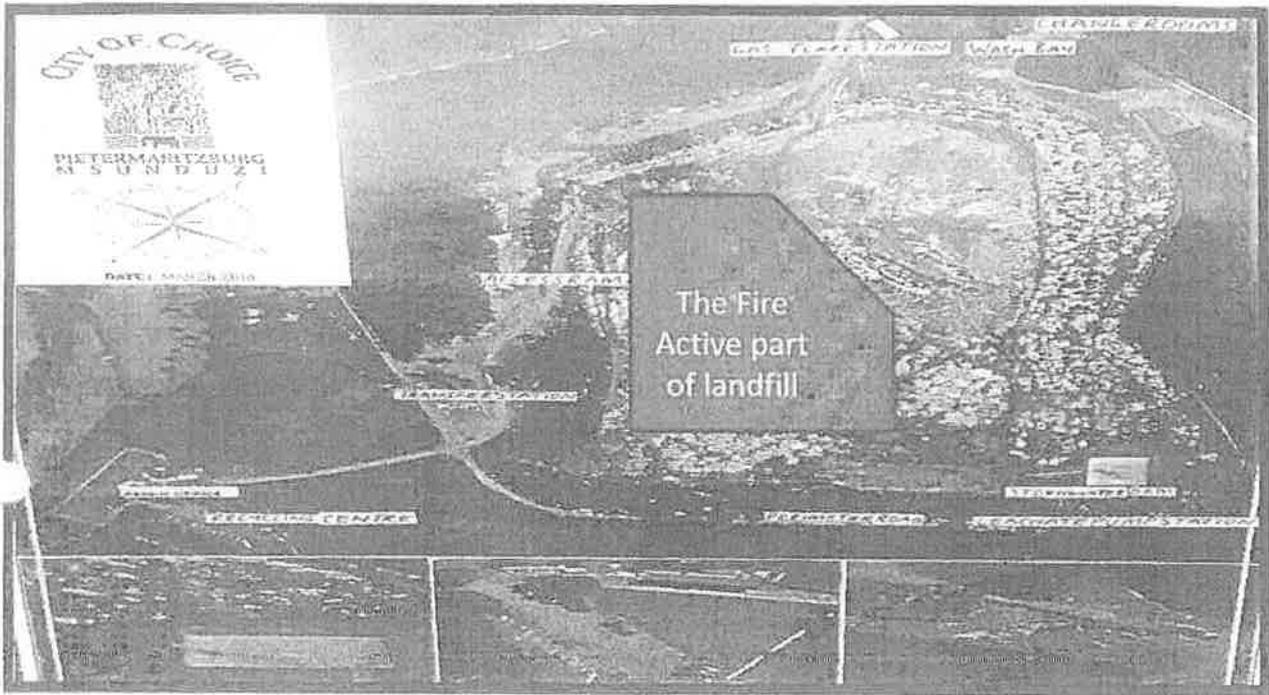
**PRESENTATION TO THE COMMAND
COUNCIL ON THE UMSUNDUZI
MUNICIPALITY NEW ENGLAND LANDFILL
SITE**

Date: 5 August 2020

GROWING KWAZULU-NATAL TOGETHER

JA
SP

New England Landfill Arial View.



Handwritten initials
SB



THE SITE IN QUESTION.

- Msunduzi Municipality owns and operate New England Road landfill under the Permit No: 16/2/7U203/D3/Z1/P64, issued by the DWA on the 22 April 1998, and lately renewed by EDTEA on the 03rd July 2017.
- The site is permitted to operating until it reaches a maximum height of 652 meters above sea level, with the life span estimated to be at 6 to 10 years, with a capacity of approximately 1.3 million M3.
-



THE PROBLEM STATEMENT.

- The site has been experiencing fires, every year, for the past ten years. (February and July 2020, Oct 2019, Aug 2019, Aug 2017, Nov 2016).
- The recent fires, which lasted for 3 days, started within the Active cell of the Landfill around Midnight (12:00 am); it is alleged that this was an act of arson, with a criminal case (242/07/2020) reported in Loop street police Station.
- There is approximately 800 Waste pickers illegally residing within the site
- Msunduzi is also facing both structural, as well as financial problems and during the 3 years, the municipality has seen lots of labour instability, management crisis and under-investment in critical infrastructure
- The City is currently under section 139 intervention
- The Waste management unit within the City continues to face HR capacity constraints.
- There has been historical poor management of the site dating back to 2015



THE CONSEQUENCE EFFECT

- A massive exhaustive operation run by Fire Fighters, 24/7 until the fire was extinguished
- A dense chemical smoke led to public health risk and leading to business closures
- Temporal closure of the N3 and disruptions in the national logistics systems
- Talks of business closures and disinvestments as private sector panic due to hazardous smoke





WHAT MSUNDUZI HAS DONE

- The municipal response involved massive deployment of capital equipment and personnel to fight the fires, such as water tanks, specialised vehicle and specialist personnel.
- Leveraging additional support from eThekweni Metro, uMgungundlovu District Municipalities and Working on Fire (DEFF)
- Hiring additional Yellow Plant and Equipment from the private sector
- Responding to compliance notices issued by EDTEA
- Building management capacity
- Rapid Response mechanism to dealing with the challenge of fire


SR

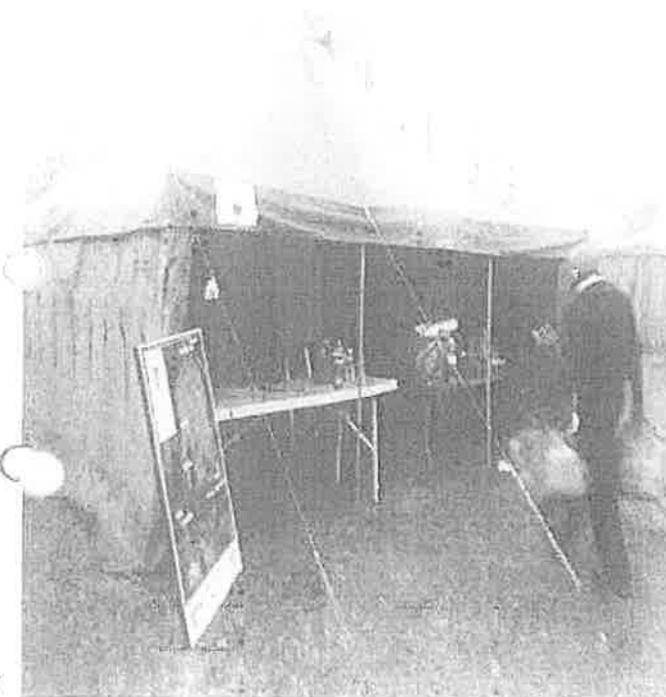


cogta

Department:
Cooperative Governance and Traditional Affairs
PROVINCE OF KWAZULU-NATAL

GROWING KWAZULU-NATAL TOGETHER

RESPONSE BY THE LICENSE HOLDER.



- Joint Command Centre established through IGR for daily monitoring and the effect
- Well coordinated central command and joint planning, with speedy decision making

JD
SR



NON-COMPLIANCE IN TERMS OF THE COMPLIANCE NOTICE

The following major non-compliances remain:

- Waste reclamation is still taking place at the landfill area.
- Recycling has not been formalized.
- The Decommissioning plan has not been submitted.
- The perimeter fence has been broken in some parts.
- Specialist engineer has not yet been appointed to assess storm water and leachate management.
- There is a risk for the Mayor, MM and other officials to be fined for non-compliance of an amount of up to R 5 000 000 (million).



COMPLIANCE NOTICE INSTRUCTIONS BY EDTEA.

| ITEM | PROJECT DELIVERABLES | STATUS | POE |
|------|--|-------------|-----|
| 1 | Public Relations (Advert Licence, Prepaid System) | Completed | |
| 2 | Signage | Completed | |
| 3 | Audit | Completed | |
| 4 | Access Control | Completed | |
| 5 | Surveillance | Completed | |
| 6 | Security | On site | |
| 7 | Repair Weighbridge Structure | Completed | |
| 8 | Repair Buildings and Install New IT infrastructure | Completed | |
| 9 | Recycling Unit | Completed | |
| 10 | Compact active cells | In Progress | |
| 11 | System Design Implementation | Completed | |
| 12 | Conduct, Gas, Water, Leachate Monitoring | Not yet | |
| 13 | Locate and Resuscitate existing leachate collection system. | Completed | |
| 14 | Install and implement weighbridge revenue collection system | Completed | |
| 15 | Co-ordinate and facilitate grant applications | In Progress | |
| 16 | Project Management of the turnaround strategy | In Progress | |
| 17 | Design New Operational Layout | Completed | |
| 18 | Administration and Training of staff, waste pickers, recyclers | In Progress | |
| 19 | System Design development to digitize Landfill site | In Progress | |
| 20 | Address Non-compliance issued by DEDTEA | In Progress | |

Handwritten signature and initials
S/B



The state of Risk with Msunduzi land fill site

The Landfill site is a high risk facility for the city for a variety of reasons:-

- If not managed in compliance with relevant legislation it can pose a health and environmental risk
- It is located close to water sources and in low lying areas within the Msunduzi city valley
- It is located close to increasingly densifying settlement areas

• This general risk of this landfill site is exacerbated by :-

- Higher than normal occurrence of fires on site affecting air quality for residents
- Slow / poor response by municipality response to the fires
- It has a growing informal settlement on its perimeters with a large number engaging in waste picking
- Waste pickers access to the site is not consistently managed with allegations of criminality

• In 2019 the Department of EDTEA issued a notice for the municipality to comply

- While progress was finally made in the last 5 months towards compliance this has not yet been finalized
- The latest fire further exposed some of the ongoing weaknesses with regard management of the risks associated with the site
- Concerns remain that simply addressing compliance and the addressing of the fire does not address the following underlying concerns

Handwritten initials: SA

CHALLENGES

- Msunduzi reported Shortage of excavators or Front loaders created delays in rapidly responding to the incidence
- Limited water tankers proved to be a serious challenge, given that extinguishing the fire required large volume water supply
- Human Resource Challenges and limited capacity of staff to deal with the landfill site.
- The increasing population of waste pickers and other informal waste traders who are not regulated, including foreigners
- Poverty in the city, creating dependency on the site, as more and more people leave off this site
- Armed gangs fighting over the access to waste and the control of the site
- The limited life span of the current Landfill site (6 to 10 years)


SIB

WHAT IS TO BE DONE: IMPLEMENTATION PLAN

| Challenge | Intervention(s) | Timelines | Responsibility | Progress on Intervention |
|---|---|---------------------------|---------------------------------|--------------------------|
| Shortage of Excavators or Front loaders | Msunduzi to embark on spending their allocated budget on capital expenditure by acquiring necessary yellow plant to run a best practice Landfill site Msunduzi to enter into an MOU with neighbouring municipalities who are using this site, to use their plants on demand | July 2020 to January 2021 | Msunduzi Municipality | |
| | | 31 August 2020 | Msunduzi Municipality | |
| | | | | |
| Human Resource Challenges and limited capacity of staff to deal with the Landfill site. | Msunduzi needs to appoint an interim General Manager and the Landfill expert to supervise the site, in the interim, until the staff currently facing disciplinary processes are fully committed. Msunduzi may possibly leverage private sector support and sign social compact with the chamber, for the secondment of private sector specialists, to assist in the management of the site | 30 September 2020. | Msunduzi Municipality | |
| | | 30 September 2020 | Msunduzi Municipality and EDTEA | |
| | | | | |

JA
SB

WHAT IS TO BE DONE: IMPLEMENTATION PLAN

| Challenge | Intervention(s) | Timelines | Responsibility | Progress on intervention |
|--|---|------------------|--|--------------------------|
| <p>Increasing proliferation of waste pickers and other informal waste traders who are not regulated, including foreigners.</p> | <p>A joint operation that will include SAPS, Home Affairs, Msunduzi Security and other enforcement agencies to implement a massive operation to remove people with no authority to be on the site</p> | 31 August 2020 | <p>SAPS and the Department of Community Liaison</p> <p>EDTEA</p> | |
| | <p>An urgent business plan must be developed for the formalization of waste pickers into cooperatives, who must be given structured access to the site</p> | 31 August 2020 | <p>Msunduzi Municipality, Umgungundlovu DM and EDTEA</p> | |
| | <p>A designation of a new site (or a processing facilities) adjacent to the landfill site, for the location of recycling operators.</p> | 31 December 2020 | | |

SR

WHAT IS TO BE DONE: IMPLEMENTATION PLAN

| Challenge | Intervention(s) | Timelines | Responsibility | Progress on Intervention |
|--|--|--------------|-----------------------|--------------------------|
| Armed gangs fighting over the access to waste and the control of the site. | The declaration of the site as a "security zone", fully equipped with modern camera systems and modern technology (through the extension of the safe city technology or "fire hawks") and the deployment of 24hr municipal security. | 30 June 2021 | Msunduzi Municipality | |
| | Possible high level electrified fencing around the site, and other technology monitoring systems linked to the SAPS | 30 June 2021 | Msunduzi Municipality | |

SR

WHAT IS TO BE DONE: IMPLEMENTATION PLAN

| Challenge | Intervention(s) | Timelines | Responsibility |
|--|---|------------------|-----------------------|
| Unavailability of water to extinguish fire | Installation of the Irrigation system | 30 June 2021 | Msunduzi Municipality |
| Limited life span of the current landfill site (6 to 10 years) | Identification of the new site Commissioning of feasibility study Acquisition of the new site | 31 December 2020 | Msunduzi Municipality |


 SR



Additional funding Requirements.

| Project | Importance | Cost |
|---|------------|---------------------|
| Yellow Plant | High | R15 000 000. |
| Waste Minimisation Infrastructure | High | R 5 000 000 |
| Landfill Storm Drainage System upgrades | High | R 4 500 000 |
| Gas Monitoring Infrastructure. | High | R 1 000 000 |
| Air Monitoring Infrastructure. | High | R 1 000 000 |
| Landfill Management Consultancy Services | High | R 20 000 000 |
| TOTAL | | R 46 500,000 |

Handwritten signature
S.B.



**PART 2: STATE OF
AFFAIRS**

Current funding allocations from the Municipality.

- R 9 000 000 For the landfill Management. Operational Budget.
- R14 000 000 For the procurement of yellow plant. 2020/2021 Financial Year Capital Budget. Inclusive of maintenance costs for the yellow plant.
- A business plan has been submitted at D.B.S.A for funding the Landfill Site.
- A business plan for future Landfill site has been submitted to National Treasury for funding purposes.

RECOMMENDATIONS

It is recommended that The Provincial Command Council:

- Notes the presentation;
- Supports the commencement of the process of decommissioning the current site;
- Makes a determination of future alternative sites within the jurisdiction of the Municipality;
- A consultation process between all relevant stakeholders to secure funding for the implementation of the above plan;
- Collaborative partnership be established to support the City, coordinated by COGTA towards a long term Waste management strategy
- MEC Champion leads and coordinates Political engagement on the viability of Declaration of the Landfill as a Local Disaster.

JP
SB

THANK YOU

**GROWING
KWAZULU-NATAL
TOGETHER**

JA
SR

"JBS26"



KWAZULU-NATAL PROVINCE
ECONOMIC DEVELOPMENT, TOURISM
AND ENVIRONMENTAL AFFAIRS
 REPUBLIC OF SOUTH AFRICA

DIRECTORATE: ENVIROMENTAL SERVICES; UMGUNGUNDLOVU DISTRICT

8 Warwick Road, Cascades
 Tel: (033) 347 1820, Fax: (033) 347 1826
 Postal Address: Private Bag X07, PIETERMARITZBURG, 3202
 www.kznded.gov.za

Enquiries: Ms. Kim van Heerden
 Reference: DC22/WML/0061/2016

3rd VARIATION OF REVISED COMPLIANCE NOTICE IN TERMS
OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT,
1998 (Act No. 107 OF 1998)

MSUNDUZI MUNICIPALITY

Postal Address:
 Private Bag X321
 PIETERMARITZBURG, 3200

AND

BY EMAIL

MR. MADODA KHATIDE

Municipal Manager: Msunduzi Municipality

Email: madoda.khatide@msunduzi.gov.za

AND

MR. SCELO DUMA

Ministerial Representative: Msunduzi Municipality

Email: scefo.duma@msunduzi.gov.za

Dear Sirs

3rd VARIATION OF REVISED COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AS AMENDED: NON-COMPLIANCE WITH THE VARIATION WASTE MANAGEMENT LICENCE (WML) ISSUED IN TERMS SECTION 49 (1) AND 54 (1) OF THE NATIONAL ENVIRONMENTAL WASTE MANAGEMENT ACT (NEM:WA) 59 OF 2008 (REF NO. DC22/WML/0061/2016) FOR THE NEW ENGLAND LANDFILL SITE, PIETERMARITZBURG, MSUNDUZI LOCAL MUNICIPALITY

- Your correspondence dated 5 June 2020 (received on the 17 June 2020), requesting to vary the Revised Compliance Notice issued to you in terms of section 31L of the National Environmental Management Act 107 of 1998 ("NEMA") on the 18th February 2020, refers.

| | | | | |
|---|--|--|---------------------------------|-------------|
| Department of Economic Development, Tourism and Environmental Affairs | 3rd Variation of Revised Compliance Notice | DC22/WML/0061/2016 New England Road, Landfill Site | Initials: <i>[Signature]</i> | Page 1 of 3 |
|---|--|--|---------------------------------|-------------|

[Handwritten Signature]
 SB

2. The Department acknowledges the submission of the request for the variation of the obligations provided in paragraphs 4.1.3; 4.1.7; 4.1.8, 4.1.9; 4.1.11; 4.1.12; 4.1.14; 4.1.15; 4.1.16; 4.1.17 and 4.1.18 of the Revised Compliance Notice issued to you on the 18th February 2020 (as varied).
3. Following the receipt of the request to vary the Revised Compliance Notice the Department requested a meeting with the Municipality and respective officials to discuss the request to vary the timeframes provided in the Revised Compliance Notice on the 9 July 2020.
4. It is noted that the request to vary the timeframes provided for within the Revised Compliance Notice has, for the majority of the of the actions required, been submitted after the timeframes provided for in the Revised Compliance Notice have in fact already lapsed.
5. The Department has obtained legal advice that it is not in a position to extend or vary the timeframes provided in a Compliance Notice, if that request is not submitted prior to the date specified in the Compliance Notice for those specific action/s to have been undertaken.
6. Section 31L(3) of the NEMA states that an EMI may, on good cause shown, vary a compliance notice and extend the period within which the person must comply with the notice. Section 31L(4) places an obligation on a person who receives a compliance notice to comply with that notice within the time period stated in the notice unless the Minister or MEC has agreed to suspend the operation of the compliance notice and non-compliance with a compliance notice and the actions and associated timeframes included therein is a criminal offence in terms of section 49A(1)(k).
7. It is not considered proper to vary or alter an action after the expiration of a timeframe in light of the fact that non-compliance with a compliance notice is a criminal offence, and would not be in line with the intention of the legislation, being to compel a person to comply with a notice, including the specified timeframes within which to execute the instructions contained therein, and may serve to dilute the regulatory authority of instructions of compliance notices.
8. The Department is therefore not in a position to consider or approve the request to vary the Revised Compliance Notice as requested for the timeframes as specified in paragraphs 4.1.3; 4.1.7; 4.1.8, 4.1.9; 4.1.11; 4.1.12; 4.1.14; 4.1.15; and, 4.1.16.
9. The Department is only in a position to consider the action specified in paragraph 4.1.17 and 4.1.18 of the Revised Compliance Notice in that this timeframe had not yet lapsed when the request to vary the Revised Compliance Notice was submitted. This action relates to the submission of the Decommissioning and Rehabilitation plan for the landfill site, to be submitted within 6 months of the Compliance Notice (that date being the 18th August 2020).
10. As a Grade 1 Environmental Management Inspector, I hereby vary paragraphs 4.1.17 and 4.1.18 of the Revised Compliance Notice to read as follows:

4.1.17 *By the 31st January 2021, submit to the Department, a Decommissioning and Rehabilitation plan for the New England Road Landfill site, that must:*

- (a) *be compiled by an independent and suitably qualified landfill site specialist, registered with a relevant professional body;*
- (b) *outline the Municipality's plans towards decommissioning and rehabilitating the New England Road Landfill site, noting the limitations of the current landfill site in the medium to long term and in identifying an alternate landfill site;*
- (c) *contain clearly defined recommendations and mitigation measures; and, responsibilities and timeframes for implementing these recommendations and measures;*

| | | | | |
|---|--|--|-------------------------|-------------|
| Department of Economic Development, Tourism and Environmental Affairs | 3rd Variation of Revised Compliance Notice | DC22/WML/0061/2016 New England Road, Landfill Site | Initials: <i>AWI</i> | Page 2 of 3 |
|---|--|--|-------------------------|-------------|

AWI
SR

4.1.18 Immediately upon approval of the Decommissioning and Rehabilitation plan by the Licencing Authority diligently initiate and implement the Decommissioning and Rehabilitation plan in accordance with the timeframes specified in the plan or as specified by the Licencing Authority.

- 11. This variation notice does not vary any other steps or timeframes contained in the Revised Compliance Notice issued to you on the 18th February 2020. It must be noted that you have failed to comply with the action as and/or timeframes provided in paragraphs 4.1.3; 4.1.8; 4.1.9; 4.1.14; 4.1.15; and, 4.1.16 of the Revised Compliance Notice (as varied).
- 12. The failure to comply with all of the actions and associated timeframes provided to you in the Revised Compliance Notice issued on the 18th February 2020, constitutes an offence in terms of section 49A(1)k of NEMA.
- 13. Environmental Management Inspectors (EMI) from this Department are given wide powers in terms of NEMA to investigate whether or not you have complied or are complying with a compliance notice, and to exercise certain powers in order to enforce any contravention thereof, including but not limited to the power to seize items used in the commission of an offence as well as the power of arrest.
- 14. Section 31N(2) of the NEMA requires that where a person fails to comply with a compliance notice, the Environmental Management Inspector must report the non-compliance to the Minister or MEC, as the case may be, and the Minister or MEC may - (a) revoke or vary the relevant permit, authorisation or other instrument which is the subject of the compliance notice; and/or, take any necessary steps, and recover the costs of doing so from the person who failed to do so. The Hon. MEC for Economic Development, Tourism and Environmental Affairs for KwaZulu-Natal will be formally made aware of these non-compliances
- 15. Should you have any queries please feel free to contact the Department.

Signed on this 17 day of August 2020 Pietermaritzburg

Ms. Kim Lea van Heerden

Signed by: Ms. Kim Lea van Heerden
Environmental Management Inspector (Grade 1)
Department of Economic Development, Tourism and Environmental Affairs

Acknowledgement of Receipt:

3rd VARIATION OF REVISED COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998: NON-COMPLIANCE WITH THE VARIATION WASTE MANAGEMENT LICENCE (WML) ISSUED IN TERMS SECTION 49 (1) AND 54 (1) OF THE NATIONAL ENVIRONMENTAL WASTE MANAGEMENT ACT (NEM:WA) 59 OF 2008 (REF NO. DC22/WML/0061/2016) FOR THE NEW ENGLAND LANDFILL SITE, PIETERMARITZBURG, MSUNDUZI LOCAL MUNICIPALITY

Received by Mr./Ms _____

On behalf of the company _____

on this _____ day of _____ 2020, at _____

Signature: _____

| | | | | |
|---|--|--|------------------------|-------------|
| Department of Economic Development, Tourism and Environmental Affairs | 3rd Variation of Revised Compliance Notice | DC22/WML/0061/2016 New England Road, Landfill Site | Initials: <i>ML</i> | Page 3 of 3 |
|---|--|--|------------------------|-------------|

ML
SR

INTERIM INVESTIGATION REPORT

INVESTIGATING OFFICER: IAN FELTON
Alexandra Road CAS 58/09/2019

CAS Number: Alexandra Road CAS 58/09/2019

Accused: Msunduzi Municipality and Others

Location: New England Road Landfill Site, Lot 1853 of the Farm Darvill No. 15036, New England Road, Pietermaritzburg

Offences:

Count 1:

Contravention of section 20(b), read with section 67(1)(h) and section 68(1) of the National Environmental Management: Waste Act, 59 of 2008 – failure to comply with a waste management licence and conditions.

Count 2:

Contravention of section 26(1)(b) read with section 67(1)(a) and section 68(1) of the National Environmental Management: Waste Act, 57 of 2008 – failure to dispose of waste in a manner so as not to cause pollution of the environment or harm to health and well-being.

Count 3:

Contravention of section 16(1)(c) read with section 67(1)(a) and section 68(1) of the National Environmental Management: Waste Act, 57 of 2008 – failure to dispose of waste in an environmentally sound.

Count 4:

Contravention of section 16(1)(d) read with section 67(1)(a) and section 68(1) of the National Environmental Management: Waste Act, 57 of 2008 – failure to manage waste in a manner so as not to endanger health or the environment or cause a nuisance through noise, odour or visual impacts.

Count 5:

Contravention of section 31(4) read with section 49a(k) and section 49b(2) of the National Environmental Management Act, 109 of 1998 – failure to comply with a compliance notice.

INVESTIGATION REPORT

1. The investigation relates to the alleged contraventions of the National Environmental Management Act, 107 of 1998 [hereafter referred to as "NEMA"] by Msunduzi Municipality and employees of the Msunduzi Municipality responsible for waste management and disposal.
2. On Monday 26th August 2019 I was telephoned by the Director: Compliance Monitoring and Enforcement within EDTEA, Mr. B.R. DLAMINI, who requested that I be the investigating officer

IF
SB

on a criminal case that was to be opened in respect of alleged non-compliance with a waste management licence and compliance notice by the Msunduzi Municipality and officials employed within the municipality. On the 27th August 2019 I accompanied Ms. KIM VAN HEERDEN, the district manager for the uMgungundlovu District of the EDTEA, to the Alexandra Road police station and facilitated her in opening a criminal case.

3. I obtained a copy of the Waste Management Licence issued in terms of the National Environmental Management: Waste Act (No. 59 of 2008) for the New England Road landfill site by EDTEA on the 3rd July 2017 (reference number: DC22/WML/0061/2016); and, the Compliance Notice issued in terms of the National Environmental Management Act (No. 107 of 1998 by EDTEA on the 15th May 2019, from Ms. KIMERA DHAVER the head of the pollution and waste management section for the uMgungundlovu District of the EDTEA.
4. On the 6th September 2019 I conducted an investigation at the New England Road Landfill site in terms of section 31H and K of the NEMA, together with Mr. SIBONGISENI SOSIBO and Mr. LINDA MTHIMKULU, both Environmental Management Inspectors employed within EDTEA.
5. Prior to going to the New England Road landfill site I made observations of the landfill site from a vantage point off FJ Sithole Street within Sobantu. From this location I observed the following:
 - There appeared to be no management or control of the waste disposal site with general waste dispersed over a significant area outside of the approved waste disposal area;
 - Significant mounds of waste were evident within the approved waste disposal area and there was no signs that waste had been compacted or covered for an extended period of time;
 - Broken or disused machinery was observed within a workshop area. One Tractor-Loader-Backhoe (TLB) was observed on the approved waste disposal area;
 - The concrete palisade fence surrounding the landfill site was broken in numerous locations and there was uncontrolled access to the site, including through an open gate where vehicles were seen entering and leaving the site without waste screening, monitoring or control; and,
 - Numerous people were observed within the waste disposal site, both within the approved waste disposal area and within the surrounding embankments. Uncontrolled pedestrian access between the landfill site and surrounding informal settlements were seen and shack structures were observed within the landfill site.
6. I then travelled to the New England Road Landfill site. At the landfill site office I requested to see the landfill site foreman and was redirected to Mr. MBUSO HLOPE who identified himself as the recycling manger. I informed Mr. HLOPE that I wished to access the site to conduct a site investigation related to a criminal case that had been opened in respect of the New England Road Landfill site. Mr. HLOPE phoned Mr. MHLONGO the landfill site foreman and informed him of my presence and my request to access the site. I was informed by Mr. HLOPE that Mr.

MHLONGO was not available but that he had said that I could access the site to conduct the investigation.

7. An inspection of the New England Road Landfill site confirmed that:
- There was no management, control or adequate security of the waste disposal site and no supervision within the approved waste disposal area. General waste was dispersed over the site outside of the approved waste disposal area;
 - Within the approved waste disposal area there were significant mounds of waste exceeding the height of the berm surrounding the approved waste disposal area. There were significant volumes of uncompacted and uncovered waste and it was evident that waste disposed of at the site had not been compacted or covered for an extended period of time. A very small quantity of cover material was present on the site, insufficient to cover waste;
 - There were significant numbers of flies, vermin and birds and the uncovered food and other organic waste was creating odours and nuisance. Due to the uncontrolled waste disposal at the site outside of the approved waste disposal area runoff water from rainfall events was coming into contact with the general waste and this will result in potentially contaminated stormwater discharging directly into the Blackburrough stream and cause environmental risk and pollution.
 - No machinery was evident in the approved waste disposal area. A number of TLB's was observed loading waste disposed of at the waste transfer station into trucks for disposal at the approved waste disposal area;
 - Seemingly broken or disused machinery was observed within a workshop area including a new excavator, and an old disused compactor, bulldozer, tractor and trailer, front-end loader and truck;
 - There were numerous holes in the concrete palisade fence surrounding the landfill site and uncontrolled access to the site through these points and the surrounding informal settlements was observed. No signs were observed along the perimeter fence indicating the risks of unauthorised access;
 - Numerous people were observed within the waste disposal site, both within the approved waste disposal area and within the surrounding embankments and informal residential shack structures were observed within the landfill site. Fires were observed both within and outside of the landfill site; and,
 - Informal and uncontrolled waste recycling was being undertaken on the site in extremely hazardous conditions that pose significant human health and wellbeing risks;

8. Departmental records show that the Msunduzi Municipality is the holder of a Waste Management Licence for the New England Road Landfill site issued on the 3rd July 2017(reference number: DC22/WML/0061/2016) by Ms. NOMBULELO ZUNGU the acting Director: South Region for EDTEA. I requested Ms. ZUNGU to provide me a statement confirming the waste management licence and received this Affidavit on the 11th October 2019.
9. Departmental records also show that the Msunduzi Municipality and individuals in the Msunduzi Municipality were issued with a Compliance Notice in terms of section 31L of the NEMA for non-compliance with the waste management licence issued for the New England Road Landfill site. This Compliance Notice was issued on the 15 May 2019 under reference number: DC22/WML/0061/2016 by Ms. KIM VAN HEERDEN a grade 1 environmental management inspector within the uMgungundlovu District for EDTEA. I requested Ms. VAN HEERDEN to provide me a statement confirming the Compliance Notice and received this Affidavit on the 6th July 2020.
10. I requested confirmation from Mr. HARESH INDERLALL, the appeal administrator within the legal section of EDTEA, that no appeal had been lodged against the Compliance Notice and/or if the Hon. MEC for Economic Development, Tourism and Environmental Affairs has suspended or set aside the Compliance Notice. I received a statement on the 26th September 2019 from Mr. INDERLALL that confirmed that no appeal had been lodged against the Compliance Notice and that the notice had not been set aside and was therefore in force and effect.
11. I interviewed Ms. DHAVER, Ms. VAN HEERDEN and Mr. RICKY JAMES of the Pollution and Waste section of the EDTEA in the uMgungundlovu District, and was informed that there had been numerous site inspections, audits and interactions with the Msunduzi municipality waste section with the aims to monitor and ensure compliance with the waste management licence. I requested that they submit statements to detail the site inspections, audits and interactions that they had had with the Msunduzi municipality waste section and the New England Road Landfill site. I was informed that the last comprehensive audit done at the New England Road Landfill site was undertaken on the 25th October 2017.
12. I contacted Ms. KERSHIA RAMSERN an environmental management inspector based in the uThungulu district of EDTEA who had been the team leader on the audit undertaken on the 25th October 2017. Ms. KERSHIA RAMSERN informed me that the audit revealed that the Msunduzi Municipality had failed to comply with a substantial number of conditions contained within the WML and these were documented in audit report attached. She provided me with an affidavit and the audit report. Mr. BONGA MKHIZE confirms that this audit report dated 12 February 2018, was hand delivered to Mr. CYRIL NAIDOO the Landfill Site Manager of the New England Road Landfill site on 13 February 2018.
13. On the 9th October 2019 I interviewed Ms. LELANI VAN DEN BERG the Legal Advisor in the office of the City Manager. I informed Ms. VAN DEN BERG of the basis for the investigation and the history related to the non-compliance with the waste management licence and compliance notice. I requested her assistance in obtaining relevant information held by the Municipality. She



requested that this request rather be made by way of a subpoena addressed to the acting municipal manager and which could be served on herself. Ms. VAN DEN BERG informed me that crime intelligence had informed her that they had prior knowledge that a fire would be started at the landfill site on the weekend of the 5/6th October.

14. Ms. KIMERA (DHAVER) PILLAY informed me that she served the Pre-Compliance Notice on 26 February 2019, she served the Compliance Notice on 15 May 2019.
15. Both Ms. VAN HEERDEN and Ms. (DHAVER) PILLAY informed me that they had undertaken numerous site inspections at the New England Road Landfill site and has observed continuous non-compliance with the WML and Compliance Notice. Neither of them have received the reports and/or plans required within the Compliance Notice, apart from a draft, un-endorsed action plan. They both further informed me that none of the requirements of the Compliance Notice had been undertaken and that none of the proposed actions in the draft action plan had been effected.
16. My observations at the landfill site during my inspection on 6 September 2019 confirmed non compliance with the WML and Compliance Notice. During further inspections, undertaken on the 3rd and 4th February 2020 with Mr. SIDWELL NTOKHOZO NGCAMU, Mr. BRENDEN PERUMAL (both Environmental Management Inspector's employed by DEFF) and Ms. KIM VAN HEERDEN it was observed that there was continued non compliance with the WML and Compliance Notice.
17. I obtained the signed performance agreements and work plans for officials responsible for waste management at the New England Road landfill site. The responsibilities were assigned to the following people:

2017-2018

| Person | Post | Responsibility | Date signed |
|------------------|------------------------------------|---|-------------|
| Mr. SIZWE HADEBE | Acting Municipal Manager | Basic Service Delivery including Waste Management | 7/7/2017 |
| Ms. BONIWE ZULU | General Manager: Community Service | Waste Management | 7/7/2017 |

2018-2019

| Person | Post | Responsibility | Date signed |
|---------------------|--------------------------|---|-------------|
| Ms. NELISIWE NGCOBO | Acting Municipal Manager | Basic Service Delivery including Waste Management | 5/10/2018 |

2019-2020

| Person | Post | Responsibility | Date signed |
|--------|------|----------------|-------------|
|--------|------|----------------|-------------|

PA
SK

| | | | |
|---------------------|------------------------------------|---|-----------|
| Ms. NELISIWE NGCOBO | Acting Municipal Manager | Basic Service Delivery including Waste Management | 12/6/2019 |
| Ms. BONIWE ZULU | General Manager: Community Service | Waste Management | 12/6/2019 |

18. On the 6th February 2020 I received a copy of the Agreement entered into between Provincial Executive Council of the Province of KwaZulu-Natal [Executive Council] and a Ministerial Representative, Mr. SIBUSISO SITHOLE. This agreement states that on the 5th April 2019 the Executive Council resolved to intervene in the Msunduzi Municipality in terms of section 139(1)(b) of the Constitution of the Republic of South Africa and to assume the executive obligations of the Municipality. Mr. SIBUSISO SITHOLE was employed by the Executive Council to perform a number of services. An agreement was entered into with Mr. SITHOLE on the 29th May 2019 in which he was expected to *"ensure that the municipality implements measures to urgently improve its operations and maintenance programme with particular reference to waste management, roads and electricity maintenance"*.
19. On the 6th February 2020 I was requested take over the administrative enforcement interventions at the landfill site in order to ensure compliance with the waste management licence and to draft a Revised Compliance Notice for the alleged transgressions at the New England Road Landfill site. My involvement in the administrative enforcement aspects and associated interactions with the municipality and relevant officials created a perceived conflict with me being the Investigating Officer and the administrative enforcement officer on the same case. On the 11th February 2020 I requested that the criminal case docket be transferred to avoid this perceived conflict and on the 6th August 2020 Ms. SIPHUMELELE NOWELE my Chief Director informed me that the criminal case docket would be transferred to another Investigating Officer.
20. Based on my observations and investigation I have reason to believe that there has been contraventions of the following provisions of the of the National Environmental Management Act (Act No. 107 of 19980 and the National Environmental Waste Act (Act No. 59 of 2008):

Contravention of section 20(b), read with section 67(1)(h) and section 68(1) of the National Environmental Management: Waste Act, 59 of 2008 – failure to comply with a waste management licence and conditions.

In that there has been failure to comply with the provisions of section 20(b) of the National Environmental Management: Waste Act, 59 of 2008 by not complying with conditions of a waste management licence. Based on my observations there is non-compliance with conditions 5.3.7; 5.3.9; 5.3.10; 5.3.11; 5.3.14; 5.3.15; 5.3.17; 5.3.18; 5.3.19; and, 5.3.28 of the waste management licence issued for the New England Road Landfill site dated 3 July 2017 under reference number: DC22/WML/0061/2016.

SR

Contravention of section 26(1)(b) read with section 67(1)(a) and section 68(1) of the National Environmental Management: Waste Act, 57 of 2008 – failure to dispose of waste in a manner so as not to cause pollution of the environment or harm to health and well-being.

In that there has been failure to comply with section 26(1)(b) of the National Environmental Management Waste Act in that waste is being disposed of in a manner that is causing or will cause significant environmental pollution and harm to health and wellbeing. Based on my observations waste is being disposed of in a manner that has resulted in, or will result in, potentially contaminated stormwater discharging directly into the Blackburnhough spruit stream, causing environmental risk and pollution; uncontrolled waste recycling is being undertaken in a manner that pose significant human health and wellbeing risks; no management, supervision, control or adequate security of the waste disposal site is resulting in uncontrolled access to the site, placing people's health and well-being at risk; and, significant volumes of uncompacted and uncovered waste poses significant uncontrolled fire, vermin, odour, human health and environmental pollution risks.

Contravention of section 16(1)(c) read with section 67(1)(a) and section 68(1) of the National Environmental Management: Waste Act, 57 of 2008 – failure to dispose of waste in an environmentally sound manner.

In that there has been failure to comply with section 16(1)(c) of the National Environmental Management Waste Act in that waste is being disposed of in an environmentally unsound manner. Based on my observations waste is not being disposed of in an environmentally unsound manner that in that the waste disposal does not adhere to the conditions of the waste management licence issued for the facility or accepted norms standards and guidelines.

Contravention of section 16(1)(d) read with section 67(1)(a) and section 68(1) of the National Environmental Management: Waste Act, 57 of 2008 – failure to manage waste in a manner so as not to endanger health or the environment or cause a nuisance through noise, odour or visual impacts.

In that there has been failure to comply with section 16(1)(d) of the National Environmental Management Waste Act in that waste is being managed in a manner that is endangering human health and wellbeing and causing environmental risk and pollution.

Contravention of section 31L(4) read with section 49A(k) and section 49B(2) of the National Environmental Management Act, 109 of 1998 – failure to comply with a compliance notice.

In that there has been failure to comply with section 31L(4) of the National Environmental Management Act in not complying with a compliance notice issued in terms of section 31L of the National Environmental Management Act. Based on my observations there is non-compliance with paragraphs 4.1.1; 4.1.3; and, 4.1.6 of the Compliance Notice issued for the New England Road Landfill site dated 15 May 2019 under reference number: DC22/WML/0061/2016.

HA
SB

NEW ENGLAND ROAD LANDFILL: TIMELINE (2001 - 2014)

| | Audit | Enforcement | Inspection | Meeting | Fire |
|----------------|---------|--|------------|---------|------|
| DATE | ACTION | RESPONSE/REPORT | | | |
| 27/6/2001 | Enforce | Warning letter issued to Msunduzi by EDTEA regarding management of landfill and potential to issue s28 Directive in terms of NEMA | | | |
| 01 - 31/5/2002 | | Interaction with municipality and receipt of reports regarding waste minimisation, air emissions, dust monitoring and air pathways analysis. | | | |
| 24/5/2004 | | Critical Posts report received from Msunduzi municipality. | | | |
| 31/5/2004 | Audit | External audit report received from Msunduzi | | | |
| 31/5/2004 | | Site Rehabilitation & Closure report received from Msuduzi | | | |
| 2/9/2005 | | Report received of a fire at the landfill site | | | |
| 7/9/2005 | | I&AP complaint received regarding landfill site fire | | | |
| 13/10/2005 | | Response provided to complainant following investigations and meetings with Msunduzi | | | |
| 5/8/2005 | | Report received of a fire at the landfill site | | | |
| 11/3/2006 | | Report received of a fire at the landfill site | | | |
| 29/3/2006 | Meeting | Meeting held with MM and relevant officials, convened by DWS and EDTEA | | | |
| 31/3/2006 | | Landfill rehabilitation plan submitted by Msunduzi | | | |
| 11/5/2006 | Enforce | Warning letter issued to Msunduzi by DWS | | | |
| 26/5/2006 | | Response to warning letter received from Msunduzi Municipality | | | |
| 9/6/2006 | Meeting | Meeting held with MM and relevant officials, convened by DWS and EDTEA | | | |
| 14/6/2006 | | I&AP complaint received regarding landfill site fire | | | |
| 22/6/2006 | | Response provided to complainant following investigations and meetings with Msunduzi | | | |
| 27/11/2006 | Enforce | Warning letter issued to Msunduzi by EDTEA and no response received | | | |
| 16/01/2007 | Inspect | Site inspection undertaken by EDTEA | | | |
| 29/1/2007 | Enforce | Warning letter issued to Msunduzi by EDTEA and no response received | | | |
| 12/4/2007 | Audit | External audit report received from Msunduzi | | | |
| 8/5/2009 | Inspect | Site inspection and on-site meeting undertaken by EDTEA | | | |
| 28/6/2010 | | Report received of a fire at the landfill site | | | |
| 30/6/2010 | Inspect | Site inspection undertaken by EDTEA | | | |
| 9/9/2010 | Audit | External landfill site status quo assessment | | | |
| 20/9/2010 | | Correspondence received from Msunduzi regarding developing an MRF | | | |
| 29/9/2010 | Enforce | Warning letter issued to Msunduzi and Administrator (J. Mettler) | | | |
| 7/10/2011 | | Correspondence to Msunduzi to advise regarding MRF approval process | | | |
| 10/2010 | | External site rehabilitation and closure report submitted by Msunduzi | | | |
| 14/12/2012 | | Correspondence sent to Msunduzi regarding the failure of the Landfill site monitoring committee | | | |
| 25/2/2013 | | Report received of a fire at the landfill site | | | |
| 4/2013 | | External site rehabilitation and closure report submitted by Msunduzi | | | |
| 21/6/2013 | | Correspondence to Msunduzi regarding illegal structures and people observed living on landfill site | | | |
| 21/6/2013 | Meeting | Meeting with MM and officials regarding NERLS and non-compliances | | | |

A
SB

| | | |
|------------|-------|---|
| 21/6/2013 | | Correspondence received from Msunduzi regarding illegal structures and people residing on the landfill site |
| 10/7/2013 | | Received Msunduzi response and plan for to illegal structures and waste pickers |
| 22/8/2013 | | Correspondence received from Msunduzi regarding engineering of MRF |
| 13/9/2013 | | Correspondence received from Msunduzi regarding relocation of MRF |
| 19/9/2013 | | Response provided to Msunduzi regarding relocation of MRF |
| 4/10/2013 | | Correspondence sent to Msunduzi regarding lack of response to previous letter in respect of non-functional monitoring committee |
| 14/10/2013 | | Report received of a fire at the landfill site |
| 11/10/2013 | | Response received from Msunduzi in respect to the Monitoring Committee failure to meet |
| 4/2014 | | External site rehabilitation and closure report submitted by Msunduzi |
| 7/2014 | | Landfill site engineering upgrade report submitted by Msunduzi |
| 19/11/2014 | Audit | EDTEA compliance audit of the landfill site |
| 12/2014 | | Leachate monitoring report submitted by Msunduzi |

| Interventions (2001 - 2014) | Number |
|-----------------------------|--------|
| Inspections | 3 |
| Comprehensive Audits | 4 |
| Meetings | 3 |
| Enforcement Actions | 5 |
| Fires | 6 |

9/11
SB

**IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG**

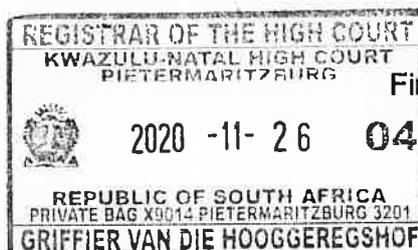
Case No: 8407/20P

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

Applicant

and

MSUNDUZI LOCAL MUNICIPALITY



First Respondent

HEAD OF THE DEPARTMENT OF

ECONOMIC DEVELOPMENT,

TOURISM AND ENVIRONMENTAL AFFAIRS,

KWAZULU-NATAL PROVINCIAL GOVERNMENT

Second Respondent

MEMBER OF THE EXECUTIVE COUNCIL

FOR ECONOMIC DEVELOPMENT,

TOURISM AND ENVIRONMENTAL AFFAIRS,

KWAZULU-NATAL PROVINCIAL GOVERNMENT

Third Respondent

INDEX BUNDLE 7

| | | |
|----|---|---------|
| 31 | 'JBS28' - Notice of Intention to Institute these Legal Proceedings sent to the First Respondent by the Applicant's attorneys of record dated 27 August 2020 | 504-513 |
| 32 | 'JBS29' - First Respondent's response dated 1 September 2020 | 514-515 |
| 33 | 'JBS30' - Representations received by the Commission from the Interested and Affected Parties | 516-531 |
| 34 | Applicant's Notice in terms of Rule 41A | 532-534 |

| | | |
|----|-----------------|---------|
| 35 | Rule 16A Notice | 535-538 |
|----|-----------------|---------|

"JBS28"



Ndlovu de Villiers
Environmental Law Specialists

Msunduzi Local Municipality
Attention: Mr. Madoda Khathide
City Manager

Per e-mail: madoda.khathide@msunduzi.gov.za

| | |
|----------|----------------|
| Our Ref: | S05-001 |
| Date: | 27 August 2020 |

Dear Mr. Khathide

RE: NOTICE OF INTENTION TO INSTITUTE LEGAL PROCEEDINGS, ON AN URGENT BASIS, AGAINST MSUNDUZI LOCAL MUNICIPALITY REGARDING ALLEGED VIOLATIONS OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996, ARISING FROM THE OPERATION OF THE NEW ENGLAND ROAD LANDFILL SITE FOR THE PERIOD FROM 1 JULY 2009 TO DATE

Introduction

1. We act for the South African Human Rights Commission (hereinafter referred to as the "Commission").

Block A Victoria House (170 Peter Brown Drive)
Victoria Country Club Estate
Pietermaritzburg, 3201
South Africa
Tel: +27 (0)33 001 7521 Email: ndlovu@ndvllaw.co.za
Cell: +27 (0)72 320 0283 Fax: +27(0)86 272 8791

Ndlovu de Villiers Attorneys
Practising S.E.E. Ndlovu BA (Law) LL.B LL.M (Master of Environmental Law)
S.O. de Villiers BA LLB


SB

27-Aug-20

2

2. We hereby give notice of the Commission's intention to institute legal proceedings against Msunduzi Local Municipality (hereinafter referred to as the "Municipality") regarding alleged violations of the Constitution of the Republic of South Africa, 1996 (hereinafter referred to as the "Constitution"). The alleged violations concerned arise from the Municipality's operation of the New England Road Landfill Site (hereinafter referred to as the "Landfill Site") for the period from 1 July 2009 to date. Given that the alleged violations concerned span a period of more than a decade and are on-going, the Commission intends to institute the said legal proceedings on an urgent basis.

The Commission's mandate

3. The Commission's intention to institute legal proceedings against the Municipality is informed by its Constitutional mandate. The Commission is a state institution established in terms of Chapter 9 of the Constitution.
4. Furthermore, section 184(2)(b) of the Constitution provides that the Commission has the power to take steps to secure appropriate redress where human rights have been violated. Among other requirements, section 184(1) of the Constitution requires the Commission to:
 - 4.1. **Promote respect for human rights and a culture of human rights;**
 - 4.2. Promote the protection, development and attainment of human rights; and
 - 4.3. Monitor and assess the observance of human rights in the Republic of South Africa.
5. The South African Human Rights Commission Act No. 40 of 2013 (hereinafter referred to as the "SAHRC Act") regulates the functioning of the Commission. Section 13(3) of the SAHRC Act empowers the Commission to bring legal

Handwritten signature and initials, possibly 'SB'.

27-Aug-20

3

proceedings in a competent court or tribunal in its own name, or on behalf of a person or a group or class of persons.

Investigation of the Landfill Site

6. In February 2020, the Commission commenced with an investigation of the Municipality's operation of the Landfill Site. In a letter dated 14 July 2020, the Commission notified the Municipality of the investigation. Thereafter, Municipality furnished the Commission with several voluminous documents relating to the Landfill Site.
7. The Commission has considered the Municipality's response together with all the supporting documentation and sets out its views and/or observations below.

The Commission's views and/or observations

8. The Commission's views and/or observations are that the Municipality's operation of the Landfill Site appears to be in violation of:
 - 8.1. conditions of the applicable Waste Management Licence;
 - 8.2. a compliance notice issued with a view to ensure compliance with the applicable Waste Management Licence;
 - 8.3. various statutory provisions enacted to give effect to section 24 of the Constitution; and
 - 8.4. section 24 of the Constitution.

The basis of the Commission's views and/or observations

Handwritten signature and initials in the bottom right corner of the page.

27-Aug-20

4

9. On 22 April 1998, the Department of Water Affairs and Forestry granted the Pietermaritzburg – Msunduzi Transitional Local Council a permit to operate the Landfill Site. The Department of Water Affairs and Forestry issued that permit (under Departmental Reference No. 16/2/7/U203/D3/Z1/P64) in terms of section 20 of the Environment Conservation Act 73 of 1989. Hence, we refer to that permit as the “section 20 permit”.
10. When the Municipality was established in 2000, it became the owner and operator of the Landfill Site. That is so because the Municipality is the successor-in-law to the Pietermaritzburg – Msunduzi Transitional Local Council.¹
11. On 1 July 2009, the National Environmental Management: Waste Act 59 of 2008 (hereinafter referred to as the “Waste Act”) came into effect. The coming into effect of the Waste Act ushered two consequences of importance to this matter:
 - 11.1. First, for all intents and purposes, (from 1 July 2009) all section 20 permits were regarded as Waste Management Licences issued in terms of the Waste Act. That includes the section 20 permit which is the subject of this matter.
 - 11.2. Secondly, the regulation of the operations of the Landfill Site was transferred from the Department of Water Affairs and Forestry to² the KwaZulu-Natal Department of Economic Development, Tourism and Environmental Affairs (hereinafter referred to as “EDTEA”) and the National Department of Environmental Affairs (hereinafter referred to as “DEA”). That meant that EDTEA and DEA became responsible for the monitoring of compliance with the Municipality’s section 20 permit.

¹ Section 5 of the KwaZulu-Natal Provincial Notice No.352, published in Provincial *Government Gazette* No. 5571 of 19 September 2000 provides that: “... a new municipality is the successor in law with regard to the area of a disestablished municipality to the extent that the whole or any portion of the said area falls within the boundaries of such new municipality”.




27-Aug-20

5

12. On 10 March 2015, the officials in the employ of EDTEA undertook a comprehensive audit of the Municipality's operations of the Landfill Site. Those officials found various instances of the Municipality's non-compliance with the section 20 permit. As a result of those findings, on 2 June 2015, EDTEA issued a Warning Letter to the Municipality in which EDTEA drew the attention of the Municipality to issues of non-compliance with the section 20 permit. The Municipality did not heed that Warning Letter.
13. A year later, on or about 6 June 2016, the Municipality made an application to EDTEA for a variation of the section 20 Permit. On 3 July 2017, acting in terms of the Waste Act, EDTEA issued a Waste Management Licence to the Municipality. EDTEA issued that Waste Management Licence under Departmental Reference DC22/WML/0061/2017 and titled it "VARIATION OF WASTE MANAGEMENT LICENCE". In issuing the Waste Management Licence, EDTEA replaced the section 20 permit but retained most of the conditions of the section 20 permit.
14. On 25 October 2017, officials of EDTEA together with officials from the Municipality undertook a comprehensive joint compliance audit of the operations of the Landfill Site. EDTEA produced an audit report which sets out EDTEA's findings on the audit that was undertaken. In that report EDTEA recorded that the Municipality was found to have failed to comply with a substantial number of conditions contained in the Waste Management Licence.
15. On 13 February 2018, officials of EDTEA hand delivered to the Municipality a copy of the audit report and its findings.
16. Between August 2018 and November 2018, several meetings were held between officials of EDTEA and those of the Municipality with a view to ensuring the Municipality's compliance with the Waste Management Licence.



Handwritten signature and initials, possibly 'CB', located at the bottom right of the page.

27-Aug-20

6

17. On 13 December 2018, in a follow up inspection at the Landfill Site, officials of EDTEA observed that the state of the Landfill Site had deteriorated further. It was apparent that actions were not being taken to address the non-compliance issues raised by EDTEA.
18. On 13 January 2019 another fire occurred at the Landfill Site. On 4 February 2019, the Municipality submitted an Incident Report (dated 13 January 2019) in terms of section 30 of the National Environmental Management Act No. 107 of 1998 (hereinafter referred to as "NEMA"). In that report, the Municipality identified poor compaction as one of the contributory factors that caused the fire.
19. On 22 February 2019, EDTEA issued a Pre-Compliance Notice to the Municipality and the relevant officials in respect of the operations of the Landfill Site. EDTEA received two sets of representations from Mr. Cyril Naidoo on 12 March 2019 and 18 March 2019, respectively.
20. In April 2019 the Municipality was placed under Administration. On 15 May 2019 EDTEA issued a compliance notice (to the Municipality) in terms of section 31L of NEMA. Officials of EDTEA engaged the then newly appointed Administrator of the Municipality and Municipal official on 20 June 2019.
21. Officials of EDTEA undertook a site inspection of the Landfill Site on 24 July 2019 along with certain officials of the Municipality. The officials of EDTEA observed that the key non-compliances and environmental concerns identified as the Landfill Site remained unchanged and had worsened.
22. All of EDTEA's attempts to enforce compliance with the Waste Management Licence and the Compliance Notice failed. As a last resort, on 27 September 2019, EDTEA opened a criminal case against the Municipality in order to safeguard and protect the environmental right of the citizens of the Municipality.

Handwritten signature and initials, possibly 'ER'.

27-Aug-20

7

23. Over the weekend of 5-6 October 2019, another fire occurred on the Landfill Site. That was one of the several fires which occurred in the latter part of 2019. Due to the impact on the air quality of the Municipal area as a result of this particular fire, schools in the surrounding area were forced to close.
24. On the weekend of 1-2 February 2020, another large fire occurred at the Landfill Site. Again, the smoke and particulate matter compromised the air quality of the Municipal Area. As a result, site inspections were undertaken by officials of EDTEA and those of DEA on 3 and 4 February 2020. Those officials observed that the management of the Landfill Site had substantially deteriorated.
25. On 7 February 2020, EDTEA issued the Municipality and the relevant official with a notice of intention to issue a Revised Compliance Notice in terms of section 31L of NEMA. The need for a Revised Compliance Notice had come about due to what EDTEA regarded as the continued and significant deterioration of the management of the Landfill Site.
26. On 18 February 2020, EDTEA issued to the Municipality a Revised Compliance Notice. At Paragraph 2.32 of that Notice, EDTEA recorded that:
- "Given the apparent lack of urgency in addressing the poor management and operations at the landfill site the lack of compliance with the WML and previous notices issued; and, balanced with the need to ensure a safe and healthy environment as prescribed by S24 of NEMA, the Department is of the opinion that the issuing of a Revised Compliance Notice is justifiable and appropriate."
27. In the Revised Compliance Notice, EDTEA recorded that it had reason to believe that the Municipality has not complied with the provision of the following:



SB

27-Aug-20

8

- 27.1. Section 19(1)(a) and (b) of the National Water Act No. 36 of 1998 (hereinafter referred to as the "NWA");
- 27.2. Section 21(f) and (g) of the NWA;
- 27.3. Section 151(i) and (j) of the NWA;
- 27.4. Section 16(1)(c), (d) and/or (e) of the Waste Act;
- 27.5. Section 26(1)(a) and (b) of the Waste Act; and
- 27.6. Section 49A(1)(e) and/or (f) of NEMA.²
28. In a letter dated 14 July 2020, the Commission informed the Municipality that the Commission was investigating this matter. In that letter, the Commission included a request for copies of all documents and/information relating to the Landfill Site. In an undated letter sent to the Commission, *via email*, on 30 July 2020, the Municipality informed the Commission that the Landfill Site "has a life span of 6 to 10 Years subject to yearly calculation based on studies e.g. the current 2020 New England Landfill Closure report."³
29. The Commission is of the view that the Municipality has not grasped the seriousness of its violations of the provisions of the Waste Act, NEMA and the NWA. Importantly, the Municipality has not grasped the fact that, by violating those statutory provisions, the Municipality has violated the Constitution and continues to violate the Constitution.

² Paragraph 3.2 of the Revised Compliance Notice.

³ Unnumbered page 3 of the letter.




27-Aug-20

9

The Municipality's violation of the Constitution

30. The Constitution includes a Bill of Rights. Section 7(1) of the Constitution provides that the Bill of Rights is a cornerstone of democracy in the Republic.
31. The Bill of Rights includes the environmental right contained in section 24 of the Constitution. That section provides that:
- "Everyone has the right—
- (a) to an environment that is not harmful to their health or well-being; and
 - (b) to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that—
 - (i) prevent pollution and ecological degradation;
 - (ii) promote conservation; and
 - (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development."
32. Combined, the Waste Act, NEMA and the NWA constitute the "reasonable legislative" measures contemplated in section 24(b) of the Constitution. On the other hand, the Waste Management Licence and the Revised Compliance Notice constitute the "other measures" contemplated in section 24(b) of the Constitution.
33. The Municipality's past, present and continuing violation of the provisions of the Waste Act, NEMA and the NWA as well as the contravention of the Revised



27-Aug-20

10

Compliance Notice and the Waste Management Act are, effectively, a violation of section 24 of the Constitution.

34. The issue of continuing violation requires an emphasis. While it is noted that, on 30 July 2020, the Municipality informed the Commission that the Landfill Site "has a lifespan of 6 to 10 Years subject to yearly calculation based on studies", the Commission is of the view that, based on the combination of the poor location of the Landfill Site and the fact that the Municipality has operated the Landfill Site in violation of the Constitution for more than a decade, the continued operation of the Landfill Site for the next "6 to 10 Years" will, in all likelihood, amount to a continuing violation of the Constitution.

Remedy to be sought in the intended legal proceedings

35. In the intended legal proceedings against the Municipality, the Commission intends to seek an appropriate remedy, which may include a structural interdict designed to force the Municipality to develop and adopt a decommissioning plan to be implemented by the Municipality in order to decommission the Landfill Site within the next five years.

Conclusion

36. All of the Commission's rights are hereby reserved.

Ndlovu de Villiers Attorneys



Per: Sibonelo Ndlovu
(Managing Partner)



The Msunduzi Municipality

Private Bag X 321
Pietermaritzburg
3200
(033) 392 2002

City Hall, Chief Albert Luthuli Street
Pietermaritzburg
3201
www.msunduzi.gov.za



Enq: M Jackson

Tel. 033 392 2002

E-mail: madeleine.jackson@msunduzi.gov.za

Ndlovu de Villiers Attorneys
Attention: Sibonelo Ndlovu, Managing Partner
Your Ref. S05-001

Per Email: Ndlovu@ndvlaw.co.za

01 September

Dear Sirs

RE: NOTICE OF INTENTION TO INSTITUTE LEGAL PROCEEDINGS, ON AN URGENT BASIS, AGAINST MSUNDUZI LOCAL MUNICIPALITY REGARDING ALLEGED VIOLATIONS OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996 ARISING FROM THE OPERATION OF THE NEW ENGLAND ROAD LANDFILL SITE FOR THE PERIOD FROM 1 JULY 2009 TO DATE

I acknowledge receipt of your letter dated 27 August 2020 and note that your firm has been appointed as attorneys of record for the Human Rights Commission (The Commission). I also note that the Commission has instructed you to institute legal proceedings against the Msunduzi Municipality which "may include a structural interdict..." I further note that your instructions are to institute legal proceedings on an urgent basis.

I hereby place on record that the Municipality will defend and resist any application for an interdict. The allegations in your letter regarding the conduct of the Municipality with regard to the Landfill Site are also hereby placed in dispute.

It is trite that the decision by your client in terms of section 13 (3) of the South African Human Rights Commission Act No. 40 of 2013 (hereinafter referred to as the Act) is subject to the Doctrine of Legality. To this end and prior to your client proceeding further, I kindly request your client to furnish the following information:

1. When did the Commission take the decision to invoke terms of section 13 (3) of the Act against the Municipality?
2. Was the Commission constituted in terms of section 5 read with section 10 of the Act at the time the decision was taken?

OFFICE OF THE CITY MANAGER

Telephone/uCingo: 033 3922002
Facsimile/iFekisi: 0868047309

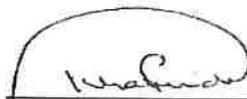
Private Bag / Isikhwama: X321
Pietermaritzburg/ePietermaritzburg 3200

3. Was the Municipality given notice of any hearing by the Commission? If so, kindly provide written proof thereof.
4. Was the Municipality given an opportunity to make representation to the Commission prior to the decision? If so, Kindly provide written proof thereof.
5. A copy of the decision is required together with reasons for the decision.
6. If the decision was made in terms of section 12 of the Act:
 - 6.1. Who exactly was given the delegated authority to take the decision in terms of section 13 (3)?
 - 6.2. A copy of the delegations in terms of section 12 (1) which confers the exercise of powers and assignment of functions to authorise the decision is required.
 - 6.3. Furthermore, a written copy of all conditions, terms of reference and directions of the Commission are also required. The Municipality also requires written reasons for the decision.

I also hereby advise that your client's attitude in seeking urgent relief is misdirected- any interdict at this stage is premature as domestic remedies contained within existing applicable legislation have not been fully exhausted.

To this end, I further place on record that the Municipality be given proper and adequate notice and service of any application papers in accordance with the Rules of the Court.

Sincerely,

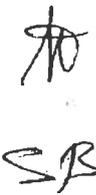


MP KHATHIDE
CITY MANAGER

OFFICE OF THE CITY MANAGER

Telephone/uCingo: 033 3922002
Facsimile/iFekisi: 0868047309

Private Bag / Isikhwama: X321
Pietermaritzburg/ePietermaritzburg 3200



Chezi's Conference Centre t/a



210 Woodhouse Road, Scottsville, Pietermaritzburg, 3201
Tel No: 033 386 0801 Fax No: 033 3462940
Reg 2012/056592/07 Vat # 4480262106

06 October 2020

**The Honourable Premier
KwaZulu Natal**

Re Msunduzi Municipality Landfill Site

My name is Cheryl Graham and I am the owner of the ASCOT CONFERENCE CENTRE based in Woodhouse Road, Pietermaritzburg.

For several years the nearby landfill site has been nothing short of an outlandish calamity.

Please take note of the following

Many of our staff members and their families, who reside in Sobantu, have persistent respiratory issues. This leads to long term repetitive health problems and inability to perform their normal duties.

Whilst most of my business is local, I often host international guests for weddings, functions and conferences who enjoy the beautiful venue and surrounds. My site plays a fundamental part as a venue of choice. The pungent smell that permeates from the dump is quite nauseating and repulsive. How do I explain to my guests that there is absolutely nothing that I can do about this smell?

In recent months we have had numerous fires that emit toxic emissions. The open burning of waste on a landfill site is considered one of the worst of the worst practices in terms of waste management.

When uncontrolled burning of plastics and organics come into contact, this gives rise to man-made chemicals which can cause cancer. Who would want to visit my establishment with this risk?

Over the period of late July of this year, when the landfill site was on fire for seven days, I had no alternative but to close my business for the sake of my extremely dedicated staff. I had to cancel all conferences and training sessions booked over this period as (a) visibility was less than a metre (b) this was a health risk to both staff and guests (c) Woodhouse Road was inaccessible from both town and Sobantu.

This has had a detrimental effect on my business together with the Covid-19 lockdown.

Potential brides and conference coordinators are now reluctant to book with me in the future as I cannot guarantee that there will be no smoke and/or no revolting smell coming from the landfill site.

I was born and raised in Pietermaritzburg and my family and I have quite a substantial investment in terms of property in the City. All of my utility accounts including rates are paid timeously and I do not receive the service delivery that I pay dearly for. This issue has been ignored/overlooked for long enough!! As a stakeholder in the financial support of the Msunduzi Municipality, some-one should be accountable for exploitation of the landfill site.

Please feel free to contact me should you wish to discuss this further.

Many thanks
Cheryl Graham
0845595258


SB



ST CHARLES COLLEGE
SOUTH AFRICA

06 October 2020

REPORT TO THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION

St Charles College is an established independent school for boys and was founded 145 years ago. It educates boys from Grade 000 to Grade 12 and employs over 200 teaching and support staff who live and work in Pietermaritzburg. We were here before the establishment of the landfill site and the unacceptable way it has been managed has played a significant role in deterring parents from bringing their boys to be educated in this city over several decades. The recent incidents have brought this matter to a point where we cannot accept anything other than a comprehensive solution. We have invested deeply over the time of our existence and do not believe that mismanagement should be allowed to sabotage the city's reputation as an education destination any further.

The landfill site has been a serious and ongoing problem for our College for many years. The financial cost to our school as a direct result of parents withdrawing their sons due to the fires and the smell, easily runs into tens of millions of rand. The landfill site is situated across the highway from our College and directly affects our ability to operate and the way that our College is perceived by prospective parents in KZN, and internationally.

After all our efforts to engage with the Municipality, the absence of real action reveals a lack of will and capacity to solve the problem. We joined with other schools in the vicinity and formed Love PMB to collectively apply pressure, and also to provide whatever assistance and resources we have at our disposal to help sort out this problem. We recognise that this is a complex issue but are not impressed by the reaction time and lack of transparency by those who have the responsibility to ensure the safety of children and the citizens of the city, who live and work here.

The immediate problem is that the municipality's capacity to respond to another serious fire has not changed at all and it is only a matter of time before another serious incident occurs. Since the last fire which closed our school for more than a week, no improvements to fire-fighting capacity are known to have been arranged, so the next fire will again close our school and block the highway and affect the health of the people and children of Pietermaritzburg:

- There is no high-pressure water at the site and water trucks have to leave the site and travel to nearby suburbs and obtain water from fire hydrants.
- The current compactor is hopelessly inadequate and breaks down regularly. Although we have been informed that another compactor is being sourced, the timeline of 'within six months' indicates that this is not being treated with the seriousness it deserves.

AB
JK
SR

6 October 2020

St John's DSG
Harwin Road
Scottsville
Pietermaritzburg
3201

To whom it may Concern

At St John's DSG we have noticed a marked increase in number and intensity fires at the nearby Msunduzi landfill site, in recent years. The most recent of these took place in October 2019 and again in July this year (21 July). On both of these recent occasions the smoke emissions from the landfill site were so severe that we had to close the school for a few days each time, for the safety of girls and staff. We have been informed (and seen ourselves on occasion when inspecting the landfill site) that dangerous or toxic chemicals or substances appear to be dumped in the landfill site, so have had concerns that the smoke emissions are toxic and potentially carcinogenic. On top of this risk, this thick dark smoke itself when blown in the direction of the school makes breathing difficult, and particularly affects those with asthma or other lung-related compromises. Many girls and adults report migraines or bad headaches when inhaling smoke, often for many days or even weeks after a fire. Our concern as a school is that the clear mismanagement and non-adherence to running the landfill site in accordance with its own licence by the Municipality, and the lack of accountability and absence of an external monitoring committee made up of professional experts, is detrimental to the health and wellbeing of the community within a radius of three to four kilometres of the landfill site (and in fact to the entire city). We request that urgent attention is given to this unacceptable situation.

Regards,
Simon Moore
Principal
St John's DSG

AM
SR

AFFIDAVIT

I, the undersigned,

Mary-Ann Kico

Identity Number: 5012210146080

do hereby, make oath and state as follows:-

1.

I am the deponent herein and the facts deposed by me are within my personal knowledge and belief to be true and correct

2.

I live in and own The Ascot Inn since the early 1990's. The Inn is situated at 210 Woodhouse Road. It has 3 properties alongside each other, 18 and 24 Alice Grange Road. We have 41 rooms of various sizes, from single budget rooms to large self-catering units.

3.

The poor maintenance of the Msunduzi landfill has resulted in numerous fires at the dump, causing toxic fumes to invade our property. Our guests come from all parts of South Africa, and we also have many overseas guests. Besides the guests, my staff and my family are badly affected by the smoke. It has at times been so bad we could not see a few meters in front of us.

4.

We have had on several occasions sought refuge by going to stay near the coast; however this is quite disturbing for us as it meant having to leave my staff and guests behind to endure the toxic fumes.

5.

The rotting smell from the Dump is at times totally overwhelming. It is worse according to the breeze and after it has rained.

6.

In addition we have had to surround our properties with fly traps, as the flies breed at the dump and then become a nuisance to our guests. One would think that the flies would be contained by surrounding the dump with fly traps; however this is clearly not done.

7.

We have over the years been hosts to thousands of guests. We work tremendously hard to offer our guests a happy and peaceful and healthy overnight stay in Pietermaritzburg.

1

MK. 
RB

I cannot supply statistics, however can imagine the nasty experience it is for a guest to experience any of the above.

5.

All I desire is for my guest and I to be able to breathe clean and healthy air, which is not polluted by the poor maintenance of the landfill.

M. Khoo
DEPONENT

I HEREBY CERTIFY THAT THE DEPONENT HAS ACKNOWLEDGED THAT HE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT WHICH WAS SWORN AND SIGNED BEFORE ME AT PIETERMARITZBURG ON THE 02nd DAY OF October 2020 AND FURTHER CERTIFY THAT THE PROVISION OF GOVERNMENT REGULATION NO. R1258 OF 1972 HAVE BEEN DULY COMPLIED WITH.

K. Naidoo

COMMISSIONER OF OATHS

Kanthamala Naidoo
Attorney, of the High Court of South Africa
Ex-officio Commissioner of Oaths
15 Barnsley Road, Pietermaritzburg, KZN
Tel: 053 326 4000 Fax: 056 551 3330

[Handwritten signature]
SP



31 Alice Grange Rd

Scottsville

Pietermaritzburg

3201

From: Linda Longhurst [mailto:lindamarylonghurst@gmail.com]
Sent: Friday, 25 September 2020 3:56 PM
To: Aintree Lodge
Subject: New England landfill site

Dear Sue

We've not spoken for some time, but I'm happy to report that we are in the process of joining the Human Rights Commission in legal proceedings against the premier regarding the New England landfill site. One of the things that the HRC has asked us to do is to collect statements from various affected stakeholders to add weight to the case, which is at an advanced stage.

Please could you write a comprehensive statement on how the landfill burning has affected you and your staff over the years that you have been there. This includes health problems, as well as financial implications. Try to be as detailed as you can and no information is unnecessary.

If you require some help in this regard, please let me know.

Kind regards,

Linda Longhurst

0825555459

AL
SB

MUNICIPAL LANDFILL / DUMP SITE IMPACT ON INDEPENDENT & AFFECTED PARTIES

The below mentioned have had such a detrimental, financial and social impact on our accommodation for athletes and corporate guests, functions and Sunday lunches with live music :

1. SMELL

Uncovered refuse after the rains followed by extreme heat.

2. FLIES

Aintree Lodge has discontinued functions and Sunday Lunches due to the embarrassing situation, not forgetting the health hazard. This has impacted badly on Aintree Lodge as the loss of revenue to us, as well as the hospitality industry in general. Aintree Lodge stopped functions and lunches in December 2018 and sadly most weddings etc. have moved out of town.

3. DUST

Wind drift from the landfill site blowing papers and dust up the valley towards the freeway and all over Aintree Lodge. We cannot open our windows on a windy day as a pall of dust lands in the accommodation rooms, dining room and office.

4. FIRES

- (A) Methane burner not working causes a continuous build up which in turn causes spontaneous combustion and fires burn for days / sometimes a week!
- (B) Tyres illegally dumped at the site so it cannot be compacted properly.
- (C) Lack of finances to pay for cover material and security.
- (D) Security at the landfill site has become a major issue as we used to drop off our own garden refuse etc. but now we have to outlay money for contractors.
- (E) Vagrants are coming from all directions carrying their "daily finds". This means the site is not secure and we cannot expect our staff to go to the site.
- (F) Landfill Manager – is there one? Last was Cyril Naidoo but I believe he has been dismissed.
- (G) Equipment on the site – no finances to repair the compactor and water cart to keep the dust down.
- (H) Vagrants have been igniting the landfill site by burning away the rubber cabling around the copper.
- (I) Firefighters, neighbours, guests, staff and residents' lives are at risk due to toxic smoke from illegal waste dumped as well as the methane and tyres being burnt.
- (J) Visibility is so poor at times visibility is no more than 2-3 metres in front of our reception door! Guests are forever checking out due to :
 - (i) No electricity
 - (ii) No water
 - (ii) Fires
 - (iv) Smell

JP
SB

(v) Security

(vi) Dust

5. NOISE

All night vehicles on the site (dumping – illegal?) The gate is not locked at night and vehicles come and go all night.

6. RATES

We are all expected to pay commercial rates in this area but get nothing in return :

- (A) Verges are not cut
- (B) Rubbish is thrown all over the verges at the SPCA, down to the river, and up to the industrial area – this is the gateway to the area's Bed and Breakfasts from the industrial side but it is ever so dirty.
- (C) Bollards on the low level bridge are going to lead to an accident soon due to poor visibility
- (D) Pot holes on the roads

7. CANCELLED RESERVATIONS / LOSS OF BUSINESS

The types of guests that have been affected and/or have checked out or cancelled functions directly due to any or all of the above are as follows :

- Top athletes such as canoeists, runners, swimmers etc. and international teams coming to train / compete
- People who are coming for medical treatment, operations, follow up consults, recuperation
- In house guests with compromised immunity / chronic ailments
- Staff – loss of productivity and down time in the office
- Indoor functions example monthly club meetings / mini conferences
- Walk in guests who cancel or don't take up bookings
- Company employees / contractors who use weekly accommodation while on site

GA

SA

30 September 2020

To Whom it May Concern

New England Road Landfill Site

I have been an employee of Wensleydale Guest Lodge since November 2016. I am resident on the property along with my husband and 2 teenage children.

Since the commencement of my employment here my family and I have been witness to many fires erupting on the landfill site and have directly experienced the impact these fires have had on the residents of our city as well as the guests accommodated here.

More often than not, the guests accommodated here during such a fire, either check-out earlier than their intended stay period or, guests who are due to check-in, cancel their booking and look for alternate accommodation in a nearby town away from our City, which has a direct impact on the tourism revenue generated by our establishment and our City not to mention the adverse affect it may have on employment opportunities within our City's tourism sector.

Healthwise, the noxious smoke emanating from these fires causes respiratory health concerns. My personal experience with this is that my entire family, as well as the staff of our establishment and guests battle with symptoms of burning eyes, tight chests, coughing and lethargy. Our pets, who are very much loved members of our family, also tend to display signs of watery eyes, runny noses and sneezing. These symptoms have a lasting effect on both human and animal and takes between weeks to months to improve.

Due to the symptoms experienced, very often we have no option but to send our staff home before the end of their work day and this in turn has an impact on their monthly income. All schools within the area are always closed during the course of these fires which causes interruption to the education of the children.

There is also an increase in petty crime within the surrounding suburbs where often the waste pickers who frequent the landfill turn to residences and business within the area, committing petty theft of gardening equipment and the like to sell during the period when they cannot access the landfill when on fire. Very often, the sound of gunshots coming from the landfill site also causes an element of fear for safety amongst the residents in the surrounding suburbs, our staff employed at our establishment as well as our guests accommodated here.



Going back on photos taken by my daughter and I, we have established that between 6 October 2019 and 21 July 2020, 4 fires at the New England Landfill Site erupted (6 – 8 October 2019, 25 October 2019, 1 – 2 February 2020 and more recently 21 – 24 July 2020). There were many more prior to these dates which we regrettably did not photograph.

My personal view is that the New England Road landfill site has, for many years, been grossly neglected in effective management and, taking into account the rapid development of the surrounding residential and industrial suburbs, should have been relocated at least 15 years ago. This ongoing neglect by the Local Authority to effectively manage this site is hugely impacting on the residents and tourists of our City with ill health, economic loss and fear for safety and it has now become critical that these issues are dealt with in a serious light.

Thank you
Marita Johnsen (Manager)
Wensleydale Guest Lodge
236 Woodhouse Road
Scottsville
Pietermaritzburg

J
SR

From: Mary Ann
Sent: Friday, September 18, 2020 11:38 AM
To: Kantha
Subject: Municipal Dump

I have lived and owned Ascot Inn since the early 1990's.

The Inn has 3 properties alongside each other, 210 Woodhouse Road, 18 and 24 Alice Grange Road. We have 41 rooms of various sizes, from single budget rooms to large self catering units.

The Municipal Dump has been a continuous problem throughout the time I have owned these properties and lived here.

1) There have been numerous fires at the dump, causing toxic fumes to invade our property.

Our guests come from all parts of South Africa, and we also have many overseas guests.

Besides the guests, my staff and my family are badly affected by the smoke.

It has at times been so bad we could not see a few meters in front of us.

We have had to seek refuge by going to the sea, however this is quite disturbing as I have left behind my staff and guests to endure the toxic fumes.

2) The rotting smell from the Dump is at times totally overwhelming. It is worse according to the breeze and after it has rained. No amount of complaining has had any effect.

3) We have to surround our properties with fly traps. The flies breed at the dump. They are meant to contain them by surrounding the dump with these fly traps, however this is not done.

We have over the years been hosts to thousands of guests. We work tremendously hard to offer our guests a happy and peaceful and healthy overnight stay in Pietermaritzburg. I can not supply statistics, however can imagine the nasty experience it is for a guest to experience any of the above.

Mary-Ann Klco
Ascot Inn
0823736574

The New England Road Landfill Site5th August 2019

This testimonial serves to confirm that as property owners and Guest House owners in the Woodhouse Road, Scottsville area – we now find the situation of the Landfill Site in New England Road to be untenable.

We as a family, that both lived on our property and slowly developed and outlaid capital in order to improve the property, were assured, historically, that the Landfill Site had in fact reached its maximum height and that a future site was being located to address the community's concerns. During this time we have constantly been exposed to conditions that have affected both our families and employee's health and both ours and our employee's income.

As Guest House owners who bring an income into the area, which contributes towards Pietermaritzburg's economy, we object strongly to the unsightly appearance, the health hazards it poses when covering is not done adequately and the area is filled with flies and the smell of stinking waste or fires are started, which burn for days and fill the surrounding area with acrid and burning smoke.

Futhermore, the consequences of the leaching of waste into the Umsinduzi River are no doubt also contributing to a lot of water borne diseases.

Our Guest House has been impacted upon daily where we lose either potential or confirmed bookings due to Guests who find both the smell, the sight or the fires unbearable.

There is also an element of unsafety and insecurity to both ourselves, our employee's and our guests when the sound of repeated gunshots are heard emanating from this the Landfill site, at all hours.

Thank You,

Barbara Graham
Wensleydale Guest Lodge
236 Woodhouse Road
Scottsville
Pietermaritzburg

JA
ZB

I purchased the property, which is now Ascot Inn in 1981. At the time there were derelict stables on the property which were used for the horses that were trained at the Scottsville racecourse. The horses were then moved to Ashburton where the training and stabling was then established. The various properties, viz Ascot Inn, Ascot Conference Centre and Ascot Bush Lodge as well as Aintree and the Gables were developed by individual owners. There came about a need for owners and parties who were affected by the dumpsite to establish a forum that would meet on a monthly basis at the Pietermaritzburg City Hall to discuss and iron out any problems that would arise from or related to the dumpsite. DWAF as well as other official departmental authorities were part of the structure of this forum.

This was religiously carried out and all matters pertaining to the dumpsite were, I am pleased to say, amicably resolved within the environmental laws at the time. As time passed, those competent individuals belonging to the authorities were gradually replaced by numerous others who appeared to either be unqualified, unwilling or unable to enforce compliance of the environmental laws and subsequent to that myself and others withdrew from this forum as it appeared that no sooner would something be agreed upon when the person responsible would be replaced by someone else and the soul-destroying cycle would start all over again.

It is extremely difficult to measure the loss of business due to the disastrous impact of the dumpsite and surrounding area. Many objections have been made by guests who have approached the Lodge from the road adjacent to the dumpsite. Terrible smells on occasion have been the object of numerous complaints by guests. When there have been fires at the dumpsite, the staff and guests have been severely negatively impacted, complaining of sore throats, burning eyes and some even nausea. Needless to say, this has affected business extremely negatively. All the numerous complaints that I have made, have fallen on deaf ears and it seems there is a total breakdown of any accountability regarding this sad situation. I have attached photographs taken during the most recent fire which caused a stifflingly thick smoke which hung in the air for days on end and which caused severe breathing related problems for everyone at the Lodge.

I have recently been forced to resort to placing 4000 cubic metres of soil along the perimeter of my property which equates to R100 000 in an attempt to safeguard my property from being inundated with refuse. Our exit point is now totally closed by rubbish that has been dumped there and we are unable to use it at present.

Vernon Niemack

AV
SB



I am Nonhlanhla Mhlophe from Hlanganani Ma-Afrika Recycling cooperative of waste pickers in Pietermaritzburg, we affiliated to the national mother body called South African Waste Pickers Association, (SAWPA). Other than the above cooperative, we actually have 3 more cooperative at the New England Road Landfill (NERL) which were established between 2010 and 2015. We derive our livelihoods through picking, sorting and selling waste to different middlemen who are dealing in recyclables.

We do not have a proper livelihood or decent job but we are making an honest living without stealing or infringing on anybody's right. Our families are relying on us to provide and our children depend on waste picking/recycling work that we are do to make a living. Our concern with Msunduzi Local Municipality is that they are not taking our livelihoods seriously, as we have engaged them in the last decade to recognize us and work with us. Recognition through each member registration and issuing access cards will make working on the landfill easier for both parties.

We have even engaged the uMgungundlovu District Municipality (UMDM) to come to the party which they did successfully in an extend that they managed to apply and recieved funding from Department of Cooperative Governance and Traditional Affairs (COGTA) to build a materials recovery facility to employ all of us at the landfill at that time. R21 million had to be returned to COGTA while our livelihoods have not been recognized/formalized by Msunduzi Local Municipality. This was really a disgrace as we experience accidents every year which results to fatalities amongst waste pickers, the MRF was going to reverse that. The fires that we are often blamed for are not sparked by us but are caused by municipal failure to make sure that only permitted waste gets into site as we sometimes see hot ash entering the site from nearby factories. We cannot recover materials and end up starting fires that will end up burning our recyclable materials.

Msunduzi possible intervention is to work with waste pickers in making sure that both parties win. They also have to implement the "Waste Picker's Integration Guidelines" which guides municipalities nationally as to how they can integrate waste pickers into their waste management systems. Working relations will result to the protection of livelihoods and at the same time they save landfill airspace due to our existence.

We as waste pickers are really concerned about crime and corruption that takes place at the New England Road Landfill. The waste pickers and municipal officials are creating divisions amongst waste pickers by fueling tribal conflicts (e.g. Sotho's and Zulus) as they are also divided as officials. It is not only tribal wars but also drug sale as well as stolen diesel sale.

Challenges that are experienced can be easily solved if we work together with municipality. The site is almost full and we suggest that they convert the site into a MRF and even the new site has to have a mini MRF in making sure whatever escapes from the current site MRF will be recovered at the new landfill/MRF. We are pleading with the commission to safeguard our livelihoods not only in Pietermaritzburg but nationally. We hope that this investigation will set a precedent for all other municipalities not to ignore waste pickers. We also hope that the commission will recommend that every municipality must have a database of all waste pickers in their jurisdiction. We also hope that

AP
SB

the commission will recommend that we as a country should not be a throw-away society where we dispose and bury waste which is a resource to us as waste pickers,

Nonhlanhla Mhlophe

N. C. Mhlophe

Secretary South African Waste Pickers Association

082 703 1915

Nonhlanhlamhlophe2@gmail.com

C

O

SB

**IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG**

Case No.: 8407/2019

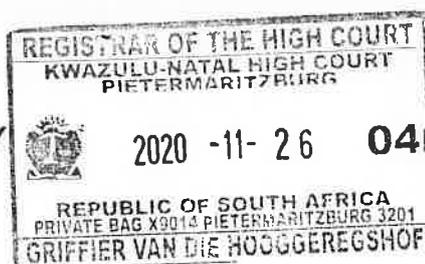
In the matter between:

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

Applicant

and

MSUNDUZI LOCAL MUNICIPALITY



First Respondent

**HEAD OF THE DEPARTMENT OF
ECONOMIC DEVELOPMENT,
TOURISM AND ENVIRONMENTAL AFFAIRS,
KWAZULU-NATAL PROVINCIAL GOVERNMENT**

Second Respondent

**MEMBER OF THE EXECUTIVE COUNCIL
FOR ECONOMIC DEVELOPMENT,
TOURISM AND ENVIRONMENTAL AFFAIRS,
KWAZULU-NATAL PROVINCIAL GOVERNMENT**

Third Respondent

APPLICANT'S NOTICE IN TERMS OF RULE 41A

TAKE NOTICE THAT the Applicant herewith delivers its notice in terms of Rule 41A(2)(a) of the Uniform Rules of Court.

TAKE NOTICE THAT:

- a) The Applicant opposes the referral of the dispute to mediation;
- b) The Application delivered is one which requires urgent relief;
- c) The issues raised in the application are not capable of being resolved through mediation urgently or at all.

DATED at PIETERMARITZBURG this 24th day of **NOVEMBER** 2020.



APPLICANT'S ATTORNEYS
NDLOVU DE VILLIERS ATTORNEYS
BLOCK A VICTORIA HOUSE
VICTORIA COUNTRY CLUB ESTATE
170 PETER BROWN DRIVE
PIETERMARITZBURG
3201
Tel: (033) 001 7521
Email: ndlovu@ndvlaw.co.za
Ref: S05-001

TO: THE REGISTRAR OF THE ABOVE HONOURABLE COURT
PIETERMARITZBURG

**AND TO: MSUNDUZI LOCAL MUNICIPALITY
FIRST RESPONDENT
CITY HALL,
333 CHIEF ALBERT LUTHULI STREET,
PIETERMARITZBURG,
3201**

**AND TO: HEAD OF DEPARTMENT OF ECONOMIC DEVELOPMENT, TOURISM
AND ENVIRONMENTAL AFFAIRS
SECOND RESPONDENT
270 JABU NDLOVU STREET
PIETERMARITZBURG
3201**

**AND TO: MEMBER OF EXECUTIVE COUNCIL DEPARTMENT OF ECONOMIC
DEVELOPMENT, TOURISM AND ENVIRONMENTAL AFFAIRS
THIRD RESPONDENT
217 BURGER STREET,
PIETERMARITZBURG
3201**

**IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG**

Case No.: 8407 / 20P

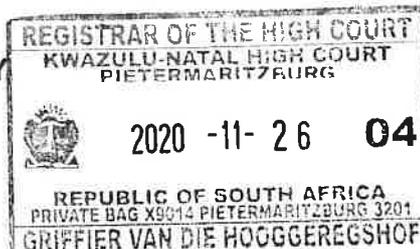
In the matter between:

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

Applicant

and

MSUNDUZI LOCAL MUNICIPALITY



First Respondent

**HEAD OF THE DEPARTMENT OF
ECONOMIC DEVELOPMENT,
TOURISM AND ENVIRONMENTAL AFFAIRS,
KWAZULU-NATAL PROVINCIAL GOVERNMENT**

Second Respondent

**MEMBER OF THE EXECUTIVE COUNCIL
FOR ECONOMIC DEVELOPMENT,
TOURISM AND ENVIRONMENTAL AFFAIRS,
KWAZULU-NATAL PROVINCIAL GOVERNMENT**

Third Respondent

RULE 16A NOTICE

KINDLY TAKE NOTICE THAT the applicant in the above application raises the following constitutional issues:

1. The Applicant seeks an order declaring that the First Respondent's mismanagement of the New England Road Landfill Site and breach of its statutory duty unlawfully violated:
 - 1.1. The Waste Management Licence (reference no. DC22/WML/0061/2016);
 - 1.2. Section 28 of the National Environmental Management Act 107 of 1998 ("NEMA");
 - 1.3. Section 20 of the National Environmental Management: Waste Act 59 of 2008 ("NEM:WA");
 - 1.4. Section 19(1) of the National Water Act 36 of 1998;
 - 1.5. Section 24 of the Constitution of the Republic of South Africa, 1996; and
 - 1.6. International law.
2. Whether a structural interdict is an appropriate constitutional remedy to rectify the First Respondent's breaches of its statutory and constitutional duties in the context of operating and managing the New England Road Landfill Site.

TAKE NOTICE FURTHER that any interested party may, with the written consent of all the parties to these proceedings, given not later than 20 days after the filling of this notice, be admitted as amicus curiae, upon such terms and conditions as may be agreed upon in writing by the parties.

TAKE NOTICE FURTHER THAT the written consent referred to above shall be lodged with the registrar within 5 days of it having been granted and the amicus curiae shall comply with the times agreed upon for the lodging of written arguments.

TAKE NOTICE FURTHER THAT the terms and conditions agreed upon may be amended by the court.

TAKE NOTICE FURTHER THAT if the interested party is unable to obtain written consent from the other parties, he or she may, within 5 days of the expiry of the 20 day period referred to above, apply to this court to be admitted as an amicus curiae in these proceedings.

TAKE NOTICE FURTHER THAT any party to the proceedings who wishes to oppose an application to be admitted as an *amicus curiae* shall file an answering affidavit within 5 days of service of the application.

TO THE REGISTRAR: KINDLY place this notice on a notice board designated for the purpose recorded in Rule 16A(1)(c), and place your date stamp upon the notice to indicate the date upon which it is placed on the notice board in accordance with Rule 16A(1)(d)

DATED at PIETERMARITZBURG this 24th day of NOVEMBER 2020.



APPLICANT'S ATTORNEYS
NDLOVU DE VILLIERS ATTORNEYS

BLOCK A VICTORIA HOUSE
VICTORIA COUNTRY CLUB ESTATE
170 PETER BROWN DRIVE
PIETERMARITZBURG
3201
Tel: (033) 001 7521
Email: ndlovu@ndvlaw.co.za
Ref: S05-001

TO: **THE REGISTRAR OF THE HONOURABLE COURT
PIETERMARITZBURG**

AND TO: **MSUNDUZI LOCAL MUNICIPALITY
FIRST RESPONDENT
CITY HALL,
333 CHIEF ALBERT LUTHULI STREET,
PIETERMARITZBURG,
3201**

AND TO: **HEAD OF DEPARTMENT OF ECONOMIC DEVELOPMENT, TOURISM
AND ENVIRONMENTAL AFFAIRS
SECOND RESPONDENT
270 JABU NDLOVU STREET
PIETERMARITZBURG
3201**

AND TO: **MEMBER OF EXECUTIVE COUNCIL FOR DEPARTMENT OF
ECONOMIC DEVELOPMENT, TOURISM AND ENVIRONMENTAL
AFFAIRS
THIRD RESPONDENT
217 BURGER STREET,
PIETERMARITZBURG
3201**