



NEWSLETTER- JANUARY 2018

Dear Readers,

Gunn Attorneys would like to wish you a very blissful and prosperous 2018.



The January edition of the newsletter will look at updates in the environmental, mining and natural resources sector while also focussing on cases, law and news.

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NATIONAL LEGISLATION

Proposed Waste Exclusion Regulations, 2017 published for comment (GN 14 in GG 41380 of 12 January 2018) (pg4) <https://www.gov.za/documents/national-environmental-management-waste-act-regulations-excluding-waste-streams-or-0>

SOUTH AFRICA'S MOST FAMOUS PROTECTED AREA – GOOD NEWS FOR CONSERVATION

South Africa is blessed with an incredibly rich biodiversity which lends itself to eco-tourism. It is sometimes referred to as, *"a whole world in one country"* as a traveller can experience so many landscapes including Lowveld ruggedness, mountain splendour, beautiful coastlines and much more.

Arguably, South Africa's most famous protected area is the Kruger National Park (KNP). Visitors flock to this biodiversity treasure trove in their hundreds of thousands (or millions!) every year. Recent visitor figures for the KNP suggest that between 1,5 and 2 million people will visit the park annually. Interestingly, early ecological studies stated that not more than 250 000 visitors should be allowed into the KNP annually to maintain the pressure on the environment at an acceptable level.

The KNP was borne out of the Sabi Game Reserve in 1898 and the struggles of the early wardens are well documented in such epic works as the autobiography of first chief warden James Stevenson-Hamilton in his book *“South African Eden”*. It is difficult to believe that just over 100 years ago, the preferred mode of transport in the KNP was the donkey and the Lowveld was a tsetse and mosquito infested area which was barely accessible to visitors in the summer months!

The KNP is a Schedule 1 National Park. That is, it was protected as a national park in terms of Schedule 1 of the National Parks Act and now by the National Environmental Management Protected Areas Act. The wording of the definition of the protected area (defining the Eastern Boundary of the KNP) begins with the following words: *“From the confluence of the Limpopo River with the Luvuvhu River (Pafuri River) generally southwards along the boundary of the Province of the Transvaal and Mozambique to the point where the last named boundary is intersected by the right bank of the Komati River to its confluence with the Crocodile River”*. Powerful words indeed.

The traditional area of the KNP measures some 19 500 square kilometers. This is a massive area, however even at this size it still requires extensive management of its flora and fauna. This is exacerbated to an extent by its shape (north to south some 360 kilometers but on average only 65 kilometers wide). Visitors to the park will know what when you drive through the Phalaborwa gate it is not long before you see the Lebombo Mountains in the East which is the border of Mozambique. It is for this reason that the KNP has been continually expanding over the years, adding valuable land for conservation. Parts of the fence on the Eastern Side of the KNP which formed the border with Mozambique were removed between 2002 and 2005. At the time this was an incredibly positive move and hailed as a massive conservation breakthrough. The plan was to increase the Greater KNP's size to 35 000 square kilometres. But this has been tarnished by the rampant poaching that it has contributed to, especially most recently, of rhino and elephant. Rhino have now almost completely disappeared in certain areas of the KNP and corruption and involvement of insiders have made it virtually impossible to curb. In fact, the cross-border poaching is so severe that government has even stated that they are considering re-erecting the Mozambican fence.

The East-West migration of herd animals (such as wildebeest and zebra) in the Lowveld from the KNP is a thing of legion, apparently in the old days resembling the Serengeti Masai-Mara migration. The Western boundary of the KNP truncated this natural migration, forcing the KNP to provide water in the drier months to the animals, instead of allowing the animals to move towards the Drakensberg escarpment. This unnatural situation also leads to overgrazing and placed further pressure on the flora of the KNP. It is not known exactly how far west the extent of the migration was, whether it was only to the foothills of the Drakensberg or further into the middle-veld or even into the highveld.

The more recent good news is that the Greater KNP is expanding into South Africa towards the East. Many areas have historically been included into the Greater KNP such as the Association of Private Nature Reserves consisting of Klaserie, Timbavati, Umbabat and Balule and other private reserves to the south such as Sabi Sand, Mala Mala and Londolozi. These initiatives represent not only an important conservation initiative but also show that public-private partnerships can operate for the benefit of all parties. The progress continues and more recently in 2017 other areas were incorporated into the Greater KNP such as Thornybush. The Western border of the Greater KNP now lies on the R40, which is the road from Hoedspruit to Phalaborwa. So, the KNP continues expanding; fences dropping on a regular basis which is good news for conservation.

Adam Gunn

CARBON TAX BILL

In December 2017, Treasury published the second draft of the Carbon Tax Bill for Public comment and introduction in Parliament.

The first draft Carbon Tax Bill was published for public comment in November 2015. It is the product of an extensive consultative process on carbon-tax policy which started with the publication of the carbon-tax discussion paper in 2010, followed by the 2013 carbon-tax policy paper, and the 2014 carbon-offsets paper.

According to its estimates, the tax would lead to an estimated decrease in greenhouse gas emissions of 13% to 14.5% by 2025, and 26% to 33% by 2035.

The actual date of implementation of the carbon tax will be determined through a separate and later process by Finance Minister Malusi Gigaba in an announcement either during 2018, or at the time of the 2019 budget, taking into account the state of the economy.

Download the Carbon Tax Bill -

<http://www.treasury.gov.za/public%20comments/CarbonTaxBill2015/Carbon%20Tax%20Bill%20final%20for%20release%20for%20comment.pdf>

(Source - <https://www.businesslive.co.za/bd/national/2017-12-14-new-carbon-tax-bill-draft-published-for-public-comment/>)

OCEAN “DEAD ZONES”

There are areas in the sea where oxygen is so severely depleted that most forms of life can't survive.

These ocean “dead zones” are growing and scientists warn that they will continue to increase unless we are able to slow the advance of climate change, which is fuelling this alarming shift in ocean chemistry.

Less oxygen in the ocean doesn't just spell trouble for marine plants and animals, it could have serious repercussions on life on land

Oxygen-deprived dead zones were first identified in estuaries in the mid-19th century and their oxygen depletion was linked to the presence of urban sewage in the water, said the study's lead author, Denise Breitburg, a marine ecologist with the Smithsonian Environmental Research Centre

In some cases, evidence shows that the damage can be reversed, and areas where nutrients and sewage have sucked oxygen from the water may recover if the flow of contaminants is removed, Breitburg said.

For example, parts of the Thames Estuary in London and the Delaware River Estuary – both of which endured long periods with no oxygen and no fish – “are now much improved and host vibrant fish communities”, Breitburg said.

However, when it comes to oxygen loss in the open ocean, “we're in uncharted territory. We don't know how long it will take for the ocean to respond.”

(Source - <https://www.news24.com/SouthAfrica/bNews/dead-zones-in-seas-obliterate-ecosystems-20180106>)

HYACINTH PROBLEM ON THE HARTBESPOORT DAM

Those who frequently visit the Hartbeespoort Dam will be well aware of the Hyacinth problem that has escalated over the last year. Please watch the video below which is very informative and interesting: https://youtu.be/UJ7e-y_HQ5A

Gunn Attorneys has engaged with homeowners in the area and it has become apparent that the only way the issue will be resolved is through community engagement. Certain homeowners have even gone as far as building their own Hyacinth removal machines to assist in fighting the war against this invasive weed. Walch Engineering (Pty) Ltd built a machine to assist in the removal of the hyacinth from the water – a video of the machine: <https://www.dropbox.com/s/p9m5h4qvbt0fjwb/2018-01-31-VIDEO-00039862.mp4?dl=0>

INTERESTING ENVIRONMENTAL TOPICS

- ❖ Say NO TO THE STRAW. The Last Plastic Straw is a movement against plastic straws. Did you know that over 500 million plastic straws are used each day in the United States? That is enough straws to wrap around the Earth's circumference 2.5 times a day! <https://thelastplasticstraw.org/>
- ❖ Small electrical appliances such as microwave ovens, kettles and hair dryers harm the environment in a dozen different ways. Ensure that when boiling the kettle, only boil the amount of water you need and don't always fill the kettle. It's the small things :)
- ❖ These 10 inventions are saving the Earth <https://www.youtube.com/watch?v=d4AU0tMQd0Y>

ABOUT GUNN ATTORNEYS

Gunn Attorneys was established in 2014 by Adam Gunn, leveraging on many years of experience in the natural resources sector. Amongst other things Adam was legal counsel to Ridge Mining and First Uranium Corporation and a partner at Edward Nathan Sonnenbergs and Eversheds. The vision of the firm continues to be to provide exceptional service to our clients in the natural resources sector.

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