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COMMERCIAL
MINING
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OCTOBER NEWSLETTER 2019

Dear Readers,

We hope you have had a fantastic month of October!



The October edition of our newsletter looks at updates in the water, and energy sectors while also focusing on recent legal notices and amendments.

NATIONAL LEGISLATION

❖ **NATIONAL ENVIRONMENTAL MANAGEMENT ACT 107 OF 1998**

GN 1317 in GG 42761 of 10 October 2019 - Notice of establishment of an Advisory Committee (High Level Panel) to review policies, legislation and practices on matters related to the management, breeding, hunting, trade and handling of elephant, lion, leopard and rhinoceros published

❖ **NATIONAL WATER ACT 36 OF 1998**

Gen Notice 562 in GG 42775 of 18 October 2019 - Determination of water resource classes and resource quality objectives for the Mokolo, Matlabas, Crocodile (West) and Marico catchments

❖ **NATIONAL FORESTS ACT 84 OF 1998**

Gen Notice 553 in GG 42775 of 18 October 2019 - Particular trees and particular groups of trees declared 'Champion Trees'

- ❖ **NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT 57 OF 2003**
GN 1330 in GG 42775 of 18 October 2019 - Declaration of an area as part of the Addo Elephant National Park

FOR COMMENT

- ❖ **NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT 57 OF 2003**
PN 88 in PG 68 in 27 September 2019 – Declaration of the Witkoppen Fish and Game Reserve as a nature reserve
- ❖ **NATIONAL ENVIRONMENTAL MANAGEMENT: BIODIVERSITY ACT 10 OF 2004**
GN 1328 in GG 42775 of 18 October 2019 - Draft Biodiversity Management Plan for the African Penguin

PROVINCIAL LEGISLATION

- ❖ **LIMPOPO**
NATIONAL ENVIRONMENTAL MANAGEMENT PROTECTED AREAS ACT 57 OF 2003
Declaration of a nature reserve: Balule Nature Reserve and correction notices to PN 1582 of 30 December 1970 and PN 104 of 26 January 1972 published (PN 151 in PG 3040 of 11 October 2019) (pp 27, 29 & 30)
- ❖ **GAUTENG**
NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT 57 OF 2003
PN 967 in PG 302 of 2 October 2019 - Midvaal Local Municipality - Declaration of Klipkraal as a nature reserve and Klipkraal and Klipkraal Hollenbach as protected environments
- ❖ **LIMPOPO**
Performing Animals Protection Act 24 of 1935 and Animals Protection Act 71 of 1962
LAN 154 in PG 3036 of 27 September 2019 - Greater Tzaneen Local Municipality: Keeping of Animals, Birds, Poultry or Pets By-Laws

WATER - A SCARCE AND PRECIOUS RESOURCE

8 November 2019 by Adam Gunn

We have recently been involved in the clean-up of the Braamfontein Spruit. The annual clean-up day held on 19 October 2019 attracted a lot of interest. GCS Water and Environmental Consultants together with X-Lab undertook detailed aquatic and chemical analysis and assessment of the Spruit. The monitoring and assessment is to be done over a year long period to incorporate high and low flows; to give accurate results. The results should be available soon. The Spruit Day sparked significant interest both from the media and the community and we hope that it may be the beginning of a small but meaningful contribution to conserving South Africa's scarce and precious resource- water.

“Water is life” so the saying goes. Indeed, without it there would be no life. We can live without electricity but not without water. Critical for life and critical for development and growth of a nation. So, you would think it would be managed accordingly? Not so- take a look at almost any water resource you can think of- they are mostly in a very poor state. According to the Government’s recent State of the Rivers Report, the finding is that only 15% of our rivers are in good condition and most of these are in the upper catchment areas, before human intervention.

As South Africa is a water scarce country (ie: where demand exceeds available clean supply) not only is quality imperative but quantity too. And they go hand in hand. Polluted water cannot be utilised until it is treated, so while it is polluted, it is effectively excluded from being available as a usable resource.

Water is also complex. Not only do we rely on natural cycles to fill up our rivers, dams and reservoirs but we rely on the authorities for the judicious management and control of water. Then there is climate change and drought... Water law regulation in South Africa, especially in the instance of Gauteng, largely relies on our neighbouring country, Lesotho, for our water supply.

But as they say, don’t raise problems. Provide solutions. In the next few newsletters we will explore this complex and fascinating issue. It is a multi-faceted challenge and we would certainly not be able to provide all the solutions on our own. We aim to get the input of experts in their fields of water solutions and invite readers to contact us if they would like to contribute to this solutions-focused discussion.

WHAT YOU NEED TO KNOW ABOUT SOUTH AFRICA'S NEW ENERGY PLAN

18 October 2019 by Fin24

Government's long-awaited energy plan has been released, and contains a number of surprising policy interventions. Here are some of the notable inclusions in the Integrated Resource Plan (IRP2019), which was published on Friday.

Big shift to wind

The plan projects that by 2030, almost 60% of SA electricity will still be generated from coal. Currently, coal plants generate 77% of electricity in the country.



"Coal will continue to play a significant role in electricity generation as the country has the resource in abundance," Mineral Resources and energy Minister Gwede Mantashe said at a briefing on the electricity blueprint on Friday. But government has hiked the expected contribution from wind by a large margin.

In the initial draft version of the plan, released last year, wind was only supposed to deliver 13% of SA’s electricity by 2030– this has now been increased to more than 18%. Previously,

government thinking was that wind farms were supposed to represent 11 442MW (or 15%) of "installed energy capacity" in the country by 2030. (Installed capacity refers to the maximum output of electricity a plant can produce under ideal conditions.) This has now been increased by 55% to 17 742MW in the latest round.

In all, 20.4GW of power capacity will be generated by renewables, split somewhat more for wind than solar despite the lower expected cost of solar in future rounds than wind which is strange, says Peter Attard Montalto, head of capital markets at Intellidex.

"Crucially the plan says nothing on who should undertake the new renewables." He believes there is a strong chance that Eskom will take a large chunk of the 20GW of new renewables to keep it monopoly position. By 2030, solar will supply 7% of electricity. Hydro plants will contribute 8%, nuclear 4.5% and the rest from gas and diesel.

New small coal plants may be constructed

The new plan notes that government found from its experience with private energy producers that there is a "business case" for modular and smaller power plants of between 300MW and 600MW. By comparison, one of Eskom largest current coal-fired power plants, Majuba, has an installed capacity of 4 100MW.



Coal units producing 1.5GW of power will be added, but because a number of Eskom plants will be decommissioned in coming years, there will be a net fall of 3.8GW.

Government also intends to direct funding towards research into clean coal technologies to help the country comply with climate and environmental requirements, the IRP reads.

Small new nuclear reactors planned - maybe

Nuclear is very expensive at commissioning and at decommissioning, but when it is operational it is "most reliable and cost effective," Mantashe told journalists on Friday.

According to a wrong version of the IRP2019, which was erroneously released via the government gazette, government wanted to "immediately commence" with a new nuclear build programme of 2 500MW because it is a "no-regret option" in the long term and in case the Inga project does not materialise. This project on the Congo River has been under construction for more than 10 years, and the IRP2019 notes that the DRC has not yet concluded the work needed for South Africa to start receiving electricity, as agreed, from 2023.

But this was later corrected. The real version of the IRP2019 says that government will begin preparing for a nuclear build programme "at a pace and scale that the country can afford". The reference to Inga was dropped. Montalto said that new nuclear capacity does not come onstream before 2030, but discussion of work to start on scoping new nuclear is in the plan for coming on grid beyond 2030.

The IRP argued that smaller nuclear plants will be more manageable investments than large-scale projects. But government acknowledges that these could take ten years or more to construct, and no additional nuclear power is set to come online before 2030.

Small nuclear plants are being developed in Russia, China and in the US, where the government there recently approved a small nuclear reactor design, which would take up 1% of the space of a conventional reactor. But the world's first small-scale nuclear power reactor may still be eight years away, Bloomberg reported in April 2018.

Brulpadda gas could be used for electricity

Government wants to convert its expensive diesel-powered "peakers" (emergency power plants) to gas-to-power plants. It has identified plants in Ankerlig (Saldanha Bay), Gourikwa (Mossel Bay), Avon (Outside Durban) and Dedisa (Coega IDZ) to be converted.

The gas will come from Mozambique, from coal-bed methane and shale gas, as well as the Brulpadda gas block, an area of 19 000 km², some 275km south of Mossel Bay. In February this year, Total announced it found a potential 1 billion barrels of "wet" gas in the block.

Mantashe said government is very excited about Brulpadda and is keen to "facilitate" the development of the block. While government won't interfere, it wants the company to develop the find "the sooner, the better".

Koeberg will carry on till 2044

Eskom-owned Koeberg nuclear plant, SA's sole nuclear power plant, was designed to close its doors in 2024. But government says that because Koeberg is one of the best performing

power plants in its arsenal, its operating life will be extended by another 20 years "by immediately undertaking the necessary technical and regulatory work".

Cap on coal prices

While not set out in the new plan, Mantashe mentioned on Friday that government wants a stricter cap on coal prices, as "coal producers can't make obscene profits".

Government wants to buy power from South Africans

South Africans must be encouraged to generate their own electricity, "through the enactment of policies and regulations that eliminate red tape without compromising security of supply," the reports states. It wants to immediately establish a "medium-term power purchase programme" to help ease the supply constraints from Eskom.

Battery hope

Storing excess energy for times when there's a demand crunch is crucial for South Africa, especially as more wind and solar projects come online. The trouble with wind and solar plants are that they generate power when there's wind and sun – not necessarily at peak demand periods.

The IRP2019 makes provision for the development of new storage technologies (including air energy storage, flywheel energy storage, hydrogen fuel cells), and says that Eskom is already preparing to pilot an energy storage-technology project based on batteries.

<https://www.fin24.com/Economy/what-you-need-to-know-about-south-africas-new-energy-plan-20191018>

INTERESTING ENVIRONMENTAL TOPICS

❖ ***The case for a net zero emissions economy***

<https://www.bizcommunity.com/Article/196/750/196196.html>

❖ ***Role of effective waste management in preserving SA's heritage***

<https://www.bizcommunity.com/Article/196/703/196007.html>

❖ ***Pollution: Army fails to fix Vaal River damage***

“Environmental activists say the Vaal River is worse off after almost a year of work by 200 army engineers. Now the Department of Water & Sanitation (DWS) has brought in a specialist company to fix broken sewage systems that pump up to 130m litres of raw effluent a day into the waterway, reports the Sunday Times. Last year, the department said the system should take a year to fix. Ten months later, a war of words has broken out between the SANDF and the DWS over who is to blame for the failure to make progress. Emfuleni local council's waste-water system comprises more than 1 000km of pipelines that move waste water and sewage through 44 pump stations and into three waste-water treatment works: Sebokeng, Rietspruit and Leeukuil. The sewage should be treated before being released into the river, but 39 broken pump stations and broken pipes mean raw or only partly treated sewage flows into the Vaal, poisoning the water. DWS spokesperson Sputnik Ratau said: 'The work that the SANDF has done so far has not yet got all the pumps going. We have called in Erwat (a bulk waste-water management company) because they are specialists.' The weekly Rand Water sampling on Friday measured E coli bacteria in the water just downstream from Sebokeng and found more than 2.4m organisms per 100ml. A count of more than 400 is regarded as hazardous to human health. Maureen Stewart, of environmental group Save the Vaal, said the river was 'worse than when the army arrived'.”

Full Sunday Times report Legalbrief Environmental 2 October 2019

GUNN ATTORNEYS NEWSFLASH

We are excited to announce the appointment of our new associate, Tim van der Merwe.

Statement from Adam Gunn, *“Tim van der Merwe completed his LLB (cum laude) at the University of Pretoria and his LLM in Environmental Law at the University of South Africa, with a focus on carbon taxation. He has a background in Petroleum, Commercial and Environmental law and was admitted as an attorney of the High Court in May 2019. We welcome Tim on board and wish him a long and prosperous journey with Gunn Attorneys.”*



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