



Centre for Environmental Rights

Advancing Environmental Rights in South Africa



Mr Leon van Wyk
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Copied to:
Lerato Ratsoenyane
By email: lerato.ratsoenyane@digbywells.com

Our ref: CER/RH
Date: 4 September 2013

Dear Sir

REQUEST FOR COPIES OF APPLICATIONS TO THE RELEVANT AUTHORITIES FOR THE PROPOSED VEDANTA POWER PLANT

1. We address you on behalf of our client Earthlife Africa Johannesburg (ELA), which is an interested and affected party in the above-named project. We refer also to correspondence between our client and Digby Wells (the relevant Environmental Assessment Practitioner (EAP)) regarding copies of the applications relevant to this project.
2. On 26 August 2013, our client requested copies of the waste management licence application; the atmospheric emission licence application; and the water use licence application from Digby Wells. Our client also requires a copy of the application in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA).
3. On 27 August 2013, in response to our client's request, Lerato Ratsoenyane, the EAP's Unit Manager: Stakeholder Engagement informed our client that an Integrated Environmental Authorisation application in terms of NEMA and the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) (Waste Act) had been submitted to the Department of Environmental Affairs (DEA). She indicated that the atmospheric emission licence and the water use licence had not yet been submitted to the relevant authorities.
4. Ratsoenyane required that our client provide a motivation as to why copies of the requested documents should be made available. It is not clear whether the EAP takes this view on instructions from Vedanta Zinc International. We are instructed to point out that, as an interested and affected party, our client is entitled to copies of these applications in order meaningfully to participate in the process. NEMA requires that there be adequate and appropriate opportunities for public participation. Section 2(4)(f) of NEMA provides that: *"the participation of all interested and affected parties in environmental governance must be promoted, and all people must have the opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation, and participation by vulnerable and disadvantaged persons"*

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must be ensured." The EIA Regulations also make clear that all interested and affected parties are entitled to information containing all relevant facts in respect of the application, as well as a reasonable opportunity to comment.

5. It is submitted that a failure to provide our client and other interested and affected parties with copies of the applications deprives it of this reasonable opportunity and amounts to non-compliance with the legislation, including the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000). There can be no basis not to make this information available.
6. In the circumstances, kindly confirm that you will communicate with Digby Wells that it should it make available the applications that have already been made in relation to this project, and, in due course, the other applications once these have been made.
7. We look forward to your urgent response.

Yours sincerely

CENTRE FOR ENVIRONMENTAL RIGHTS

per:



Robyn Hugo

Attorney

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