

4 September 2020

RECIPIENTS:

The Director-General  
The Department of Environment, Forestry and Fisheries

For the attention of: Dr D Fischer

By email: [dfischer@environment.gov.za](mailto:dfischer@environment.gov.za)

**SUBJECT: COMMENTS TO THE PUBLIC NOTICES PUBLISHED FOR THE INTENTION TO CONSULT ON VARIOUS ENVIRONMENTAL MANAGEMENT INSTRUMENTS**

groundWork wishes to submit the following comments and concerns regarding the above-mentioned Public Notice to consult:

1. Following our letter dated 4<sup>th</sup> August 2020, and your response dated 13 August 2020, we remain concerned that the public participation processes are inadequate and have not reached out to all people and communities living in the affected areas:
  - It is noted that the area of impact extends into all nine provinces. However, notices were only advertised in Isolezwe, Daily Dispatch and the Sowetan. Furthermore, these notices were only published in English and none of the relevant languages were used. Isolezwe, for example is an Isizulu newspaper and the advert was in English. People living and working in the affected areas need to be notified of such developments and consulted with as mandated by Section (2) (4) of the National Environmental Management Act, 107 of 1998 (NEMA) and the subsequent Directions Regarding Measures to Address, Prevent and Combat the Spread of COVID-19 Relating to National Environmental Management Permits and Licences.
  - There has also been no attempt to use alternative methods of notification such as radio announcements, community leaders and SMS of people in the affected areas. It is therefore still unclear whether all interested and affected parties were in fact reached and had any opportunity to comment.
  - It is also noted that the Strategic Environmental Assessments (SEAs) did not include notification or consultation of communities living within the affected areas, particularly, within the proposed corridors for strategic gas transmission pipeline infrastructure. We believe that every effort must be made to notify the public and ensure adequate public participation processes as these communities will suffer the worst impacts of gas and



petroleum related leaks, accidents and disasters. There are numerous examples of these in South Africa and internationally including, but not limited to:

- In 2018, an underground Sasol pipeline leaked diesel into Isipingo wetlands and the Isipingo N2 canal affecting surface and ground water, as well as entering the coastal environment.
  - In 2017, six people were killed (3 workers and 3 soldiers) and twenty injured from underground gas leaks at the Durban Naval Base.
  - On December 24, 2001, a methane rich pipeline exploded in Tongaat, South Africa. A nearby school was almost destroyed, and homes were affected
  - In 2001 a petrol pipeline leaked in south Durban, South Africa. 950 000 litres of petrol were spilled. People living in the area had to leave their homes due to dangerously high levels of benzene. Pipeline leaks continue in these areas.
  - In July 2000 a damaged oil pipeline, which had fuel pouring out of it, exploded in Southern Nigeria. More than 250 people were killed. Many of them were schoolchildren. Many people died trying to run away from the huge fire which burned fields and buildings for two kilometres around the explosion.
  - In New Mexico a natural gas pipeline exploded near the Pecos River of Carlsbad. Twelve people were killed. The blast made a huge hole in the ground 86 feet long, 46 feet wide and 20 feet deep.
  - On November 21, 1996, a propane gas pipeline exploded in a shop in San Juan, Puerto Rico. 33 people were killed and 69 were injured.
  - On August 24, 1996, a leaking butane pipeline exploded and killed two teenagers. People who lived near the pipeline had complained about the smell of leaking gas fumes to the pipeline operators many times before the explosion, but the operators had ignored them
- It is also noted that the impacts of fossil fuels infrastructure is largely borne by poor marginalized communities and in particular historically disadvantaged communities located within the proposed gas pipeline corridors. This has been the case with fossil fuels developments in the mineral energy complex in the Highveld and the relocated communities of south Durban during the apartheid era. These are typically the communities left out of the public participation processes that need to be included in terms of the environmental justice provision in section 2 (4) of NEMA.
  - People remain unaware of procedures the Department has put forward as well as the generic environmental management program relevant to an application for environmental authorization. Public participation requires meaningful consultation and informed consent.
  - The environment is held in public trust for the people and therefore beneficial use of environmental resources must serve the public interest and the environment must be protected as the people's common heritage. This can clearly not be achieved if the public are not adequately notified and consulted.
2. People must be consulted adequately on the identification of gas pipeline corridors for the development of strategic gas transmission pipeline infrastructure and be part of any decision making regarding the identification of gas pipeline corridors.



3. With the increase in gas pipeline and supporting infrastructure, and related activities, this will result in an increase in risk associated with leaks, accidents, incidents and disasters as well as related impacts on human health, ecosystems and water resources. Leaking gas will also pose further risk to people and the environment.
4. Given the risk of gas pipeline infrastructure and the lack of adequate community consultation as well as risk related specialist studies in the SEA and related processes thusfar, we are of the view that proper and full environmental impact assessments must be conducted within the proposed gas corridors and any proposed gas related infrastructure. There should not be any fast tracking of these processes and elimination of necessary steps. Proper procedure must be followed including timeframes and administration as per the requirements to obtain environmental authorization. This must include all the public participation processes and allow sufficient time for this to be conducted.
5. It is noted that specialist studies and reports related to the rate of leaking natural gas pipelines and infrastructure is lacking in the SEA. These contribute to greenhouse gas emissions as well as contamination of the soil and surface and ground water supplies. Furthermore, gas leaks increase exponentially (both number of leak sources and volume of gas) with the age of the infrastructure which will add to South Africa's Green House Gas (GHG) emissions and other gas related risks.
6. The oil and gas industry currently contributes to 71% of the global greenhouse gas emissions. Gas development in South Africa will increase greenhouse gas emissions substantially and must therefore not be falsely described as a cleaner or less polluting fuel source. It is a finite hydrocarbon or fossil fuel which when extracted, processed, transported, stored and used is responsible for global warming. South Africa's carbon emissions will increase as a result of increased gas emissions and its contributions to rising global temperatures and the impacts of climate change will therefore also increase. We welcome the President's commitment to act swiftly to significantly reduce carbon emissions. This can clearly not be achieved with increased gas development in our country.
7. It is noted that the issue of job creation within the industry is not adequately addressed. The gas pipeline infrastructure development will not create sustainable jobs but is rather dependent on a short-term surge of temporary construction-related jobs and then heavily reliant on core specialized jobs and foreign national jobs. A similar debt burden will arise as was the case of the 2010 World Cup Soccer infrastructure development 'boom' in construction followed by underutilized assets left with South Africans and mounting debt. The lifespan of solar installations is 30 years compared with gas infrastructure which will be redundant in less than 20 years. Solar installations are also expected to create more long-term sustainable jobs with job creation all along the cycle from installation to maintenance, repair and recycling. The manufacture of renewable energy will further add to sustainable economic growth. And not 'booms and busts' associated with the oil and gas industries.
8. It is noted that the only reference made to 'liability' in all the documentation referred to in the Notice may be found in GN 836, Appendix 9 DECLARATION OF THE PROPONENT COMMITMENT TO IMPLEMENT THE STANDARD of which states:

"I hereby indemnify the Government of the Republic of South Africa, the Competent Authority and all its officers, agents and employees, from any liability arising out of the content of any registration, any procedure or any action which I as the proponent or the EAP is responsible for in terms of the standard;



I will not hold the competent authority responsible for any costs that may be incurred in proceeding with an activity prior to obtaining confirmation of registration or prior to an appeal being decided in terms of the National Appeal Regulations;”

It is therefore noted that the government is ensuring its own protection from decision making liability and granting of authorization to developers.

9. We are concerned that ‘liability’ of gas companies, contractors and subcontractors within the supply chain in the event of a spill, leak, accident, incident, disaster (cost to people, environment and economy) are not addressed, along with all the relevant regulations pertaining to non-compliance and incidents, accidents and disasters. The polluter Pays principle is not included in the documentation. Liability of infrastructure in the event of bankruptcy is not addressed. And liability in terms of closure and financial provisioning as well as for gas infrastructure that may become obsolete or unused. We, therefore, note that the government is not ensuring that liability to the public and the environment is adequately addressed and covered when giving authorisation to developers.
10. What is clearly missing in the documentation that the Department refers to in this Notice includes:
  - Specialist studies required in assessing and understanding direct and indirect risk of pipeline infrastructure all along the supply chain. This must include gas company liability and suppliers of defective components including pipelines, joints, valves, connecting and storage components. The design process is also of concern as is the need for testing which must be made part of proper procedures. Risk of corrosion will increase with standing water and microorganisms that accelerate this process undermining the integrity of pipelines. This is clearly missing in the gas pipeline procedures gazette.
  - Potential impacts of natural disasters on surface and underground pipelines including tremors, flooding, tornadoes as well as wildfires. There has been an increase in these risks in the past 10 years and this is likely to increase with climate change impacts.
  - The potential impacts of natural disasters will further exacerbate the impacts to people, their health and the environment with damaged pipelines as this will also lead to contamination of soil, surface and ground water, air emissions and further risk to fire. It is important to note that gas is classified as a hazardous substance.
11. Risk to public safety and human health must be assessed. Leaks and accidents from improper installation, failures or omissions in inspection, maintenance, or repair and violations of regulations, codes, and safety practices must also be assessed. DEFF does not indicate how the public will be protected from leaks and accidents and how defaulters will be held accountable.
12. We are concerned that attempting to fast track environmental authorisation processes will add to the risk and burden of people and the environment, of which there will be very little liability responsibility from government, developers, contractors, subcontractors and everyone along the supply chain for disasters, emergencies, incidents and accidents.
13. With regards to the screening tool requirement to submit a report generated by the national web-based environmental screening tool in terms of section 24(5)(h) of the NEMA, 1998 (Act No 107 of 1998) and regulation 16(1)(b)(v) of the EIA regulations, 2014, as amended, it is noted that this is the tool that government will be using to screen new authorisation



applications. It is also noted that **critical data** is missing from this tool. These include but are not limited to:

- No Go Zones that include (but not limited to): Ecologically sensitive areas, Strategic Water Source Areas (SWSAs), geologically protected areas and unstable terrain.
- Strategic Water Source Areas
- Hydrological data including ground water data
- River data sets including correct buffer zones of 32m from the edge and not center of rivers
- Floodline data
- Significant geological faults and unstable terrain
- Heritage sites of national and local importance. Only international heritage sites are included, although extensive studies have been done on national and local heritage sites and this data is available for inclusion and should be included.
- Seismicity data, including seismic intensities with the probability of being exceeded at least once in 50 years. Climate change including extreme temperature variances and long periods of drought also trigger seismic activity. Studies conducted by the Council of Geosciences indicate that a belt of seismicity extends north-south along the South Africa-Mozambique border, southwards into KwaZulu-Natal. Another trends east-west through southern KwaZulu-Natal, Lesotho and the southern Free State. The eastern boundary of a north-south-trending zone of enhanced seismicity along the Mozambique border coincides with the Lebombo Mountains. **It is further noted that the proposed gas pipeline corridors coincide with areas of enhanced seismic activity.**
- Other data including municipal plans, farms and land belonging to traditional leaders

Should this tool be used to 'fast track' authorization processes, this may not allow adequate time or process for proper public participation, consultation, specialist studies and assessment of the above critical components. This would result in adverse impacts that South Africa will be liable for. The Constitution requires 'ecologically sustainable development' which cannot be complied with in a fast track process that ignores environmental protection.

Yours sincerely,

**groundWork**

Avena Jacklin

Climate and Energy Justice Campaign Manager