

Creecy left to deal with court fallout over Mokonyane's hot air

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Then environmental affairs minister Nomvula Mokonyane arrives at parliament, 22 May 2019.
Picture: Sipehelele Dlodla / ANA

The former minister refused to take action against air pollution in Mpumalanga as it 'takes time and effort', which led to the CER to sue the ministry.

As of yesterday, there had been no official response from Environmental Minister Barbara Creecy to the coalition of organisations suing the ministry for cleaner air, according to the Centre for Environmental Rights (CER).

Central to the CER's application, is Nomvula Mokonyane's April 2019 refusal to CER's December 2018 request for regulations to govern the implementation of the Highveld Priority Area (HPA) air quality management plan, which noted "improvements will not happen over a short period of time".

"Experience from countries such as the United Kingdom and the United States of America (USA) indicates that the path to reaching desired air quality takes time and effort, which can be in excess of 20 years as has been the case in the USA," Mokonyane stated in her refusal.

The Trustees For The Time Being Of groundWork Trust and the Vukani Environmental Justice Alliance Movement in Action lodged the action in the Pretoria High Court last week on Friday, seeking various forms of relief.

These included a declaration the poor air quality in the Highveld Priority Area was in breach of the Constitutional right to an environment which was not harmful, and that former environmental minister Nomvula Mokonyane's decision not to promulgate regulations to implement and enforce the Highveld Priority Area's air quality management plan was "unconstitutional and invalid".

Mokonyane's comparison is a strawman at best, and now Creecy must deal with the fallout.

The US has nearly 329 million people spread over nearly 10 million km², the UK has a population of more than 66 million crammed into less than 243,000 km², and South Africa has a population of nearly 57 million on little more than one million km² of land.

In comparison, the HPA covers 31,000 km² – and is home to 12 of Eskom's 15 coal-fired power stations; petrochemical plants like Sasol's giant refinery in Secunda; metal smelters; hundreds of mines – primarily coal; brick and stone works; fertiliser and chemical producers; explosives producers; charcoal producers; and other small additional industrial operations, according to the CER's 2017 Broken Promises report.

In a media statement issued by spokesperson Albi Modise following the news breaking of the court action, Creecy agreed "... there are air quality challenges in the Mpumalanga Highveld Area".

"The Minister notes that there was extensive engagement on this matter during the Fifth Administration which resulted in the current review of the Air Quality Management Plan for the area," Modise said.

"Accordingly, it would be her preference that there is further engagement outside of a court process to find ways to satisfy the needs of citizens living in these areas for better quality air."

Except, the more than 10-year battle with five different environmental ministers has left environmental justice activists leery of government's ability to keep its word without a court order to remind it of its duty.

"The whole story is set out in more than 500 pages of painstaking detail in our court pages," said CER attorney Robyn Hugo, which is acting for the coalition.

"We and our clients are extremely frustrated with this process. The HPA was declared more than 11 years ago and air pollution remains at deadly levels," Hugo said.

"It's a massive public health crisis. People are dying prematurely and suffering terrible illnesses because of this pollution, and it is within governments power to do something about it."

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