



GROUNDWORK

Cutting the ties?



groundWork is a non-profit environmental justice service and developmental organization working primarily in South Africa, but increasingly in Southern Africa.

groundWork seeks to improve the quality of life of vulnerable people in Southern Africa through assisting civil society to have a greater impact on environmental governance. groundWork places particular emphasis on assisting vulnerable and previously disadvantaged people who are most affected by environmental injustices.

groundWork's current campaign areas are: Climate Justice and Energy, Air Quality, Waste and Environmental Health.

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The entanglement of government and corporations and the unions has left workers wanting... and they are now beginning to cut ties!
Cover design by Barry Downard.



From the Smoke Stack



Photo by FoE

by groundWork Director, Bobby Peek

We are living in difficult and interesting times in South Africa. With mayhem in the African National Congress (ANC) and the Congress of South African Trade Unions (Cosatu) (although, as I write this, I read that the leadership has been re-elected unopposed, although this does not speak to a state of order in Cosatu), environmental governance crumbling – speak to the people in the Vaal, south Durban and the Highveld – and now the Marikana massacre... the times they are a-changing.

As we prepare for these interesting times, it is critical that, as organizations and community people resisting pro-rich and anti-poor policies and practices on the ground, we need to strengthen our collective work to be able to have stronger resistance. To this end, groundWork has started a self-evaluation process that seeks to evaluate our practice of engagement and support of struggles on the ground. This process seeks to make evaluation of our work an everyday activity, rather than an annual or biennial activity. The evaluation is trying to build a consciousness about the important process of learning as we work into the work we do, and an awareness that allows us to be constantly adapting so that our work can be more meaningful to the community people we profess to assist. To date, we have had several internal meetings in the office, but the most exciting gathering has been the one held over two days in September with the community organizations we work with. Here we sought to unpack the relationship between groundWork and the community organizations we work with, and to understand better the relationship between the community organizations and the people on the ground, whom they work with. After all, this is where change is meant to be happening and it is this change groundWork needs to understand, for

this is the change we claim to be making. We look forward to this on-going process and evaluation.

So how do we develop these stronger and more meaningful links to community struggles? Musa Chamane has now been with us for five years, and he has taken his sabbatical from the middle of September to January 2013. The big question we have been grappling with was who would step into Musa's shoes and work while he was away. We decided to use this opportunity to develop stronger ties with community organizations in a meaningful manner. So we have invited the South African Waste Pickers Association's chairperson, Simon Mbata, to join us while Musa is away. Musa and Simon work closely together and thus Simon is the ideal candidate to continue the important work with waste pickers. Already, Simon has started interacting with government and he will be joining a panel at the upcoming national "Wastecon" – an annual waste conference for mainly industrial and government role-players in the waste sector – to share the waste picker perspectives on waste management.

Talking about waste pickers, you will read about the success of the Mooi River materials recovery facility in this edition. It has been long in coming. For many years, the Mooi River waste pickers, now the Mooi River Waste Picker Cooperative, toiled in the sun and under wet conditions with no protection from the waste they were sorting, or the elements. This month, waste pickers from around South Africa visited Mooi River in the first national waste picker exchange to see for themselves the possibilities of success when waste pickers and local government works together – but more about this exchange and the outcomes of it in the next newsletter.



From the Smoke Stack

There is no more gripping local struggle than the south Durban challenge. But hey, this comes from a biased source. You need to understand this for yourself. But what do you say and how do you respond to a challenge to your existence when nearly half a decade of research is presented to you, indicating that you will be encircled by ever-growing industrial expansions, an expanded port development to the north and a new one to the south, and that you probably will lose your home and social fabric as you know it. And then you are asked to respond in thirty days! You take to the streets and raise hell. This is what the south Durban people are doing. Pravin Gordhan bravely faced the people in Clairwood on the 1st of September to hear their concerns. He sat and listened to people. It was a calm meeting, and some would say too respectful of an authority that is not listening. His two promises of reopening the process – we hope not just a renegotiating of how government's plans for south Durban are to be rubber stamped, but rather a proper and meaningful discussion on the people's vision for development in south Durban – and putting containers on rail and taking trucks off the streets, are two big promises. Honestly, I cannot see delivery on either.

Interesting names cropped up in the aftermath of the Marikana tragedy. Julius Malema, the opportunist that he is, was on the scene “sharp-sharp”, but, more alarmingly, Patrice Motsepe, South Africa's best known and probably richest – you never can tell these days – mining magnate, also has been seen in the background. To support the workers, he would no doubt say, but there have been other motivations – such as his recent announcement of his interest in acquiring Lonmin. Yes, worker unrest is good for capital, and Motsepe boldly states this: “uncertainty and turbulence in the platinum industry, occasioned by workers unrest and industrial action, would result in acquisition opportunities”. Well, who knows, it might be good that a South African owns Lonmin, maybe then the workers will be heard? I doubt it. Ask the workers at Assmang, which is just outside Durban and is owned by Patrice Motsepe.

In a recent news article, it states that “workers at the Assmang factory in Cato Ridge are still waiting to hear whether their company will be prosecuted

for culpable homicide and other criminal charges, almost five months after Justice Minister Jeff Radebe promised a decision on the matter”. This was relating to a furnace explosion in February 2008, which killed six workers. Besides this, several cases of “manganese madness” were also investigated. The Department of Labour's enquiry report was never released and boxes of information, according to the National Prosecuting Authority, have gone “missing”. So there has to be a reconstruction of information. I doubt if there will be any prosecution of the owners of Assmang. Interestingly, Minister Radebe's wife is the sister of Patrice Motsepe. So the workers have to ask themselves, will a takeover by Patrice Motsepe be better? Marikana miners must visit Assmang in Durban.

Finally, I end off with a short reflection on the ongoing Medupi saga. Engineering and construction company, Murray and Roberts, and Eskom have been facing the backlash of workers recently as they face the wrath of workers in a “bust” phase of the “boom and bust” of such projects. There is talk of retrenching 17 000 jobs. Eskom denies this. Are they going to keep on the contractors after the plant is built – no! So what are they denying? Interestingly, Murray and Roberts does not call this retrenchment, but rather uses the military term of “demobilising” the workforce. As if these demobilised workers are going to go back to barracks and continue earning a salary. Bull – they are retrenched, fired, unemployed workers. Let's be clear about that.

Till next time! ✕



Marikana: A surreal reality

by Bobby Peek

Marikana reminds us of how things are managed for the elite

The week of the 13th of August was a surreal experience. It started with ten people losing their lives at the Marikana mine, which early news reports put down to rival mining unions challenging for dominance. Listening to the radio on our travels between home and the office – an hour's drive – we felt as if this was not real. We kept on asking ourselves, where is our President? Why is there not decisive intervention by our senior leadership? On the 16th of August, at 8:11pm, just after putting children to sleep, I got a Facebook message – yes I am becoming a junkie – “what the hell is going on?” A message from friends in Europe and the US. Reality struck – the nightmare was now in motion.

Ever since then, I have woken up every morning, hoping that what I remember of the day before is nothing more than a vivid nightmare. But alas, it is not. This I am reminded of every morning as I open the papers or electronic media. Marikana is real and we have to live with it and make sense of it.

Our President and “leaders” were far too slow to react. And when they reacted they were confused at the best of times. Firstly, our President went off to Mozambique, just after the first ten people lost their lives in the area. While he was away, the full tragedy unfolded. By then it was too late and now, in international travels, both Zuma and our Minister of Trade and Industry are trying to woo investors with a story that they have everything under control. Well, we do know that since Marikana there have been concerns on other mines as well. Our Finance Minister, Pravin Gordhan, is recorded in the Sunday Times as being confused about how he really feels about Marikana. First he says Marikana will not impact on growth, then eight days later he states that “the mining unrest was extremely damaging to our economy in more ways than we understand at the moment”. It took Trevor Manuel, Minister in the Presidency, a whole month before he made public announcements about the incident. He raises concern about the “informal

migrant labour systems” in situations such as Marikana. Why is this “concern” and “recognition” of the problems seemingly hitting politicians for the first time after the deaths of workers at Marikana? The abject poverty and destruction of the social fabric of communities living around mines is well documented. The reality of poor wages juxtaposed with the millions earned by senior bosses is well known. Why is it that Marikana makes our politicians recall these realities? They have known this all along and have chosen to take no action.

Not only has the political and union leadership failed the workers, but there is another failure, one where the “system” has failed the community. One of the notable factors in the tension around Marikana was the link between the workers and the community. Eventually, the police turned their weapons onto community people who were shot at – the very same people who were, during the days of the “occupation of the mountain”, providing water and food to the workers. Is there something sinister in this? No! This is the reality. The Marikana struggle, whilst having its origins in a worker struggle, is indeed a community struggle against the state and capital. While people in these communities have no services, and at times cannot afford or have no access to basic nutrition, wealth is extracted from their land to be exported to Sandton and stock markets globally. How Lonmin gets away with this is by their very fancy programme of Corporate Social Responsibility (CSR), where they “greenwash” their extraction of wealth by “giving” some wealth back to the community. The Bench Marks Foundation does a good analysis of the failings of Lonmin in their “Policy Gap 6: Communities in the platinum minefields”, highlighting worker safety, land issues and employment issues. CSR needs to be challenged and, indeed, declared illegal. For this is the “greenwash” that makes organizations such as churches and pension funds invest in companies that actually have little regard for workers and the



Lead Article

More than 100 people showed solidarity with Marikana miners at a protest outside the SA embassy in Stockholm.
Photo: AGS



environment. How many of the churches, pension funds and union funds have dumped Lonmin shares needs to be investigated. And what did fund managers do with these funds? Re-invest them in other mining ventures or fossil fuel companies?

The absurd nature of South Africa's democracy has been exposed by the brutal deaths of the forty-two workers and two South African Police Service members at Marikana. These events cannot be seen in isolation – Lonmin's continual search for greater profits at the expense of workers, and the worker struggles there – but rather in the context of a failed democracy and crumbling state, whose interest is tied up in protecting the wealth of the elite by using the Property Right (Section 25) in our Bill of Rights, rather than supporting the poor and responding to their call for the ANC's promised "better life for all".

As groundWork has said since 1999, the state, together with corporate capital, is failing the nation. We in South Africa are in the middle of the perfect crisis, the elite crisis: the crisis of imperial capitalism, the crisis of energy resource depletion, and the environmental crisis. This is amplified by the nexus between the political elite and corporate power. The deaths of those in Marikana have given us a graphic depiction of the crisis of capital.

The African National Congress (ANC) had its back against the wall. It could not allow the National Union of Mineworkers (NUM), which is one of its strongest Congress of South African Trade Unions (Cosatu) partners, to lose workers to a rival union, the Association of Mineworkers and Construction

Union (AMCU). This could mean that the workers and their families might not vote for the ANC in the next election. And indeed, people were saying this to the media when being interviewed in the area. So the ANC had to back NUM to ensure that AMCU was not successfully organizing. No doubt, AMCU was raising worker issues because NUM was not serving their needs.

Even General Secretary of Cosatu, Zwelinzima Vavi, admits that there might have been problems. The Mail and Guardian reports that Vavi: "admitted that Cosatu's preoccupation with ANC politics is resulting in a growing distance between union leaders and its membership". Generally speaking, this then translates into workers never being allowed to demand too much from capital – if they do, the state must manage this demand. The ANC had to do it in this instance because they also had to protect vested corporate interests in the mining sector that many individuals in the ANC, and even Chancellor House (the ANC's investment arm), hold. The ANC could manage NUM; NUM managed the workers and ensured that demands never threatened corporate profits. But when the rival union arrived, workers could not be managed anymore.

In conclusion, a month after the massacre, we hear of Simon Scott (the big boss at Lonmin) losing his share option. Finally. I wonder how much of Lonmin's wage bill percentage-wise is paid to senior managers and the Board of Directors. As I write this, there is some hope, for workers have managed to negotiate a better deal for themselves. While the 12.5 (R12 500) rally call was not reached, workers have seen a 22% increase – they are now earning R11 000 – for their struggles and deaths of their comrades. Sadly, this is just the beginning of a long struggle, for, while the workers have got better salaries, they will still go back to the shacks they sleep in at night, and the desperate poverty of townships circling the wealth of mines. When is this going to change? Will the commission of enquiry and government actually make changes so that wealth is meaningfully distributed? Surely we do not need a commission of enquiry for this. The evidence is there – walk through the dusty streets of the Nkaneng informal settlement in Marikana! ✘



SA government – no guts to say no!

by Siziwe Khanyile and Bobby Peek

September brought spring to South Africa, as well as fracking. Government lifted its eighteen-month moratorium on applications to explore, or frack, for shale gas in the Karoo. This was done after a technical team, which comprised PetroSA and Eskom amongst others, recommended that fracking could take place. Could we have expected anything but full-hearted support of fracking from such a team?

The South African government placed a moratorium on fracking in South Africa in February 2011. This was after much public uproar by local people in the Karoo, and the Agricultural Union of South Africa (Agri SA) requesting the Ministers of Mineral Resources, Agriculture Forestry & Fisheries and Water and Environmental Affairs to impose a moratorium on hydraulic fracturing in shale gas prospecting and exploration in South Africa, until it has been proven to be environmentally safe. Despite the fact that the public called for the moratorium, the technical team did not engage with those affected or who are interested, although they did fly around the world speaking to “experts” and, most certainly, big oil.

In a conversation with Nic Opperman, who is Director of Natural Resources at Agri-SA, and Sandy La Marque of the KwaZulu-Natal Agricultural Union, they expressed that the farmers’ particular areas of concern related to the possible negative impact of this process on the availability and quality of underground water resources on which agricultural production and the livelihoods of rural communities depend. The farmers are concerned about the various companies acquiring prospecting rights in what are ecologically fragile agricultural areas, not only in the Karoo, but throughout South Africa.

In the draft environmental management plan of Shell, it is acknowledged that there are concerns about the risks associated with hydraulic fracturing. And this is reiterated by Upstream General Manager

for Shell South Africa, Jan Willem Egginck, in his comments on the lifting of the moratorium. He goes on further to say that “Shell urges responsible fracking in the Karoo”. Responsible fracking? He no doubt has been speaking to Bush and Blair to learn from their strategy of “bombing for peace”. Ask people in south Durban, County Mayo (Ireland) and Ogoni Land (Nigeria) about responsible Shell. Come on, who is he fooling? Oh yes, Shabangu!

Many studies have shown the dangers associated with fracking, and it is stated that unconventional gas drilling in the form of fracking is under ban or moratorium in more than 140 places around the world. In the US, from Sean Lennon – son of Yoko and John – to the US Environmental Protection Agency, all are concerned about fracking. How could Cabinet allow a “secret” technical team to inform its decision? Furthermore, even the EU, on the very day that Shabangu decided to lift the moratorium, stated that “extracting shale gas generally imposes a larger environmental footprint than conventional gas development. Risks of surface and ground water contamination, water resource depletion ... are deemed to be high in the case of multiple projects”.

The simple reality is that our government does not have the courage to go against convention. We can choose improved public transport systems and rail so we cut down on liquid fuels. We can choose to work on energy efficiency and correct pricing for energy to the rich corporations. We choose not to. Considering the crumbling state of environmental governance in South Africa, there is no hope that the Karoo will be protected. Like in south Durban, the Vaal, the Highveld and Lephalale, a struggle against gas fracking has the potential to bring community people of all backgrounds together. In this struggle for a better life for all, as we collectively challenge fracking, let us find a collective struggle to share our wealth and resources so that people do not ever again have to be faced with poverty versus the environmental injustice of false fossil wealth. ✕



CC and renewable energy in the US

by Siziwe Khanyile

On invitation from the US Department of State, Siziwe spent three weeks learning about US policy regarding climate change and renewable energy

On the recommendation of the US Embassy in South Africa, I was invited by the US Department of State to participate in their International Visitors Leadership Programme which was focused on climate change and renewable energy. Together with nineteen others from different parts of the world, I spent three weeks in various locations in the US, enhancing my knowledge of US policy and perspectives on climate change and renewable energy.

The objective of the programme was to examine US energy policies and approaches to renewable energy, to gain insight into research, development and commercialization of clean energy and alternative fuel technologies and to look at US efforts domestically and internationally to expand alternative energy sources.

Our programme started in Washington, DC, then Florida and California and ended in Colorado. A common thread through all the States was that there was a diverse range of meetings and site visits which included policy makers at the federal, state and municipal levels, renewable energy research facilities, non-profit groups, renewable energy plants as well as educational tours in science museums and cultural activities such as home hospitality and visits to national parks.

In Washington, DC, the programme began with a guided city tour of the city's landmarks and institutions, which was followed by an excellent overview of the US federal system and a comprehensive assessment of the current American energy policy landscape and the current state of clean energy industries and technologies in the US. We had meetings with non-profit groups, including the Union of Concerned Scientists, the Environment and Energy Study Institute and the Coalition for

Green Capital, who all gave us insight into their work within the renewable energy sector. We met various government departments, including the US Department of Energy and the US Department of Transport, among others, who answered difficult policy-related questions on US positions and practice on climate change domestically and internationally. We got a very good insight into US politics and how this is played out in domestic climate change policy when we had a meeting with the US House of Representatives Subcommittee on Energy and Power who, interestingly, still question the science on climate change.

The Florida leg of the programme kicked off with an educational airboat tour of the Miami Everglades. We had some industrial visits to a sugar cane company's cogenerational plant, as well as a resource-recovery facility which generates power that it supplies to the electrical grid. Our group visited Florida Atlantic University. First, the Centre for Ocean Energy Technology (COET) where they are doing research to develop, test and deploy commercially-viable ocean energy systems, and then we viewed their Platinum LEED Certified College of Engineering and Computer Sciences. LEED certification is a highly recognized programme for the design, construction and operation of green buildings in the US. The buildings save energy, are easy to operate and are cost effective. We closed off with a visit to the Miami Science Museum which, through high tech digital exhibits, allows visitors to explore the use of energy and possible local outcomes from climate change.

California, we learnt, is a leading State in progressive environmental policy. It generates significantly more electricity than any other state from non-hydroelectric renewable energy sources and also attracts most of the venture capital invested in US





Siziwe at a geothermal plant in California.

Photo: groundWork

clean technology companies. Our meeting with the California Energy Commission, which is the state's primary energy policy and planning agency, gave insight into the strides they have taken in the field of renewable energy through the elimination of coal from their portfolio (except for legacy contracts which will run out within the next ten years or so), and excluding large hydro, nuclear and natural gas from their definition of "clean" technologies. Interesting visits included the largest complex of geothermal power plants in the world, called The Geysers, along the Sonoma and Lake County border. We visited Calpine, the largest geothermal power producer in the US, which owns and operates fifteen power plants at The Geysers. A meeting and tour of the facilities helped us gain insight into geothermal energy production in the US, including some of the advantages and disadvantages of this form of energy.

Our final State was Colorado and the highlights included visits to The National Renewable Energy Laboratory (NREL) in Golden, which is the only national laboratory solely dedicated to advancing renewable energy and energy-efficiency technologies from concept to commercial application. There was also a site visit to Vestas-American Wind Technology, which is the world's largest manufacturer of wind turbines. We held discussions on the facility's operations, factors that influence the selection of its locations, operational costs and challenges as well as common public concerns expressed about wind farms.

Overall, it was time well spent. The organizations, research institutes, and the many individuals I met, will be sources of information and possible "sounding-boards" for our climate and energy work. ✖



Mooi River MRF ready to go

by Musa Chamane

The materials recovery facility in Mooi River has been completed

The South African Waste Picker's Association (SAWPA) is very proud of the waste recycling project in Mooi River. This is one of the five SAWPA projects that are being piloted, all of which are managed by cooperatives of waste pickers. The main aim of these projects is to create employment, protect the environment and save space at the landfill. Mooi River is leading in terms of being pro-waste pickers and in MRF development in the country. Municipalities, public and civil society partners have a lot to learn from the Mooi River MRF experience. Hopefully this will serve as a pilot for every municipality in this country, showing that waste pickers can contribute positively in the waste management systems of every municipality. It will attract colleagues nationally, as well as internationally, to come and learn some lessons from this project.

Politicians' visit to Mooi River brought hope

Mooi River is a small rural farming town with a population of less than 500 000. Even being the small town that it is, it was graced by a visit by high ranking politicians, including mayors and councilors. Michael Mabuyakhulu, KwaZulu-Natal Member of the Provincial Executive Committee and KwaZulu-Natal MEC heading the Economic Development and Tourism Department, declared funding availability from government mainly for cooperatives. We must follow up with the Department to see that what they have preached during the MEC's visit will be fulfilled. Waste pickers have suffered a lot in the past, getting promises from government and business people without ever seeing any fruits from those promises. This time the promises that were made by the uMgungundlovu District Municipality, Mpofana Local Municipality and groundWork have been fulfilled because the MRF shelter is there and will be launched shortly.

Ten permanent jobs have been created

Ten permanent jobs have been guaranteed in Mooi River due to this project. The local municipality has not spent a cent in making this happen. As in most cities in South Africa, especially rural towns, there are not enough jobs, therefore creating ten jobs is really an achievement. It is ten jobs for now but there is the potential for more to be created by this project in the near future.

Benefits of this project

The municipal landfill will have a longer lifespan because, since there is a recovery of waste material, space will not be used up as quickly and the time for burying waste will be extended. Mooi River landfill is designed to have space to last for fifteen years but, due to this project, the lifespan will be extended to between twenty and thirty years. The municipality now has breathing room to work on a long term process of zero waste sitting on the landfill. We hope that Mooi River will be the first town to have 100% source separation of waste from households. Waste decomposition at the landfill results in a cocktail of gases being released into the atmosphere. These gases are known contributors to the climate change impacts. Recycling does not result in the release of gases to the atmosphere and, since 80% of waste will be recycled by 2013, this is very significant.

The recycling done by the cooperative at Mooi River has in the past generated between R15 000 to R20 000 per month. This was from the work of ten people, done informally, without any tools. With the new MRF there will be tools to assist them during recovery. There is a hope that the total value in Rands can be doubled once the MRF starts operation. There is a potential of making close to R2000 per month for each member, which is way above South Africa's minimum basic salary.

"Let's encourage recycling for a better future!" ✂



Waste tyres: big problem, big money!

by Musa Chamane

New REDISA plan gets favour from Minister

South Africa produces more than fifty million waste tyres per year. Landfills, open spaces and veld are used as uncontrolled storage areas for used tyres. As a country we do not have the capacity to properly dispose of used tyres. This has been a problem ignored ever since we started driving cars. If one visits waste landfills, one will see thousands of tyres lying at the landfill. In some communities, waste tyres are burnt outdoors to keep people warm, especially during the winter months. In the good South African tradition, tyres are also recycled by informal shoe makers making shoe soles, while others are burned for steel recovery. The motor racing clubs use a lot of old tyres as buffers for their tracks and no one knows where those tyres disappear to once used. In townships and rural areas, tyres are sometimes used as soil retainers. In the past years there have been alternatives that have been put forward by different players on how we should deal with waste tyres.

The first option provided by SATRP

The South African Tyre Recycling Process (SATRP) came up with the first plan. The SATRP plan is disguised as a recycling initiative but is mainly focused on energy recovery from the used tyres through incineration. The plan outlines that the used tyres will be collected and transported to cement kilns for processing or incineration. During this process of tyre incineration there will be "energy" recovered. The cement kilns will be replacing their coal with tyres. These kilns or plant plan to use the recovered energy internally. There is a belief that waste tyres have a high caloric value and that this can be recovered through this incineration process and, while this is true, consideration has not been paid to the fact that the energy used during manufacturing the tyre is usually higher than the energy gained.

SATRP plan: Myths vs. reality

SATRP has failed to prove that waste tyre incineration in cement kilns will be environmentally

friendly. Incineration of waste has never been a disposal solution. Waste tyres could be burnt or incinerated but there is still bottom ash which is notoriously toxic and which will be a by-product of the process. The other failure of the plan was to say that, because it is a closed system and the temperatures are very high, there will therefore be no air emissions. The plan failed to mention that in areas where there are incinerators, such as in Port Arthur in Texas, there are wide-ranging community complaints against the plant due to emissions. The plan is one-sided as it only looks at the profits for cement companies and disregards the environment. The aim of the plan is to receive the proposed green tyre levy for the cement industry. The industry is currently using coal as their main fuel source in the cement making process and they want to substitute coal with tyres. Tyres will be available for free because the levy will cover the collection and transport costs.

REDISA plan appealed to the minister

The Recycling and Economic Development Initiative of South Africa (REDISA) is the second plan that came through to deal with waste tyres in South Africa. The plan is different to that of SATRP, even though it also talks of collection, storage and transportation. This plan has a jobs focus which is the dream of every politician. The Minister of Water and Environment has accepted the plan and it is going to be the South African approach in dealing with tyres. It provides economic opportunities for small recyclers. Every town will have a REDISA depot where tyres will be exchanged for cash. The main emphasis is recycling of tyres rather than incineration, and thus, it is a plan that groundWork supports as compared to SATRP. The REDISA plan is clear that there will be usable products to come out of the used tyres such as rubber, oils, bricks and tiles. This plan hopes to employ more than 10 000 people in collection, transportation and processing national-wide. ✕



The greatest threat to public health

by Rico Euripidou

Now that we have all agreed that the planet has, in fact, entered a new epoch, the Anthropocene, and that humans are the primary drivers of biophysical change on this planet, all that remains for us to do is to establish an easily identifiable chief protagonist that threatens our way of life on this planet so that we can begin to take reasonable and meaningful steps to address this single biggest threat to public health and life on earth as we know it.

Without doubt, climate change is the biggest global health threat of the 21st century. The impacts from climate change will affect us for decades and put billions of lives at the increased risk associated with water and food security, migration and associated social upheaval, extreme climate changes, changing patterns of vectors and disease. However, the threat of climate change, when carefully considered, can be further attributed to a main protagonist.

Ordinarily, people say that “all roads lead to Rome”. Over time, the meaning has become obscure. However, the Romans designed their roads purposefully so that they all led to Rome, with Rome being the central hub. This was done to hinder provinces from organizing resistance against the Empire. So the saying basically means that, no matter what you do, no matter how you try to get around it, you'll be doing things the Roman way, because Rome is the centre of the world. The well-planned and -guarded Roman road system was designed to make sure that the provinces couldn't use it against the Romans....and so it is also how the South African energy utility (Eskom) and the associated coal industry has organized itself over time – to hinder resistance against the single biggest driver of climate change and threat to humanity... COAL. This has happened globally in many similar developing jurisdictions, such as India, China, Indonesia and The Philippines.

Burning coal is among the dirtiest ways of making energy. Coal pollutants affect all major body organ systems and, according to a recent Physicians for Social Responsibility Report, “contribute to four

of the five leading causes of mortality in the USA, namely heart disease, cancer, stroke, and chronic lower respiratory diseases”. See “Coal's Assault on Human Health” at <http://www.psr.org/resources/coins-assault-on-human-health.html> for more information on this. Each step of the coal life cycle – mining, transportation, washing, combustion and disposing of post combustion wastes – impacts human health. Coal combustion in particular contributes to diseases that include asthma, lung cancer, heart disease and stroke, compounding the major public health challenges of our time. It interferes with lung development, increases the risk of heart attacks, and compromises intellectual capacity through significant mercury emissions.

Coal and mercury contamination of fish

Globally, fisheries have been and remain an important source of food in many countries and communities. The proteins derived from fish account for up to 16.5% of the animal protein intake of the human population. Per capita consumption increased from about 9kg per year in the early 1960s to 16kg in 1997. By 2030, annual fish consumption is likely to rise to some 150-160 million tonnes, or between 19-20kg per person. About half of the 6 000 tonnes of mercury emitted annually into the atmosphere is from human activities such as the burning of fossil fuels, mining and base metal smelting. South African coal-fired power stations emit up to 40 000kg of mercury into the atmosphere when the coal is burnt in the absence of mercury pollution control devices. Globally, up to 300 000kg of mercury are emitted from coal-fired power stations. The large use of coal-fired power plants in generating electricity makes mercury emissions to the air from this source among the world's largest. This mercury then circulates globally and can travel very long distances in the atmosphere, often affecting human populations (such as the Inuit in the Arctic Circle) where no industrial activity occurs. Mercury is a persistent, bio-accumulative, trans-boundary pollutant that contaminates air, soil, water and fish and can seriously harm human health and the



environment. Eating contaminated fish is the major source of human exposure to methyl mercury.

As South Africans, we need to realize that, while we allow Eskom to build more coal-fired power stations to generate more base-load energy for large export-orientated multi-national companies such as BHP Billiton and ArcelorMittal, we are externalising our environmental harm on global society and, as the 11th largest global emitter of greenhouse gases into the atmosphere, making a huge contribution to climate change.

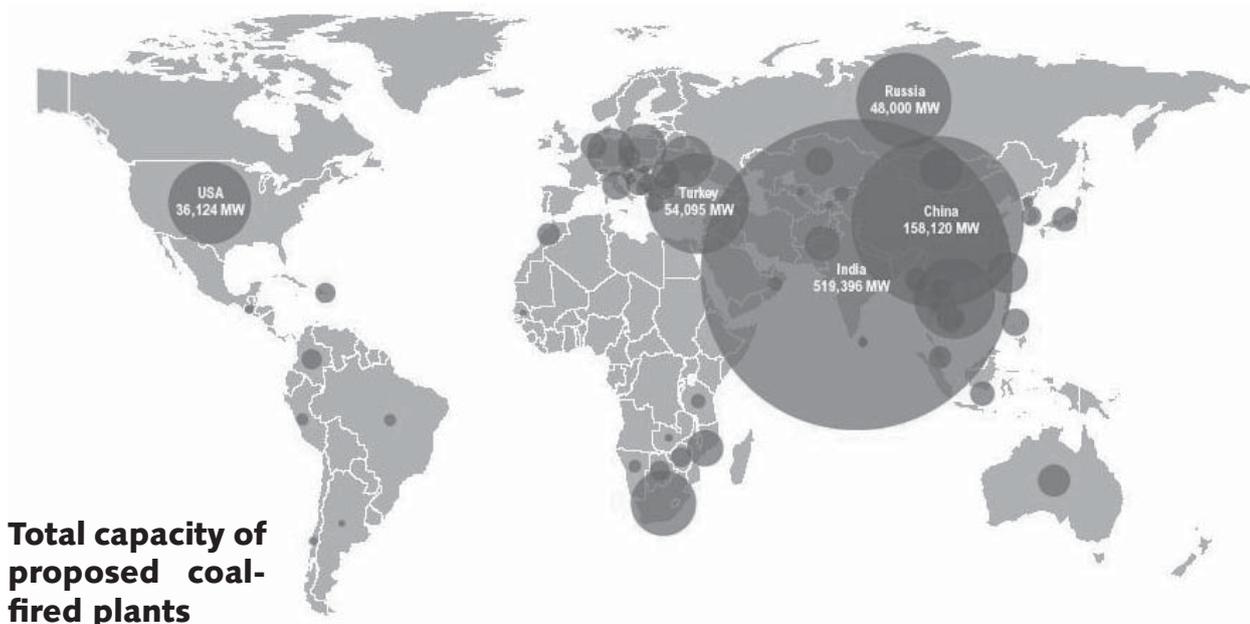
Furthermore, when we analyse the nexus between coal, climate change and environmental health impacts in the context of the global evidence base, the picture becomes even more worrying. Roughly a quarter of all human disease and death on the planet can be attributed to what the World Health Organization (WHO) broadly defines as environmental factors. These include unsafe drinking water, poor sanitation and hygiene, indoor and outdoor air pollution, workplace hazards, industrial accidents, automobile accidents, climate change, poor land use practices and natural resource management. For children, the rate of environmentally caused deaths is as high as 36%. Environmental health factors play a significantly larger role in developing countries; where poor water quality and the lack of sanitation, along

with indoor and outdoor air pollution, make major contributions to mortality. Climate change exacerbates this situation. Climate change amplifies this existing set of health problems.

According to the WHO'S report "Protecting Health from Climate Change, Connecting Science, Policy and People", coal and climate change will affect, in profoundly adverse ways, some of the most fundamental prerequisites for good health: clean air and water, sufficient food, adequate shelter and freedom from disease.

James Hansen, one of the world's foremost climate experts, names coal-fired power stations "death factories", citing "coal is the single greatest threat to civilisation and all life on our planet....Our global climate is nearing tipping points ... coal is the single greatest threat ... The trains carrying coal to power plants are death trains. Coal-fired power plants are factories of death... The long lifetime of coal-burning infrastructure combines with the inertia of the climate system to produce the threat to our future. Preventing the construction of this CO₂ producing infrastructure is the most important thing we can do..."

The time to act against public enemy number one, coal, is now! ☒



Globally, coal-fired power plant proposals overshadow and stunt investment in renewable energy – the picture above shows the scale of coal fired power station proposals.
Diagram: World Resources Institute www.WRI.org

Total capacity of proposed coal-fired plants



The BRICS Development Bank

by Sunita Dubey

BRICS is the title of an association of leading emerging economies, arising out of the inclusion of South Africa into the BRIC group in 2010. As of 2012, the group's five members are Brazil, Russia, India, China and South Africa.

The South African government is very keen to make a big announcement around the BRICS Development Bank in Durban in March 2013. They are planning to present the results of a feasibility study, according to Reserve Bank deputy governor Daniel Mminele. Even though the feasibility study into the BRICS Development Bank is currently being conducted, the process is completely under wraps, with no public participation or information available in the public domain. Along with the BRICS bank, the upcoming summit in Durban will discuss economic cooperation, as well as issues like international terrorism, climate change and food and energy security. The idea of a South-South development bank is exciting, provided its services are geared towards improving quality of life of poor communities in BRICS countries and other emerging economies.

However, BRICS Development Bank should not become an avenue for circumventing some of the progressive policies and standards, like social and environmental safeguards, and information disclosure, which have been set up and have evolved over time at various International Financial Institutions after many years of lobbying from civil society groups. There are also lessons to be learnt from various pitfalls of Brettenwoods Institutions, where too much emphasis on mega projects and trickle-down economics has led to too little change on the ground. Lending and project financing based on this approach by the World Bank, Asian Development Bank and Africa Development Bank has not been very successful in reaching the Millennium Development Goals (MGDs) targets, especially in poor regions of Asia, Africa and Latin America. Therefore, BRICS needs to develop a new vision and development model for the proposed bank, otherwise it will end up either being a mirror image of existing international development banks

or something even worse. It is critical to involve civil society groups and other stakeholders in this process from the very beginning.

The development of a BRICS Development Bank speaks to the rising power of the BRICS. The collective countries increasing economic prowess has made it apparent that they will have a key role in governing the global economy and governance, especially with the major developed countries still facing economic uncertainty, high fiscal deficits and debts, and substantial unemployment.

The idea of setting up a BRICS Development Bank is being discussed at a time when emerging countries are pushing for greater say and quotas in the affairs of the World Bank and International Monetary Fund, over which Europe and the US have had a traditional dominance. This proposal is mainly being pushed by India to establish a South-South Development Bank as an emerging economies' alternative to the existing West-led financial institutions. According to External Affairs Minister of India, Mr. S. M. Krishna, the setting up of a BRICS-led South-South bank would not be an "aberration" to the global financial architecture, but instead it would "supplement" the efforts of other multilateral institutions in meeting the investment requirement of BRICS and other developing countries.

The idea is gaining traction amongst policy makers. The creation of BRICS development bank was the main subject of the recent bilateral talks between China and India. China apparently wants a fixed presidency for itself, given the size and expanse of its economy, whereas India wants a rotating presidency on the lines of other regional groupings. The Indian government has also circulated a concept note on the BRICS Development Bank to other member governments. Some would use this as evidence that the project is likely to fail even before it comes into existence. Yet the fact that such a disagreement emerged at all is also proof that the discussion has advanced to a level where specific questions, such as who is to lead the institution, are already being debated. ✕



What fracking will do

by David Fig

Things that should have been done before the moratorium was lifted...

Hydraulic fracturing, or fracking, involves high-pressure drilling into deep underground rock formations to mine for shale or methane gas. The drilling is vertical until it reaches the relevant rocks, when it will become horizontal. A mixture of water, toxic chemicals and sand is pumped into the rock and the gas released by enlarging small fissures is pumped back to the surface.

Huge quantities of water are used in the drilling: an estimated 1 500 truckloads or about 25-million litres for each drilling. The water will have to be trucked in, because it is not available in the areas designated for fracking, mainly in the Karoo basin. Up to 30% of the water will remain underground and be subtracted from the hydrological cycle.

The chemicals are potentially hazardous and will have to be managed scrupulously. Up to 8% of the shale gas will escape in the process and enter the atmosphere, creating a problem for climate change. Methane is a greenhouse gas twenty-eight times more lethal than carbon dioxide.

[The moratorium having been lifted] the applicants will begin to frack immediately to establish whether the shale gas production is viable. Under existing mining laws, exploration can occur for up to nine years and an exploration right is usually converted easily to a production right.

Administrative flaws

Because of environmental and social factors, there are a number of administrative flaws in this process that the minister should correct before this scenario plays out.

First, shale gas recovery falls under the existing mining laws, namely the Minerals and Petroleum Resources Development Act of 2002, which is a bad idea. People who make their livelihoods in the Karoo rely entirely on underground water for their survival. The risk of contamination is high – “the fracking liquid will contaminate the groundwater;

there is no doubt at all”, according to the University of the Free State’s Gerrit van Tonder, a professor of groundwater studies (Daily Maverick, June 15).

Mismanagement of the toxic chemicals would have major impacts on environment, health and agriculture.

Trucking in fresh water, sand and chemicals to each well will cause immense dust pollution from the gravel roads of the Karoo. Because fracking has such obvious effects on the environment and was not foreseen in 2000 when the Act was written, it is imperative to write a new Act to cover the specifics of the shale gas industry to ensure it does minimal harm to the fragile Karoo environment. The minister of water affairs should also look at strengthening the protection of underground freshwater resources, which is not adequately covered in the Water Act.

Under the minerals and petroleum Act, the regulator is also a national agency to promote the oil and gas industry. This is a clear conflict of interest. These functions should be separated immediately. There is an urgent need for a separate, independent regulator for shale gas extraction.

Robust process

The law is also weak on environmental protection. Currently, the applicant has to do an environment management programme report within 120 days of applying to explore. But it is impossible to come up with a robust scientific analysis of risks – and plans for the mitigation of risk – in that time. Presentations to the public on the Shell application have happened, but not in the case of the other applicants.

In any case, the environment management programme report process is outmoded. It is regarded as a watered-down version of an environmental impact assessment, a more robust process. The departments of mineral resources and environment previously agreed that in future



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mining would be subjected to environmental impact assessments instead of in-house environment management programme reports. The environment department has taken the steps necessary to make this possible, but the mineral resources department has dragged its feet, and sabotaged the change.

The less stringent environment management programme report process will apply to fracking. But because fracking is such a risk to the environment, it is imperative that more robust assessment processes must prevail.

In practice, there needs to be a strategic assessment after the exploration phase so that future problems can be recognised and steps to mitigate them put in place. There should be no automatic conversion to a production right without a significant independent assessment of the impacts of exploration.

And what of the costs that the fracking industry will pass on to the taxpayer and to local industries?

A provincial function

Farmers in the Karoo have said they believe fracking and agriculture are incompatible. Water contamination and dust pollution could cost the Karoo its reputation for purity, ruining the reputation of products such as Karoo lamb. The minister should ensure that, to minimise dust pollution, the fracking applicants pay to tar the roads they will use to deliver water, sand and chemicals to the wells. This cost should not be passed on to taxpayers, nor should it jeopardise existing livelihoods in the region. If farms fail in the Karoo, 70 000 workers will be affected.

Hazardous waste management under South African law is a provincial function. Fracking will occur mostly in the Eastern and Northern Cape, among the poorest provinces in the country. They have few facilities for the management of hazardous waste, which will require immense resources to contain that from shale gas exploitation. Facilities will have to be put in place and people trained to manage them.

These costs should be borne by the industry and not passed on to the taxpayer. The polluter-pays principle, enshrined in our environmental legislation,

should apply and needs to be negotiated before the moratorium is lifted.

Before beginning production, the industry should also be made to sponsor epidemiological baseline studies in the concession areas to establish the health status of the local population before any fracking takes place. This would allow continuous assessment and monitoring to establish the industry's role if the health of local inhabitants is affected. The industry should also be prepared to compensate proven victims.

When the department of energy researched the country's optimal energy mix, no account was taken of the potential of shale gas. The integrated resource plan 2010 did not include any mention of unconventional gases.

Constitutional prerogative

But the plan is meant to be updated every two years. There is currently no attempt to produce an integrated resource plan 2012 and it is unclear how the state plans to integrate shale gas into energy planning. The process is meant to be transparent and participatory, but there has not yet been any consultation with the public and affected parties.

There has been no formal public debate on the shale gas industry. Instead, the industry will come to life the minute the moratorium is lifted and the regulator approves the applications for exploration. This flies in the face of our constitutional prerogative for transparency as well as for public participation in decision-making.

The impacts of this industry will be long-standing. Fracking will compromise our supply of fresh water. It may contaminate the Karoo's fragile resources and do away with livelihoods. It will add to problems of global warming and climate change. It will extend South Africa's dependence on fossil energy rather than encouraging the use of renewables. Therefore, the industry needs much more public debate.

The government should not hand over control of our resources without applying the highest standards of monitoring and the most robust initiatives for environmental, health and livelihood protection. The moratorium should not be lifted until there is substantial agreement on these proposals. ✕

David Fig is honorary research associate at the environmental evaluation unit, University of Cape Town. This article was first published in The Mail and Guardian 14 August 2012



Up whose port?

by Greenfly

Durban's port is not Durban's. It belongs to the Port Authority and hence to Transnet. They have been expanding the port since the early 1990s and are not much bothered by what the expanded trucking does to Durban. So the City started a planning process a while back to get some control of the port. It seems they have now come up with the clever ruse of handing the city over to the Port Authority.

Back in 1997, the City ran a Strategic Impact Assessment (SEA) for south Durban. This was in anticipation of the airport being moved and lots of level land being made available for "development". For the next decade nothing happened. Then the 2010 Football World Cup came along and even the most absurd official fantasies were made reality. The airport moved.

The SEA came to the conclusion that the place was already polluted to hell and this might deter investment. Undeterred by its own finding, it proposed that south Durban should be turned over to an expanded "world class" chemicals cluster or to a port to be dug out on the airport land. As a third alternative, it thought that the egos and ambitions driving these rival ideas might be reconciled by doing both. Never mind that this is the worst of all possible worlds for the people who live in south Durban. Who cares about them?

With the airport gone, the Port Authority had local, provincial and national government support their bid for the land. The dug-out port, it seems, is the project of everyone's dreams. It may also be the project of their backhanders. Who knows? And who knows where the decisions are really being made.

Wherever that may be, it has been decided that, not only do we need the dug-out port, but we also need a massive expansion to the existing port. In all, over the next thirty years, the port's capacity to move containers must be doubled every decade or so: from 2.5 million containers¹ in 2007 to 5.2

¹ Containers come in two main sizes: twenty foot (six metre) and forty foot (twelve metres). Statistics count "twenty foot

million by 2018; 10.7 million by 2030; and 22.7 million by 2043. About nine times the capacity they had in 2007.

How do we know we'll need this much? Well, the Port Authority says so. And since the Port Authority says so, eThekweni had better get on with planning the Back of the Port. And so it did. And behold, the whole of south Durban became the Back of the Port.

The City now wants to consult communities on its Back of the Port plans but says that communities can't talk about the port expansion that makes the Back of the Port necessary. Since the City appears not to have asked whether the Port Authority's expansion numbers are credible, they don't want anyone else to ask that either.

Are the figures credible? In 2008, they said that they handled 2.5 million containers in 2007 and they forecast demand for each subsequent year to 2043. The table compares their forecast with the actual number of containers moved from 2008 to 2011. They got it wrong from the start. The 2.7 million forecast for 2008 was only achieved in 2011. And 2012 will not float their boat. Demand is shrinking. They moved only 1.3 million containers in the first half of the year and Christmas won't lift them much above 2.6 million for the full year – against the forecast of 3.3 million.

	Million TEUs	
	Forecast	Actual
2007		2.51
2008	2.7	2.56
2009	2.7	2.44
2010	2.9	2.55
2011	3.1	2.71
2012	3.3	

Oh, and by the way, the people who live in south Durban have been saying since the 1990s that they do not want a new port or oil refinery on the old airport land. But then, who are they for government to listen to? ✕

equivalent units" (TEUs), so the big containers count as two. The figures include transshipments and empties as well as exports and imports.



Who's new?

Megan Lewis

Megan joined groundWork as an intern nearly two days after her last exam at university, and was thrown into the deep end as logistics assistant for the Friends of the Earth International delegation in November and December 2011, during the United Nations Framework Convention on Climate (UNFCCC) Change 17th Conference of the Parties (CoP) in Durban. Her internship rolled into permanent employment, and each month that has passed has been made memorable with trips to places she had never travelled to in South Africa, fantastic colleagues showing her the ropes, mistakes and learning curves, and an organization that enables her to combine both journalism and environmental sociology in a way that lends meaningful support to campaigns working on environmental justice issues.

Megan Lewis



Megan has lived by the sunny beaches of Durban ever since she was born, having moved only once to study after school. She matriculated from the local all girls' high school in 2006, knowing that the next year would take her to the little town of Grahamstown where she would pursue a degree in journalism at Rhodes University.

Studying journalism and sociology helped her realize the importance of an active civil society,

giving her a solid foundation in the theory but always providing vast opportunities to interact with the community at a volunteer level at schools or working on the campus newspapers. For her third year specialization, or elective, in journalism, she chose photography.

Nevertheless, it was sociology that eventually struck a deep chord in her. Thus, instead of completing a four-year journalism degree, she had the best year of her university life completing her honours in sociology. The highlight of this year was the environmental sociology module, which is where the action-based principle of environmental justice was first spoken about in depth. In fact, the pollution in the south Durban basin and the work groundWork was involved in were both used as case studies. Despite knowing that she wanted to join an NGO working in environmental and social issues, she spent a fifth year at Rhodes, completing a Post-Graduate Certificate in Education to teach children from Grades R to 3, children's education being another important issue to her.

Robyn Hugo

Robyn grew up in Johannesburg, and matriculated in 1997. She started her BA LLB at the University of Stellenbosch in 1998. Robyn has always had a passion for nature. Because Environmental Law was not offered as a subject option, she obtained permission to study Geography and Environmental Studies with her law subjects. After a semester in Belgium, at the Katolieke Universiteit van Leuven, she graduated with her BA LLB in early 2003.

In 2003, Robyn joined Bowman Gilfillan Attorneys in Sandton. After two years of articles, she was admitted as an attorney and practised in the Employment Law Department. The majority of Robyn's clients were in the public sector, and her practice included constitutional and administrative law and a substantial amount of litigation. During this period, she obtained varied experience and skills, including technical skills in drafting pleadings, opinions, and reports; advising clients; management; conducting investigations; preparation for various



Robyn Hugo



litigation; case management; research; and writing articles. In addition, she assisted clients, on a *pro bono* basis, at HIV/Aids and Refugee Law Clinics.

Motivated by considerations of lifestyle, Robyn left private practice in March 2010 and moved to Hermanus, in the Western Cape.

Subsequent to her employment at Bowman Gilfillan, she did research, drafting, opinion and advisory work, as well as some writing and editing work on a freelance basis. This included *pro bono* environmental law work. She also passed the Law Society of South Africa's Practice Management training course with distinction, and completed a copy-editing course.

Keen to pursue her interest and become involved in the environmental sector, Robyn registered in 2011 for her LLM in Environmental Law through the University of Cape Town.

In October 2011, Robyn joined the Centre for Environmental Rights, as an attorney specialising in land use, waste and pollution issues. Her main clients are groundWork, the Vaal Environmental Justice Alliance (VEJA) and the South African Community Environmental Alliance (SDCEA). Together, they cover a significant portion of South Africa's key environmental justice burning-points through their advocacy programmes.

Robyn has been advising these clients on many issues crucial for the protection of the environment, environmental justice and the advancement of environmental rights. These have included: several

access to information matters; submissions on various legislative developments; and comments on environmental authorization processes.

In addition, she is completing her LLM in Environmental Law.

Gill Waterworth

Gill grew up in Johannesburg and Cape Town, where she matriculated in 1975. She then moved with her family to Pietermaritzburg, where she joined a finance house and worked for them for twelve years.

After supporting her husband through Varsity, she moved to Underberg, where her husband took up a teaching post at a local Black high school in Bulwer. In between working for a farm consultant as a bookkeeper for six years, she had two lively children.

When her children reached high school, she moved back to Pietermaritzburg, where she has worked as a senior bookkeeper, for chartered accountants in various accountancy firms, for the last thirteen years.

Before joining them full time in June 2012, Gill worked part time as a bookkeeper for groundWork for the previous two years. ✕

Gill Waterworth



Liking, tweeting, posting and blogging

by Megan Lewis

What do social media mean for justice movements?

German philosopher Friedrich Nietzsche said, “invisible threads are the strongest ties”. Two centuries later, we have the phenomenon of social media, perhaps the clearest symbol of thousands of invisible threads that are connecting people across countries and continents. But is social media really the strongest tie to link people fighting for justice across the globe?

The types of social media available to be used are vast, and this range is growing continually. There are, however, those that are used by more people and more often, such as Facebook, Myspace, Twitter, and Google+. The difference between social media and “traditional media” is that, whilst journalists and practitioners of traditional media forms would like to think that the link they are making with the public is two way, it is social media that really gives meaning to “citizen-based” journalism. It is a dialogue that is two-way, it can be constructed and maintained by the individual, organization and business by themselves, and thus they have control over what is said and how it is said. And some would say that these are fast, cheap and accessible mediums through which to “connect”.

But what happens if you can't connect? When comparing movements in the North to those in the South, in the North technology is definitely all of those things and everyone seems to be doing it, which makes connection through social media that much more of an obvious thing to do. In the South, however, there is a scenario where movements do not have resources – skills, money or technology – to sustain this kind of engagement. In South Africa, like in many other countries, for those that are disadvantaged, marginalised and poor, having a cellphone – and a “smartphone” at that – something that needs money to purchase, money to use, good

signal and skills to be able to use the internet and various applications, is possibly not a priority. And for those that have one, anything beyond general communication is still often not a priority.

Recently, 350.org's Bill McKibben started an email with a confession “I like to tweet”. And indeed, this organization does a fantastic job using social media to get people involved in some way. This was evidenced at the Earth Summit or Rio+20 gathering held in July of this year, where 350.org's Twitter campaign to highlight to the world leaders that the people are calling for an end to fossil fuel subsidies was highly successful. What is alarming, however, is what follows in McKibben's email and that is that he finds tweeting to be a cathartic experience. This is critical – although potentially not in the case of McKibben, as he and 350.org do great work through their various campaigns on the ground – because social media should not be seen as relieving one's conscience about some serious issue or another, nor should it be the case that action is not taken further from liking, sharing, retweeting or hash-tagging.

It has been documented that the Arab Spring uprisings in late 2010 were partly furthered through the use of social media, and in particular Twitter. Closer to home, media practitioners, civil society and the general public were moved to march and picket in 2011 against the Protection of State Information or “Secrecy” Bill through various social media forms. If social media is used as “citizen-based” journalism, with resources of various types being directed towards this, and if organizations are clear about what types they are using, why and who they are aimed at, then the buzz around this will increasingly be deemed worthy within the justice movement. ✕



Practising PAIA

by Samson Mokoena, VEJA

Getting information from polluting industries and government bodies in the Vaal Triangle – and indeed South Africa – can be like extracting hens' teeth. Simple information such as operating licences of polluting industries is held as commercially confidential, and even old apartheid legislation is sometimes used to withhold information. The reality is that our Constitution and the subsequent Air Quality Act gives us the right to critical information that we need to protect our health and well-being. But how do we ensure that this happens as a matter of everyday practice rather than the painful process it is? People in the Vaal Triangle, one of South Africa's pollution hotspots, are trying to make sense of information flows.

Samson Mokoena from the Vaal Environmental Justice Alliance (VEJA) discusses the rights enshrined in the Protection of Access to Information Act (PAIA) that give communities living in industrialised areas access to environmental and other information that enables them to protect the constitutional right to a healthy environment.

What is PAIA and what is its purpose

The purpose of the Act is to give effect to the constitutional right of access to any information held by the State and any information that is held by another person and that is required for the exercise or protection of any rights.

PAIA provides that access to information must be granted, unless there is a valid ground in PAIA to refuse such access. If a request is refused, adequate reasons must be provided for the refusal, including the provisions of PAIA relied upon. If a requester wants to challenge the decision of a private body to refuse access to documents, court proceedings must be lodged within 180 days of the refusal. In the case of a decision of a public body (such as a government department), PAIA makes procedure for an internal appeal to be lodged before court proceedings are launched.

Assistance on PAIA

The Vaal Environmental Justice Alliance (VEJA) received training from the South African History

Archives about PAIA and how to use this legislation to access environmental and other information. Since December 2011, VEJA has been working with the Centre for Environmental Rights (CER) to request access to information from Sasol Infrachem, National Petroleum Refiners of SA (Natref), Omnia Holdings, Anglo Operations and ArcelorMittal, as well as various government departments.

On behalf of VEJA, CER has submitted several applications to the companies set out below:

- ArcelorMittal's Environmental Master Plan and related documents, and numerous documents related to its Vaal dump site;
- Water use licences (and any pending applications), as well as water monitoring results to Sasol, Natref, and Omnia; and
- To Anglo New Vaal Colliery, the mining right and permit/licence (and any pending applications); the current approved Environmental Management Programme (EMPR); all compliance reports submitted to the Department of Mineral Resources (DMR) in terms of the EMPR from date of issue to date; the quantum and method of approved financial provision for rehabilitation; the water use licence (and any pending applications); and water monitoring results submitted to the Department of Water Affairs (DWA) in terms of the water use licence from date of issue to date.

Environmental Master Plan and illegal dumping at Vaal dump site

Access to all requested information was denied by ArcelorMittal. In about 1996, following extensive pollution by the steel-making industry, Iscor (as it was then called) presented the Department of Water Affairs & Forestry (DWAF) with a ten-year "Strategic Water Management Plan". This Plan was apparently subject to a gap analysis, and the outcome of the analysis provided the basis on which the Environmental Master Plan was formulated. Studies for the Master Plan were initiated in July 2000. Over the years, the Master Plan has been



a crucial document during Iscor's/ArcelorMittal's negotiations with DWAF/DWA and in licence applications.

The DWA refused VEJA access to the Master Plan on the basis that it was neither the originator, nor the custodian, of the information requested. The Gauteng Department of Agriculture and Rural Development (GDARD) has refused to give VEJA any documents relating to the Vaal dump site because they say that the disclosure of the records could prejudice the future supply of similar information or information from the same source, and it is in the public interest that such information continue to be supplied.

For various reasons, VEJA and CER take the view that these departments cannot rely on these grounds for refusal. Internal appeals have been submitted in relation to both the DWA and GDARD refusals. Although the time period in PAIA for providing responses to the internal appeals has expired, no response has yet been received. GDARD has indicated that the MEC has not yet considered the internal appeal, and that VEJA and CER will be advised as soon as the MEC has done so.

Sasol Infrachen, Natref, Omnia and Anglo New Vaal Colliery

VEJA and CER also used PAIA to request documents from these companies that form part of Leeu-Taaibochspruit Catchment Management Forum (LTF) in the northern Free State Province.

In relation to Anglo, various other documents were requested, as there is currently an environmental authorisation process underway in relation to the possible extension of the life of the Lethabo power station. In this regard, a PAIA application was also made to the DMR. It has also only provided some of the information requested, but failed to provide reasons for the refusal to provide other documents. The CER is in regular contact with the DMR in this regard, and VEJA intends to launch an internal appeal.

The requests relating to water use licences and water monitoring results were prompted by the experience of VEJA's water team in participating in the LTF – it found out that all these big companies in the catchment were not reporting their water effluent results to the stakeholders at the forum

level. Although the results were sent to DWA, it was not making them available to the stakeholders.

CER and VEJA made the requests in April 2012, and (apart from Anglo which made its water use licence and mining right available), these companies responded with letters requesting meetings with VEJA and CER before they would make documents available. In May, VEJA and CER met with Anglo, Sasol and Natref. Following the meeting with Anglo, it refused to make any other documents available, claiming that they needed to protect commercial information of a third party and a private body. Sasol and Natref provided four months' of water monitoring results, copies of water permits and exemptions in terms of the old Water Act (1956) as well as some detail relating to its pending applications for a water use licence. Omnia refused access to information on the same basis as Anglo. CER has made various queries regarding this issue to all of these companies.

In response to the PAIA application to it, the DWA only provided a copy of the Omnia water use licence and indicated that the other licences were still pending. VEJA's water team asked the DWA why the other water use licences were still pending, and has not been provided with a satisfactory response.

CER has written to the DWA with various queries, including a request for copies of the applications for water use licences. Should this information not be provided, VEJA intends to launch an internal appeal.

In the letters to Sasol, Natref and the DWA, enquiries were made as to which reasonable steps had been taken to ensure that the companies do not commit any act or omission which pollutes, or is likely to pollute, a water resource and which detrimentally affects, or is likely to affect, a water resource, and that they had taken all reasonable measures to prevent pollution of a water resource from occurring, continuing or recurring.

This exercise has proven to VEJA that there is little accountability and transparency to the public. The information we have sought should be made public – and it is concerning that, in many cases, both industry and government appear to be hindering communities' access to this information. ✕



In Brief

Refinery blast kills nineteen people

Venezuela's largest refinery, the 645 000-barrel-per-day Amuay plant, suffered a gas explosion in late August. Nineteen people, including a ten-year-old child, were killed, and a further fifty-three people were injured.

"A cloud of gas exploded," Energy Minister Rafael Ramirez told state TV. "It was a significant explosion, there is appreciable damage to infrastructure and to houses opposite the refinery."

The facility is run by the state-owned PDVSA. There have been repeated refinery problems in recent years.

Bonga spill fine should be US\$5 billion

The Nigerian parliament has been told by regulators that Royal Dutch Shell should pay a fine of US\$5-billion in recompense for the environmental damage done by the biggest African oil spill, at Shell's offshore Bonga field.

The spill, estimated at 40 000 barrels, occurred last year and, although contained, still caused serious environmental threat. The spill was caused by a failure in the oil export hose.

NOSDRA (the National Oil Spill Detection and Response Agency) said: "The spilled barrels impacted approximately 950 square kilometres of water surface, affecting a great number of sensitive environmental resources. It has a direct social impact on the livelihood of people in the riverine areas whose primary occupation is fishing."

Shell said: "We do not believe there is any basis in law for such a fine. Neither do we believe that SNEPCo (Shell Nigeria Exploration and Production Co) has committed any infraction of Nigerian law to warrant such a fine. SNEPCo responded to this incident with professionalism and acted with the consent of the necessary authorities at all times to prevent environmental impact as a result of the incident."

Mtunzini residents appeal against mine

The KwaZulu-Natal provincial environment department has been accused of dereliction of duty. It is claimed that it is violating the law and abdicating its responsibility to protect the environment by approving an opencast mining project in the dunes near the town, which is on the Zululand coast.

The approval has been appealed. In the appeal document, the MEC, Meshack Radabe, is asked to overturn the approval. The document claims that the department appears to have accepted "manifestly wrong and totally misleading" statements by the mining company. The department also seems to have believed, despite their being no evidence, that the company would clean up after itself, and successfully rehabilitate the area once mining is complete.

An offset offer was made at the last minute. This entails the acquisition of alternative land for environmental protection in compensation for site-specific damage which cannot be avoided or mitigated. Mtunzini complainants reject this offer.

There is also concern that the less rigorous BAR (Basic Assessment Report) that was required in this instance was insufficient. A BAR was allowed instead of a full Environmental Impact Assessment (EIA) because of misleading claims that the project had already been assessed and approved twelve years ago. According to the complainants, the current project is considerably bigger and more complex than the original one.

A separate appeal document has also been filed by the Wildlands Trust.

Environmental Affairs Department director William Mngoma, who signed the authorisation for mining, said: "I would not like to comment. I've made a decision based on the facts in front of me and thereafter the legal process takes place through the MEC. My duty ends with signing off the record of decision."



Unpacking climate change: Background notes on the catastrophe

Climate change is a word that is often accompanied by too much jargon or too little factual rhetoric. “Unpacking climate change: Background notes on the catastrophe” does away with both of these challenges and presents us with exactly that: notes on climate change that are accessible for everyone to understand. David Hallowes is an academic and independent researcher whose area of focus is climate and energy in particular, and environmental justice more broadly. He has had a long working relationship with groundWork, helping to write many of the groundWork Reports and various other reports and publications for groundWork and Friends of the Earth International.

“Unpacking climate change” takes the reader through the geophysical impacts of climate change, as well as the social and environmental impacts it has had, is having and will continue to have. Significantly, this guide does not neglect a very important aspect of climate change that is intertwined into nearly every piece of rhetoric that is developed about it – the politics. Whilst it paints a bleak but realistic picture, pointing out what it will mean if there continues to be inaction at the most important levels, it also takes into account viable solutions.

“Unpacking climate change” will soon be serialised in chapters in groundWork’s quarterly newsletters and, for those who prefer an electronic version, it will be placed on our website.

Man on bike near gas flare in akaloa-lu.

Photo: FoEI

