



Climate change must be considered in water licence applications for coal-fired power plants in SA, says Water Tribunal

By Sheree Bega Aug 13, 2020

Climate change must be considered in water licence applications for coal-fired power plants in South Africa, according to a recent landmark decision by the Water Tribunal.

In its July 21 decision, it upheld an appeal by environmental justice group, groundWork, to set aside two water use licences granted in 2017 by the Department of Water and Sanitation (DWS) to ACWA Power for the development of the proposed Khanyisa coal-fired power station, 12km south of eMalahleni.

The 54-page decision confirms that water licensing authorities must consider the impacts of climate change when deciding whether to grant water use licences to coal-fired power stations.

It found the water-use licence applications were procedurally flawed and the licensing authority had not adequately weighed up the impact of climate change in the region.

“It is not in dispute that, regardless of mitigating measures, building a coal-fired power station will increase the country’s total emissions of greenhouse gases and thereby contribute to climate change, which will impact water security,” it said.

“It is also not in dispute that South Africa has committed to reduce the emission of greenhouse gases. One of the key impacts of climate change in Southern Africa will be water scarcity.”

From a water security angle, the acting director-general of the DWS ought to have considered whether authorising the water use, which are a prerequisite for the Khanyisa project, is was sustainable and in the public interest, considering the basic needs of future generations.

“That the first respondent did not fully consider this broader perspective sustainable water use is clear.

“On the facts and based on the design of the Khanyisa project (use and re-use water, to minimise water pollution) the water uses may be viewed as being technically efficient but not necessarily beneficial in the public interest.

“The first respondent did not weigh up these factors with the impacts of climate change on water when considering questions of beneficial use and sustainability...

“If it had, it could not have concluded that the authorised water uses promoted the beneficial and sustainable use of water in the public interest.”

Robby Mokgalaka, coal campaign manager at environmental justice group groundWork, welcomed the decision.

“As people working with coal-affected communities, we’ve noted that in the Highveld, especially in the areas of eMalahleni, every second household in the area is suffering from air pollution-related respiratory illnesses, to an extent that the primary school kids are not attending school... This affects their right to education.”

GroundWork, represented by the Centre for Environmental Rights, challenged Khanyisa’s water-use licence on the grounds that the coal plant would result in unacceptable levels of pollution and negative climate change impacts on the Olifants catchment, plagued by pollution from coal-fired power stations, mines and other sources, and that there were fatal flaws during the public participation prior to granting the licence.

The acting director general ought to have recognised that the effect of authorising the water uses, in particular those relating to a coal ash disposal facility, could potentially contaminate 140ha of land with hazardous waste, the tribunal said.

“While we have found that the mitigation measures proposed are reasonable and consistent with the law, in the very long term this large area of land is at best sterilised from an ecological sustainability perspective...

“At worst the uses can contribute to groundwater pollution at some point in the long term, even if this happens after the ‘design life’ of the facility has ended, hundreds of years from now.

“This cannot be said to be a sustainable development path, taking into consideration the finite nature of our scarce water resources.”

The tribunal has directed ACWA Power to rectify the procedural flaws, re-advertise the application and conduct public participation by September 21.

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