

GROUNDWORK

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groundwork

KYOTO - *too little, too late?*



environmental justice action in Southern Africa

groundWork is a non-profit environmental justice service and developmental organisation 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 project areas are: air quality, waste (including health care waste, industrial landfill waste and incineration) and corporate accountability.

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groundWork is affiliated to the following organisations:

Health Care Without Harm

International POPs Elimination Network

Basel Action Network

Oilwatch International

Global Anti-Incineration Alliance

Timberwatch

groundWork is the South African member of Friends of the Earth International

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Cover photo: Gas flaring at a Sasol plant in Sasolburg, South Africa. Sasol is one of the major emitters of greenhouse gases in South Africa. Sasol plants nationwide emit over 75,000 kilo tonnes per annum of carbon dioxide and methane, two greenhouse gases. The Kyoto Protocol, which came into force in February this year, seeks to address the devastation of climate change by getting signatory nations to commit to decreasing global emissions of greenhouse gases. But the Kyoto Protocol is not without its faults, as the lead story (pg 4-6) demonstrates. Photo by Bobby Peek



From the smoke stack



Photo by FoE

by groundWork Director, Bobby Peek

I started out writing this column feeling upbeat about a string of recent environmental successes. But, just as the newsletter was to go to print, the bittersweet victory of environmental justice was driven home by a certain Acting Judge Eric Dunn. Despite ruling in favour of fellow NGO Biowatch's application to gain access to information on GMOs, the judge found that Biowatch should fit the legal costs of Monsanto, one of the companies that had attempted to frustrate Biowatch's access to such information. The feeling that ran through me when I read this was an all too common feeling of being hit in the solar plexus during my rugby playing years!

Also, just in time for this newsletter, Minister Manuel managed to get his penny's worth in as well. In his February 2005 budget speech he indicated that "environmental regulations" are having a negative impact on job creation. Minister Manuel, I would like to understand more about your assertions!

But now for the good news! In recent months there have been some positive outcomes to some of the environmental challenges being faced in this country. We report on these in this newsletter, which is somewhat of a "good news" edition.

Earthlife Africa successfully took the government to court over the Pebble Bed Modular Reactor process. The court set aside a previous decision by Chippy Olver, Director General in the Department of Environmental Affairs and Tourism (DEAT), to allow the construction of a pebble bed modular reactor at Koeberg. The court found that Olver had not been "procedurally fair" in making the decision and needed to consult further with environmental groups like Earthlife Africa and other interested parties.

Minister Van Schalkwyk refused approval for the proposed toll road through the Eastern Cape, and also raised concerns about the conflicts of interest of Rufus Maruma - who occupies key positions in both the environmental consultancy Bohlweki which undertook the environmental impact assessment and Steward Scott International which is a member of the toll road consortium.

The above are indeed victories for environmental justice, which also expose some of the reasons why our democracy is failing to deliver on environmental justice. Firstly, (in the

cases of Biowatch and Earthlife Africa) the judiciary is questioning the administrative practice of government departments withholding information from civil society. Secondly, public participation is being redefined to mean participating in processes right up until the final decision is made. Thirdly, in the case of the toll road, the intricacy of corporate licentiousness is unearthed where we find corporations having a web of relationships that render fair environmental justice decision-making virtually impossible.

The last victory needing mention is the SA government's refusal to allow GM giant Dow to undertake open field trials of genetically modified maize after the African Centre for Biosafety provided evidence that Dow had supplied false and misleading information in its application.

Despite these victories, the grind for ongoing environmental justice continues. In February, in Richards Bay, Hillside Aluminum, made known its intention to temporarily bypass the pollution abatement equipment and release waste gases directly into the atmosphere. Due to processes of old, DEAT had issued Hillside Aluminum with a permit, without consulting the local community, which grants Hillside Aluminum permission to occasionally undertake this practice. When groundWork heard about Hillside's latest intention to bypass the pollution abatement equipment, groundWork approached the DEAT with our objections. We were pleasantly surprised when DEAT agreed with us and informed Hillside Aluminum that they could not undertake the bypass. Despite this refusal, it is our understanding that Hillside went ahead with this bypass after arranging a subsequent one-on-one meeting with government.

It is clear that many industries, operating to a certain degree within the limitations of the 40-year old, inadequate Air Pollution Prevention Act, are a law unto themselves. Thus, it is important that permits granted by DEAT to the big polluting industries be re-negotiated in a transparent and participatory manner as soon as possible, considering that the National Environmental Management: Air Quality Act has come into operation. Finally, after a decade of struggle, we have an Act! We now need the action. Well done to all of those who fought long and hard for this!

Until next time, hopefully with more good news, Bobby. ♪



Perfume rods, plastic covers and sweet-smelling toxic dump



By Trusha Reddy¹

As the Kyoto Protocol on climate change comes into force, a flawed new World Bank climate change project in Durban is being vigorously challenged.

I was just three years old when, in 1980, the Bisasar Road Landfill in the Indian suburb of Clare Estate, Durban, officially opened its gates. My family lived in the neighbouring suburb. I vividly remember the preparations when driving towards the landfill. Car windows had to be rolled up. Nostrils had to be squeezed tight with tiny, pincer-gripped fingers. Breaths needed to be held. The stench was reminiscent of my public school toilet on a really hot Durban day.

I would also marvel at the big houses on the hill overlooking the dump (we lived in a block of flats). They stood majestically like something out of Fitzgerald's *Great Gatsby*, in sharp contrast to the huge stinking dump in front of them. I could never quite work out why rich people would live right across from a refuse dump. Little did my premature mind comprehend that everyone, including the rich Indian, could only live in an area designated under apartheid's Group Areas Act.

A few years after the opening of the dump, I remember my mother excitedly telling me that the dump would be shut

and transformed into a park. As a child whose life was spent riding a bike around our tar-covered parking lot, the idea of a park in our vicinity was just too thrilling.

It's now 2005 and I'm 27 years old. We live in a non-racial, democratic South Africa. But Clare Estate's notorious dump is still there although, approaching it, I notice something different.

The stench has changed markedly. The landfill now exudes the stink of dump rot mixed with an artificial sickly-sweet smell emanating from long "perfume rods" lining the road on the outer rim of the landfill. These rods were installed to mask the fumes from the dump, but the effect is nasty. Again I pinch my nose.

This time, instead of driving past, I enter one of the *Gatsby*-esque houses on the hill, that of Sajida Khan who has long been fighting for the closure of the landfill. More recently she has been fighting a World Bank proposal to extract methane gas from the landfill to generate electricity. I had just read in the newspaper that the landfill was, finally,

¹Trusha Reddy served as an intern at the University of KwaZulu-Natal Centre for Civil Society in 2005.



to be closed. So again, as in my youth, I felt almost ecstatic at the thought of this old dream now coming true. I wanted to find out what Khan had to say on the matter.

Khan welcomed me warmly into her home.

"You should have come earlier", she tells me. "They were dumping sewage! The smell!" According to its original permit, Bisasar Road Landfill was a domestic waste site. Yet Khan reports that the dumping of sewage sludge is a daily occurrence. Medical supplies and industrial waste from Mondi (the paper mill), Hulett's (sugar factory) and other industries in the nearby Springfield are also regularly dumped there. In February 2001 a large shipment of rotten eggs exceeding 22,000 tons was also dumped.

I talk to Khan about the Daily News article that quoted a senior Durban official saying that the landfill was going through "various stages of closure". Khan sees this statement as the council "playing for time", part of a deliberate attempt to mislead the public.

Khan recalls the council's long history of false promises to the community that it would close the dump. After renegeing on a promise to close the dump in 1987, the council announced: "The remaining life expectancy of the dump tip site is nine years". The community were then led to believe that the dump would indeed be turned into a recreational site. However, in 1996, the city again broke its promise, and another operator's permit was granted, without community consultation.

Public reaction was swift, as people blocked the site entrance of the dump, held demonstrations and marches, and circulated a petition to council that gained 6,000 signatures. But nothing worked, so Khan decided to take legal action on behalf of the residents and schools.

Khan's sister emerges from the kitchen to interrupt our conversation, warning that she is going to be late for her appointment with the doctor. Khan was diagnosed with cancer in 1996. Her nephew died of leukaemia.

In fact, seven out of ten households in this downwind area of Clare Estate have reported tumour cases, and it is entirely probable that dump emissions are the culprit. According to studies, the limits of waste emissions considered potentially hazardous were exceeded at Bisasar Road many times over: hydrogen chloride by 50%, cadmium by 200%, and lead by more than 1,000%. Limits for suspended particulate matter were also exceeded.

As the waste decomposes, there are additional concentrations of methane, benzene, toluene, trichloroethylene and formaldehyde. Further cause for

worry comes from a New York State Health Department Study, which shows that women living near landfills have a four-fold increased susceptibility to cancer.

Whilst speaking to Khan it emerges that one of the players that has an interest in delaying the closure of the Bisasar Road site is the World Bank. In October 2003 the World Bank's Prototype Carbon Fund (PCF) signed a \$15 million deal with the City of Durban to extract methane gases from landfills in Durban. If the project becomes operational, landfill gas will be collected from three sites in Durban (including Bisasar Road), and methane (a harmful greenhouse gas) will be converted into electricity, and then supplied to the grid.

No one is against extracting the methane from the rotting garbage. But Durban officials say they won't go to the trouble of doing so without the \$15 million subsidy from the World Bank, as the electricity generated in the process costs much more than Eskom charges for its coal-fired power.

There are a host of technical and environmental objections raised by Khan in her 90-page critique of the World Bank's project. The extraction of dangerous methane should be happening, Khan agrees, so long as no further rubbish is brought to Bisasar Road.

And hence what bothers Khan is that the Bank's interests are now in keeping the dump open *as long as possible*, so that it can make more money off rotting waste that turns into methane and produces electricity. More cancer in Clare Estate is good for the World Bank's business, Khan concludes.

The documents appear to back her up. According to the Bank's baseline study: "*The production of methane can theoretically continue in excess of 30 years... Bisasar is sized and operated to be used for up to 15 more years*". The Bisasar Road Landfill averages 4,000 tons of waste dumped each day, an amount that "*will continue to increase in the near-term*".

The final nail in the community's coffin came from the World Bank's baseline scenario, which indicated that: "*because of the growing waste generation per capita in the municipality... there is no plan to close... the Bisasar Road site... during the PCF project life*." If the World Bank has its way, Khan may be fighting this dump for the rest of her life.

Although the World Bank says it will monitor this process at monthly intervals, a footnote (the small print) in the Monitoring Process document gives the game away: "*Not all methane collected will thus be converted into CO₂ but a*





Sajida Khan (far right) talking to community representatives outside Bisasar Road landfill site in Clare Estate, Durban.

small portion will be emitted as methane into the atmosphere." The community's already damaged lungs will be further clogged with landfill pollution, not merely the scent of perfumed rot.

Electricity generators will be placed on the site where the dispersion model shows it will cause the least harm. But the community is located all around the dump. City officials claim that the combustion process will spew out emissions equivalent to a rush hour's worth of traffic on busy Umgeni Road (the major throughway at the bottom of the dump).

Khan disagrees, and pulls out a huge stack of reports for reference. She calculates that each year the generators will pump out 95 tons of nitrogen oxides, 319 tons of carbon monoxide, 323 tons of hydrocarbons and 43,256 tons of carbon dioxide. Carbon monoxide reduces the oxygen-carrying capacity of the blood; nitrogen oxides are a respiratory irritant and exacerbate asthma; and carcinogens such as benzene and butadiene could be found in the hydrocarbons.

Other dangers abound. Improvements of ground water and air quality are listed as World Bank priorities, yet one

report confessed: "It is difficult to provide the environmental safeguards that assure safety of the local population..." The Bank also concedes that the project might "adversely effect the value of the land holdings surrounding the landfill site".

In the words of Heidi Bachram of the UK-based Carbon Trade Network: "Communities like Clare Estate and south Durban will see no real benefits from emissions trading and in fact will be the victims of even more pollution." In short, she contends, emissions trading represents "carbon colonialism". The introduction of property rights to pollute the air means that whoever controls carbon credits effectively controls the atmosphere.

But where there is colonialism, there is also resistance. Khan's detailed rebuttal to the carbon-trading project has slowed the process of approval. There are so many flaws in the World Bank's Durban proposal that she thinks she may win. She has certainly intimidated her opponents, and - like Erin Brokovich of movie fame - is becoming a quiet kind of role-model heroine for me. ♣



Much ado about a south Durban Basin Spatial Development Framework

By Karen Read¹

During late December 2004, an advert was placed in a local newspaper, asking for comments on a South Durban Basin Spatial Development Framework². A period of one month was given for comments. Copies of the Framework were placed in local libraries for those wanting to make comment.

Prior to these adverts it appeared that there had been no public participation on the drafting of this Framework, even though officials have been working on it for several years. Business has been consulted over the years but the residents themselves seem not to be considered as "stakeholders".

Although eight copies of the document were left in local libraries for communities to read and comment, the document is very long (it takes at least 4 hours to read), makes use of complex language that is difficult for the ordinary person to understand, lacks an executive summary

which would enable those with limited time to grasp what is at stake, and is full of typographical and grammatical errors. There is no glossary or bibliography, and many ideas are conveyed purely through the use of maps. The specialist reports were not referenced in the document. The document assumes that those reading it are familiar with all the specialist reports, as few concepts are adequately explained³. SDCEA requested copies of these specialist reports, read them and was left wondering if the consultants had themselves read them, as the specialists all raised important points that the consultants did not carry through to the Framework document.

Consequently SDCEA approached City Manager, Dr Mike Sutcliffe, requesting an extension on the comment period to allow more time to examine the Framework document and consult with member organisations. He refused. SDCEA subsequently hosted four meetings during

¹Karen Read is the Project Officer for the South Durban Community Environmental Alliance

²A spatial development framework is a document that is intended to guide all development in the area. It should be informed and consistent with the Integrated Development Plan (IDP), the Long Term Development Framework as well as the eThekweni Municipal Metropolitan Area Spatial Development Framework.

³Concepts like nodes, activity spines and USAZ are all explained in *Urban Structure Position Paper for The South Durban Basin* by GAPP Architects and Urban Designers 27 May 2004



the last week of January 2005 to inform the community of the process and the content of the document. Thousands of people attended the meeting as well as a community picket in the streets of Durban.

The Merebank Ratepayers Association (MRA) also held meetings to canvass local opinion, and, so did the eThekweni Council. Sutcliffe subsequently backed down and agreed to an extension!

The first public meeting hosted by the council was particularly lively. The hall was decked out in banners reading "Link Road Fragments Merebank", "No! to Link Road", "Consult the people!". This set the tone for the evening. Despite the community baring their souls and pleading for participation, Sutcliffe assured all that there would be no relocations and that the Framework was in the early planning stages - "nothing was final".

However, the next day communities read in The Daily News that: "Road will go ahead, says Sutcliffe... We will not be diverted from this path."

Does the residents' opinion matter at all, Dr Sutcliffe? When will residents be considered as stakeholders? How and when will communities become equal partners in the process?

Main Concerns:

Procedural issues aside, SDCEA's other concerns with the Framework include:

o Context - ignoring social history

Most of the specialist reports have referred to the decades of conflict in the area over pollution levels and the impact of economic development on human well-being. Dianne Scott, a prominent academic from the University of KwaZulu-Natal, comments on the Framework as follows:

"The context is dominated by a description of the importance of the economic role of South Durban in the local, regional and national economy. However, the two refineries are not mentioned as key industrial installations. The Multi-Point Plan [for south Durban] is not mentioned. This has been a progressive, partnership-building process in which local government, local business and communities have been involved. This should have featured as a key process mentioned in the context.

"In summary, because the authors do not have a keen understanding of the context of the south Durban basin, both the historical conflicts that have played themselves out in South Durban and the environmental pollution problems, the social issues are marginalised and economic, transport issues prioritised."

- o **Strategic Vision** - The strategic vision for the Framework (pg 2) is stated as: "restore business confidence, consolidate existing and stimulate new development, facilitate renewed socio-economic investment and improve the quality of life by tackling environmental problems, addressing operational deficiencies and improving the built environment in a sustainable manner". This vision comes from the south Durban Basin 2003/4 Annual Business Plan and thus is informed solely by business interests, not residents' priorities.
- o **"Common Vision"** - The Framework document states that: "It forms the basis for a 'common vision' signifying to and involving all stakeholders (community, business, labour and institutional) to build into a process that maps out the future development of the south Durban basin." But how can "community and labour" buy into a common vision that they did not help construct???
- o **Link Road** - Are there really options on where the "activity spine" or "link road" is to be located? And what form will it take? (Dr. Sutcliffe on a recent radio interview pointed out that the document did not state that this was a road - it could be any form of transport route capable of moving goods and people from south Durban to the Centre of Durban.)
- o **Land Use** - Will Isipingo Beach be rezoned from residential to industrial use? What are the plans for the airport land? Will residents be relocated?
- o **Underground pipelines** - Is it feasible to upgrade and/or replace the many ageing fuel pipelines along Tara Road? (The pipelines run from Engen and Sapref under residential areas to Island View, transporting petrol, diesel and other related products.)

We will certainly let groundWork and the readers know when we get answers. 



First impressions of groundWork and the challenges that face community people in the industrial hotspots

By Siziwe Khanyile

Siziwe Khanyile, groundWork's new manager of the Air Quality Campaign, writes about her first impressions of the organisation and our community partners that are fighting it out at the coalface of industrial air pollution.

Within less than two months of joining groundWork, I have been struck by the spate and frequency of industrial incidents countrywide. In response to these, there has been very strong and consistent community resolve and action to ensure that industry and government are held accountable for the negative impacts of pollution on the environment.

I have endured, to varying degrees of toxicity, the "toxic tours" of industrial towns including Secunda, Sasolburg, Table View, south Durban and Richards Bay, and have been astounded by the number of oil spills, fires, explosions and chemical releases at industries in these areas.

The trend in refinery incidents is disconcerting. On 10th January, a fire broke out at the Caltex refinery in Milnerton, Cape Town, which was one of several in the past few months. Several days later, on 18th January, a fire broke out at the Engen refinery (south Durban) resulting in injuries to workers. On 20th January, I visited Sasolburg, and was struck by the pollution, odours and suffocating fumes from industries there. Flaring and billowing smoke from the chimneys of Sasol seemed to never stop. And just a week after my visit, Natref, experienced a hydrofluoric gas leak that resulted in a fire, injuring 17 people, this incident being one of several incidents from this plant in the past couple of months.

Communities of south Durban, Boipatong, Secunda, Table View, Richards Bay, and Sasolburg have committed themselves to defending the security of the environment in which they live by being vocal about the health and environmental impacts which result from industrial pollution. However, these community groups also face various challenges, which include:

- Unifying communities that may have ideological differences, in order to work towards a common objective or issue.
- Awareness raising in communities where people have become accustomed to living with pollution, such that the prevalence of cancers, respiratory illnesses and pungent odours becomes a "norm".
- Grappling with industry-community relations in light of the fact that industries' corporate responsibility programmes finance communities in various ways, presenting the dilemma of "biting the hand that feeds you". In the same way, industry employs community members - making the predicament of challenging the source of one's livelihood a real one.
- Communities are hubs of political activity, and the management of the politics will determine whether a



air quality project



Siziwe Khanyile (right), with Caroline Ntaopane and Matshidiso Tsotetsi, on the fence line of Sasol in Zamdela, Sasolburg.

particular community is enabled or restrained from any meaningful civil society action.

- The importance of strong community leadership and commitment to meaningful campaigning and monitoring.
- Sustaining community action as attrition takes place due to placement of community activists either within government or industry.

In spite of all these challenges, the above-mentioned communities, together with groundWork, have linked up to resist industrial injustices. This has happened most recently in the Vaal Triangle where communities have united under the banner of the Vaal Environmental Justice Alliance, to tackle specific environmental injustices.

Also worth mentioning are the community organisations in Richards Bay, namely Vuka Environmental Dot Com and the Richards Bay Rate Payers' Association, which, together with groundWork, raised concern about Hillside Aluminium's planned fume bypass which resulted in the Department of Environmental Affairs and Tourism (DEAT) withholding permission for the bypass. This was a triumph

for the Richards Bay and the Environmental Justice community.

Recently, the Table View Residents' Association in Cape Town and various other stakeholders, including several government representatives, affected community members, and groundWork, gathered to challenge the Caltex Refinery's strategy to manage the refinery in a way that toxic chemicals are contained within the manufacturing process, and incidents do not occur. These communities have insisted on what they termed CAT (Commitment, Action, Target and Time frames of Emission Reduction Plans). Caltex will in future be monitored and taken to task on its CAT!

In the time that I have been at groundWork, I have witnessed groundWork's commitment to the struggle for the protection of communities from the impact of industrial pollution. groundWork has not hesitated to respond to the negligence of industry, to challenge government on its actions (or inaction!), and to facilitate awareness of issues within the public domain. Working towards legislative and policy changes together with communities has been a significant contribution to the struggle against environmental injustices. ♣



Civil Society speaks out against uncontrolled and unlawful waste management

By Llewellyn Leonard

groundWork's first civil society gathering on landfills to be held nationally was held in February this year. The three-day National Civil Society Strategy Workshop on Landfills aimed to develop a national civil society strategy to deal with the injustices resulting from poor and often illegal landfill practices.

It has long been recognised that poorly managed landfill sites pose a real or potential threat to human health, well being and environmental sustainability. There are numerous cases of impoverished people having to live with the apartheid legacy of landfill sites a stone's throw away. Ten years into democracy, we are still faced with this apartheid bequest. Dust, nauseating smells, noise from waste trucks, flies and a high incidence of pollution-related illnesses are just some of the problems associated with living next to a landfill site.

Recognising the prevalence of this problem around the country, groundWork has sought to work with these affected communities to ensure that a unified and collective voice is heard. Representatives of the affected communities thus gathered in February to share their struggles and develop supportive mechanisms that would enable them to better defend and promote their environmental interests, at a local, national and international level.

Civil society participants at the meeting travelled from areas such as Johannesburg, Port Elizabeth, Krugersdorp and Pietermaritzburg so as to provide input at the workshop. Community testimonies from landfill sites such as Hilton, Aloes, Diepsloot, Everton West, Bisasar Road, Umlazi and Mondi, to name a few, painted a picture of repeated conflicts with local authorities and waste companies over rights of participation, site location, site management, pollution control, 'scavenging', delayed or incorrect site closure procedures, leachate seepage and security problems. There were several claims that private waste companies repeatedly violated the law and that government had failed to act on those violations and other related injustices.

The Deputy Minister of Environmental Affairs and Tourism, Ms Rejoice Mabudafhasi, opened the workshop. I was encouraged to hear her say that the democratic

government needed to act to reverse the practices of environmental racism and that government intends strengthening its partnership with people on the ground.

The gathering was a resounding success with participants resolving to work together as an alliance to challenge poor landfill site practices. The workshop came up with a strategy to do this, which included such components as: legal action; advocacy and lobbying; a media and public awareness campaign; and capacity building. A decision was also taken to develop a consolidated submission on the proposed Waste Bill, which is to be released for comment shortly.

The outcomes of the workshop will provide government with an informed and concerned voice of civil society. We hope that government and civil society will be able to work together to reverse the environmental injustices of past practices. However, if legal action needs to be taken to move government to protect the people of South Africa, groundWork and the community people agreed that this is what will happen!

Importantly, it must be realised that landfills are not the best solution to our current waste management crisis and that integrated waste management does not begin and end with landfill sites. We all need to prevent, reduce, reuse and recycle waste if any sustainable solution to waste management is to be achieved.

We also urge the government to support and swiftly apply the Extended Producer Responsibility (EPR), which requires producers of products to be responsible for the environmental impacts throughout a product's life cycle.

This groundWork workshop received supporting letters from several overseas environmental organisations, such as the Global Anti-Incineration Alliance (GAIA), Center for Health Environment and Justice (Virginia), South West Research and Information Center (United States), New Jersey Environmental Fund, New Jersey Ironbound Community Corporation, Communities for a Better Environment (Los Angeles), New Jersey Work Environment Council, Citizen Against a Radioactive Environment (CARE, United States) and the Environmental Research Foundation (New Brunswick).



UNEP meeting backtracks on the phase-out of mercury use and emissions

by Bobby Peek and Llewellyn Leonard

US hijacks UNEP process despite the overwhelming evidence of the need for immediate and long-term international action to eliminate mercury use and releases.

Mercury[1] pollution came under the spotlight at the 23rd UNEP Governing Council / Global Ministerial Environment Forum which took place in February in Nairobi, Kenya.

groundWork attended the meeting and, together with other international environmental organisations[2], called upon the governments present to develop an international legally binding agreement on mercury which would include immediate steps to reduce mercury contamination through a global phase-out of mercury primary production and a global reduction of mercury emissions. Such international legally binding measures are seen by many as essential to ensure the protection of the environment as well as to guard against the dumping of hazardous waste, such as mercury, on developing nations.

Despite strong support from the EU and NGOs for such a legally binding agreement, the US was against such a legally binding agreement and received backing from Australia, Canada, India, Russia, China, and others to successfully squash the idea. [3]

Instead of a legally binding instrument the US proposed voluntary partnerships. The US stated that these partnerships would leverage resources, technical expertise, technology transfer and information exchange to provide immediate action that would reduce mercury. Developing countries expressed concern about the likely ineffectiveness of such partnerships, which tended to lack explicit reduction targets or accountability measures.

During discussions of the draft text reflecting decisions taken at the meeting, the US called for the removal of text referring to the application of best available technology to reduce mercury emissions from point sources, as well as text referring to bans or restrictions on uses for mercury, the phasing-out of mercury in the chlor-alkali industry and batteries, the banning of the reintroduction of mercury into the global market, etc.

South African government intervention

The South African government, being part of the G77 for developing countries, made a strong appeal for the text, which the US had asked to be removed, to be put back into the document. This was debated for half a day and finally, South Africa's/the G77 proposal was adopted and the text was put back into the document! Well done, South Africa! However, the US managed to keep out any dates and timeframes for reduction targets.

Prior to the UNEP meeting, groundWork had advised the South African delegation not to be influenced by the US administration when developing a South African position on mercury. This was in light of the US administration's recent stand on mercury and the fact that the US has failed South Africa on mercury management previously and has used us as a dumping ground for their mercury waste.



Failure of the US government with regard to Thor Chemicals

The management of chemicals through voluntary partnerships, such as has been proposed by the US, almost always favours developed countries and does not prevent toxic waste from being dumped on developing nations - such as the past importation into South Africa by Thor chemicals of mercury contaminated waste.

During the 1980's American Cyanamid, US based Borden Chemicals and Plastics, and other corporations sent waste containing mercury to Cato Ridge in KwaZulu-Natal. The material was sent to a plant owned and operated by a British firm, Thor Chemicals, supposedly to be reprocessed into usable mercury.

In 1994, after several Thor workers contracted mercury poisoning, two of which died, the government prohibited the further treatment of the mercury waste at the Thor plant. Since then the stockpiled mercury waste has been stored at the plant in Cato Ridge, and has leaked toxic chemicals into the environment. The government is still determining what would be the best option for treating/disposing of the waste.

The US Department of Justice in the 1990s let the statute of limitations expire and Borden Chemicals was let off the hook. groundWork has asked for the waste to be sent back to the original producer in the country of origin (Extended Producer Responsibility).

Considering that the Bush administration has recently set back emission limits for mercury from power plants (in order to line up with the US's free-market approach), and the fact that the South African government is still in a dilemma as to what to do with the mercury waste at the old Thor Chemicals plant - waste which originated in the US - the thought of a partnership between the US and SA to jointly manage mercury waste is enough to make one shudder. The SA government delegation stood up to the US at the Nairobi meeting. Lets hope they can do it again if the need arises! ♣

NOTES:

[1] Mercury and its compounds are highly toxic to humans, ecosystems and wildlife. High doses can be fatal to humans, but even relatively low doses have serious adverse effects on the central nervous, cardiovascular, immune and reproductive systems. As it is extremely volatile, Mercury has no respect for national or regional boundaries travelling great distances through the atmosphere. It has

contaminated global foodstuffs at levels that pose a significant risk to human health, according to medical and public health professionals around the world.

[2] The Natural Resources Defense Council (USA), The European Environmental Bureau, (Europe), The Ban Mercury Working Group (International), Mercury Policy Project (USA), Greenpeace, Toxics Link (India), Global Village of Beijing (China), Association for Combats against the POPS (Brazil), groundWork - Friends of the Earth South Africa, and International Indian Treaty Council (Alaska).

[3] South Africa did not put forward an official position at the meeting, although the Deputy Minister of Environmental Affairs did make it known to groundWork that SA was for a legally binding instrument to reduce mercury.



The 1995 funeral of Thor worker Engelbrecht Ngcobo, who died from mercury poisoning. (Photo by Chris Albertyn)



Better Safe than Sorry - Communities struggle to block the transfer of radioactive landfill wastewater in New Jersey

by Toussaint Losier, groundWork USA

One of the great dangers of a landfill is the pollution resulting from mixing a variety of chemical substances. Landfills operate as acre-wide plastic bags in which various toxic chemicals and materials stew together.

Though landfill operators have learned that organic matter will slowly decompose in this cold, dark environment, releasing the greenhouse gas, methane, they don't quite know what will be produced in the chemical soup of paint thinner, shoe polish and liquid bleach. They only know that these and other household toxins will contribute to the acidic leachate, or wastewater that collects at the floor of the landfill. And when a landfill leaks, either out the sides or from the bottom, the end result will inevitably be highly concentrated toxins in our soil, air or drinking water.

In May 2002, the New Jersey Environmental Federation discovered just how hazardous regular landfills could become when one of NJEF's members stumbled across a legal notice in the local newspaper announcing the Camden county municipal treatment works' plans to accept wastewater from the GEMS landfill into the sewers.

One of the dirtiest "superfund" sites in the United States, the roughly 60-acre GEMS landfill operated from 1960 to 1980 accepting solid, liquid, and hazardous waste. This included sludge from the City of Philadelphia's wastewater treatment facility, which was later found to be contaminated with pesticides. Over time, DDT and other chemicals leaked into the groundwater. Then, in 2000, groundwater samples also indicated the presence of radio-nucleotides, like



radium and uranium.

Briefly listing what radioactive substances had been found at GEMS, the notice sparked concern amongst activists. A stream borders the site and flows into a nearby lake. About 6,000 people live within a mile of the landfill, 38,000 within three miles. As NJEF member Jane Nokagi recalled, "the more we thought about it, the more we realised that this shouldn't be going through the sewers. Camden County is highly populated and the distances between the GEMS landfill and the sewer plant is fifteen miles through highly populated areas. And the discharge site is right in the heart of an African-American community that has been already dumped on with the sewage plant and a number of other superfund sites."

A public meeting was held in Gloucester County where the GEMS landfill is situated, and over 100 people showed up. Mayors presiding over areas along the sewer route were asked to pass a resolution against the discharge. More and more residents expressed their concerns about the myriad of possible ways this radioactive material could end up in their home. A family's toilet can clog up and sewage can overflow into their bathroom. People wanted to know why the authorities were not considering alternatives that would prevent any one of these nightmares from becoming reality.

In the face of growing public outcry, Environmental Protection Agency (EPA) officials maintained that the presence of radioactive materials in the sewer would not change their plans to transport the wastewater through the sewage lines. In response, residents began calling for the wastewater to be treated on site at the landfill and then to be injected back into the landfill.

At a second public meeting, treatment officials offered to tighten up regulations so that the discharge wastewater would meet drinking water standards. But in response the people said even if it met drinking water standards, "they didn't care. It didn't pass the common sense test: 'No radioactivity into the environment if there didn't need to be!'"

Rather than confronting this issue by itself, NJEF began to seek the alliance of other organisations. Following the initial meetings, a new organisation was established, Citizens Against a Radioactive Environment (CARE). Led by Cindy Rau-Hatton, a former township councillor. CARE began a grassroots campaign to inform residents who would be affected by the EPA's decision.

"We got a diagram of where the sewer line ran, "

explained Rau-Hatton. "Where it went through twelve towns. This was a regional issue. So we knocked on doors, dropped flyers, worked our mailing list. Once people realised what was going on, they wanted to get involved."

Beyond residents, CARE also worked to include workers who would be affected by the discharge plans. Sewer workers, for instance, would have to wade through radioactive wastewater if this plan were put into action.

"They were told not to, but they worked with us behind the scenes," said Rau Hatton. With the support of labour groups and a grassroots network, CARE was able to mobilise large numbers of people at public meetings. They were careful to make sure that people of colour and residents of poorer townships were adequately represented at public meetings.

"We wanted to make sure that different levels of the problem were put into the record", Rau-Hatton offered.

The issue of radioactivity also attracted much press coverage. NJEF, CARE, and other groups leveraged this media attention and upcoming local elections to force political parties to publicise their opposition to the discharge plans. At a September 2003 permit meeting, the commissioner of the Department of Environmental Protection changed course and advised the treatment works officials not to allow the discharge. At the same time, state representatives proposed legislation banning the discharge of radioactive wastewater into the states sewage lines as well as tightening restrictions on superfund sites dealing with radioactive material. On 23 December 2003 the New Jersey governor signed the new law.

In January 2004, law, Judge Simandle, who originally presided over the original agreement to discharge into the sewer, informed the EPA, state agencies, and the polluting companies that he would need to reconsider in light of the new law. Over a year later, CARE and many others are still waiting for the court's decision. During this time, landfill operators have continued to leak wastewater into a nearby stream.

But despite, these obstacles, these activists are confident this campaign will be successful. If anything, this campaign has taught these activists the truth to the old cliché that "one person can make a difference," for the government regulator would have easily gotten their way if the first public notice had not been spotted by one of their colleagues.



Field trial of GM maize blocked – A considerable victory for African civil society

By Mariam Mayet¹

History was made on 23rd November 2004, when the South African government refused to grant Dow Agrosiences permission to conduct open field trials of its genetically modified (GM) maize. The sole purpose of the trials was for Dow to “gather information to substantiate EU registrations” - in other words, to use the land of South Africa as an experimental guinea pig.

South Africa is a haven for “gene giants” in need of favourable environments to conduct their risky genetic engineering experiments. Although the government prides itself on its open door policy to genetically modified organisms (GMOs), even it will close the door when faced with overwhelming evidence of corporate irregularity.

In July 2004, the African Centre for Biosafety (ACB), a non-profit organisation, working on GMOs and biosafety, discovered that Dow's application to field test its GM maize was littered with problems. The ACB found that Dow, together with Pioneer and Mycogene, provided incorrect, misleading and/or false information to the competent authorities of Argentina, Spain and the Netherlands in order to obtain approvals in those countries, when it advised those countries that it had conducted field trials in South Africa with TC1507. In direct contradiction to this information, the ACB ascertained from the South African authorities that, in fact, no field trials had been conducted in SA with GM maize TC1507 by Dow or anyone else for that matter!


The provision of this seemingly false and misleading information thus seriously called into question the veracity of all information furnished by Dow Agrosiences and, for that matter, Pioneer Hi-Bred, to the SA authorities and authorities elsewhere in the world tasked with regulating GMOs. Dow could no longer be trusted.

Throughout its work on GMO permit applications in South Africa the ACB received an astonishing paucity of information, with the result that it has been severely hamstrung in conducting any meaningful assessment of GMO permit applications. Indeed, it has become evident that the Department of Agriculture gives the applicant *carte*

blanche to decide to what information the public is in fact entitled. In the case of Dow's GM maize, the ACB received a meagre 23 pages of a 2,000-page docket, which Dow submitted to the European Commission.

Nonetheless, the ACB was able to ascertain that the information provided by Dow to the SA authorities was sketchy at best and several application-questions appear to have been misinterpreted. Claims made regarding toxicity and possible harmful impacts of TC1507 on the bio-system did not reference any literature and, therefore, the ACB called these claims into question. The impression that the ACB gained from Dow's responses was that any possible impacts of the release of the transgene are negligible. This is a view not supported by published literature. At a minimum, available literature indicates that a great deal more investigation has to be carried out on the impacts of transgenes before their release into the environment. The long review process of similar applications by the EU and the decision in April 2004 by the UK competent authority not to grant a cultivation permit for TC1507 bear out these concerns.

The rejection of its application in South Africa will come as a blow to Dow, especially since the European Commission is expected to consider Dow's application for safety approval of TC1507 during 2005.

Although the odds are stacked against us in South Africa in stopping the GM onslaught, our vigilance, unity, and activism present a considerable challenge to the genetic engineering project in Africa. More recently, the ACB has learnt that Pioneer Hi Bred and Dow have made application to the SA authorities to approve a risky GM maize Herculex™ RW, which has not been approved for commercial growing anywhere in the world, and which is under investigation by the US EPA because of food safety concerns raised by scientists in the US. The ACB and other groups in SA will vigorously oppose this application and, hopefully, scoop yet another victory for civil society. 

¹ Mariam Mayet works for the African Centre for Biosafety. See www.biosafetyafrica.net



Kyoto and reformists' agenda questioned

By Greenfly

When the Kyoto Protocol came into effect this February, the South African Climate Action Network (SACAN) used the opportunity to build public awareness of the issues at stake. SACAN is probably the most energetic and effective local civil society network focusing on climate change, and its key figurehead, Richard Worthington, is an eloquent spokesperson. The involvement of Anti-Privatisation Forum (APF) activists in SACAN's Kyoto action is very positive and hints at SACAN's ongoing work to broaden the network beyond narrow or traditional "environmental" constituencies. Hopefully APF's presence will get growing numbers of progressives to make the connections between existing struggles against the privatisation of water, energy and land, and new struggles that must be waged against the privatisation of air, which is being effectively facilitated through mechanisms of the Kyoto Protocol. But SACAN's positioning on the Protocol shows this shift has yet to happen. In fact, SACAN took a position that directly and consciously undermines the agenda of more progressive elements and movements globally!

SACAN's media releases were all about "celebrating the entry into force of the Kyoto Protocol" as a "significant step forward" and a "vindication of the multi-lateral [i.e., inter-governmental] approach". In stark contrast, a group of social and environmental activists and communities from around the world known as the Durban Group asked: "What's to celebrate?". They charge that the 1997 Kyoto treaty "not only fails to reduce greenhouse gas emissions enough to avert climate catastrophe, but also steals from the poor to give to the rich".

As its name suggests, The Durban Group was born out of a meeting of activists in SACAN's own backyard late last year - so Worthington and company can hardly be unaware of their existence or their arguments. The Durban Group noted that: "the Kyoto Protocol says that industrialised country signatories must reduce their emissions 5.2% below 1990 levels by 2008-2012. However, the scientific community has called for global reductions of over 60% below 1990 levels. What's more, the carbon trading promoted by the Protocol hands Northern governments and corporations lucrative tradable rights to use the earth's natural carbon-cycling capacity,

effectively stealing a public good away from most of the planet's inhabitants. ... The Kyoto Protocol's attempt to create 'carbon dioxide-saving' projects in poorer countries is stirring protests from Brazil to South Africa. Such projects - which include industrial tree plantations and schemes to burn off landfill gas - are designed to license big emitters in the rich North to go on using fossil fuels. But they usurp land or water ordinary people need for other purposes... 'Even in purely economic terms, a market in credits from 'carbon-saving' projects will fail,' said Jutta Kill of Sinkswatch, a British-based watchdog organisation. 'You simply can't verify whether a power plant's emissions can be "compensated for" by a tree plantation or other project. Ultimately investors are bound to lose confidence in the credits they buy from such projects... People are beginning to realise that this is ENRON accounting,' she said".

The differences between this more critical view and that taken by SACAN aren't only relevant to the global scene - they have implications for SA too. As Patrick Bond and Rehana Dada point out (Mail & Guardian, 14 January 2005), there are at least two troubling consequences of lining up with government's endorsement of "carbon-trading" as a response to climate change: "Instead of reducing their carbon emissions, local mining and minerals firms will continue to be recipients of vast state subsidies, especially low-priced Eskom electricity, along with public infrastructure investments like those envisaged for the proposed Coega aluminium smelter. In addition, the carbon-trading strategy to address global warming could well exacerbate other environmental problems in centres like Durban. This is diabolical, because energy-intensive megaprojects create very few jobs, and the bulk of their profits flow to beneficiary firms' financial headquarters in London and Sydney. They also churn out carbon dioxide at one of the highest rates in the world, making South Africa today 20 times more CO₂-intensive per unit of per capita gross domestic product than even the US. If the toothless Kyoto Protocol is ever strengthened, countries like China, India and especially South Africa will have to play rapid catch-up on emissions reductions. Yet subsidised megaprojects are making Pretoria's transition into a responsible world energy consumer all the harder".



Congratulations, Anabela



Mozambique's Anabela Lemos, a long-time friend of groundWork, was recently awarded Mozambique's first National Environmental Prize in recognition of her dedication as a voluntary worker on environmental issues in the country. A diminutive woman, Anabela is the personification of the expression "dynamite comes in small packages".

The award was made in December 2004 by IUCN in conjunction with different stakeholders, including the government and NGOs. The award recognises her tireless and courageous work over the past six years in opposing large developments that posed serious threats to the environment.

Receiving the prize came as a big surprise to Anabela because she has been so consistently outspoken or - to

quote her - radical on contentious subjects such as waste incineration and big dams.

In her acceptance speech Lemos stated: "We cannot have peace, the eradication of poverty or sustainable development, without taking the environment into consideration as the base of everything."

Anabela (52), was born in Maputo and has spent most of her life there, save for a short spell in South Africa. She was one of the founders in August 1998 of Livaningo, Mozambique's first environmental justice organisation. She worked for Livaningo up until last year when she co-founded a new NGO called Environmental Justice or Justicia Ambiental (JA).

Very much a team player, Anabela has linked up with environmentalists around the world to add strength and scientific skills to her work in Mozambique. She says:

"I would like to thank my friends and partners worldwide for their support of my work here in Mozambique and hope that one day I can support and help them as much as they do me. It goes without saying that without them it would be impossible to fight and win the environmental justice campaigns in which I have become involved. Whether it is to stop an incinerator or a big dam project, to lobby for better regulations, or to denounce practises that are a threat to the well being of animals and humans, without their support the work would be impossible. I do believe in the old saying, 'think globally but act locally'.

"Thanks to the groundWork team (Bobby, Gill, Llew), Basel Action Network (Jim Puckett), Chris Albertyn, GAIA (Manny, Gigi, Annie, Ralph and co), the IRN team (Lori and Ryan), Greenpeace (Jacob Hartman & Marcelo Furtado) and so many others."

groundWork congratulates Anabela and is convinced that we will hear more of her environmental victories for many years to come. ♪



TSUNAMI SURVIVORS APPEAL FOR HELP WITH WASTE AND SANITATION CRISES

Among pressing survival issues in the areas devastated by the recent Tsunami are severe waste and sanitation problems. The Global Alliance for Incinerator Alternatives (GAIA) is assisting its member organisations in affected areas to deal with waste and related issues. GAIA has established a special fund to support its members working in Tsunami impacted communities.

Understandably, in the aftermath of such a huge disaster, waste management issues often become forgotten in the immediate need to help survivors. With participation from the international community, we can support our members working on BOTH immediate survival and longer term sustainable solutions to waste management.

Fully aware that contributions given in good faith to such appeals often end up in the pockets of the military, high ranking politicians or the IMF/World Bank as part of loan repayments, GAIA will distribute the funds to trusted small organisations in each of the four hardest hit countries: Indonesia, India, Sri Lanka and Thailand.

To contribute to this fund, please contact Ann Leonard at aleonard@no-burn.org or visit the GAIA website (www.no-burn.org) to make online donations.

GOVERNMENT ORDERED TO MAKE GMO INFORMATION PUBLIC

In February the Pretoria High Court ordered the government to provide environmental NGO Biowatch with the details of all government authorisations relating to genetically modified organisms (GMOs). Biowatch brought the application to the court after the government repeatedly turned down Biowatch's requests for access to such information. The Minister of Agriculture, the Executive Council for Genetically Modified Organisms, and the Registrar: Genetic Resources all opposed Biowatch's application.

In the 60-page written judgement Acting Judge Eric Dunn ordered the government to provide details of all permit authorisations granted for all GMO imports, exports, field trials and general releases to date. This included the description of each GMO, its purpose, the details of the permit applicant and all related environmental impact assessments.

The court found that Biowatch had a Constitutional right to the information, that access to this information was in the public interest and that Biowatch had been forced to go to court to exercise this right. Biowatch believes that, with the "jury still out" on the long term effects of GM crops on the environment and human health, it was important that the government encourage maximum public participation so that people could make informed decisions on the issue.

(Source: www.biowatch.org.za)

EARTHLIFE AFRICA WINS REPRIEVE AGAINST ESKOM

In January the Cape High Court set aside the Department of Environmental Affairs' decision to allow the construction of a pebble bed modular reactor at Koeberg, north of Cape Town. The court found that the June 2003 decision by Environmental Affairs and Tourism director-general Chippy Olver, which gave the environmental go-ahead for the project, was "procedurally unfair". The court ordered Olver to reconsider the environmental impact assessment (EIA), after consulting with environmental groups like Earthlife Africa and other interested parties.

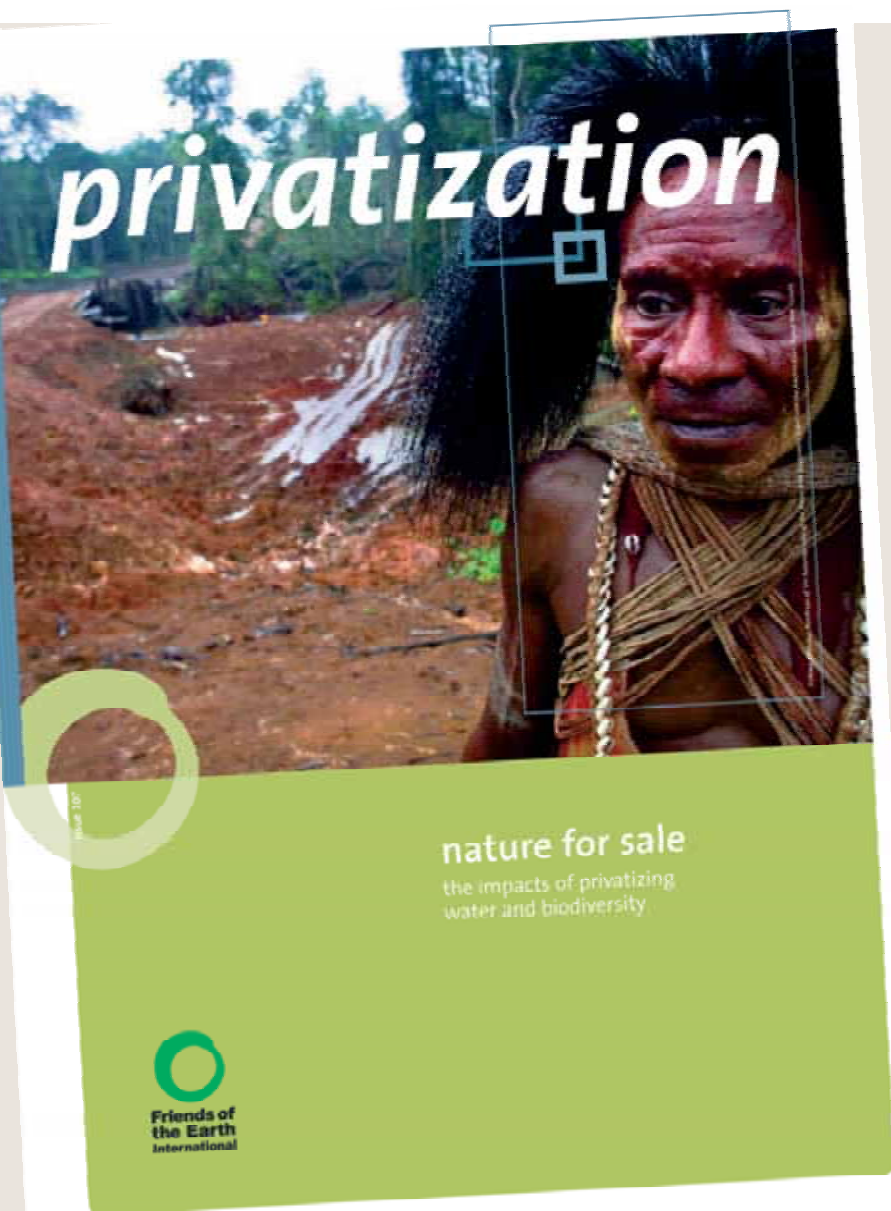
The Legal Resources Centre, on behalf of Earthlife Africa, had argued that Olver had not allowed them access to some of the expert studies undertaken as part of the EIA, including extracts from a safety analysis report.

Earthlife Africa also contends that Eskom has not adequately explained what will happen to the more than 700 tons of high-level radioactive waste that the project is likely to generate. The NGO further believes that Eskom has not undertaken sufficient analysis of the potential health impacts the project may have on residents in neighbouring communities like Melkbosstrand and Blouberg.

Earthlife Africa spokesperson Liz McDaid welcomed the court's ruling: "With so many pressing social needs in our country, Earthlife believes that, once Eskom's information is critically reviewed, it will be obvious to government that R15-billion would be better spend on energy efficiency and implementing alternative energy options."

(Source: www.earthlife.org.za)





Publications

Nature for sale - the impacts of privatizing water and biodiversity, published by Friends of the Earth International, January 2005, Amsterdam (64 pages)

REPORT BLASTS WATER AND BIODIVERSITY PRIVATISATION

Friends of the Earth International has released a new report on the negative social and environmental impacts of privatising water and biodiversity. **'Nature for sale - the impacts of privatizing water and biodiversity'** is based on evidence gathered from thirty-four case studies around the world.

The report points out that, in poor countries, indigenous peoples and local communities are losing their forests, fish and biodiversity at a rapid rate as their lands are progressively handed over to logging,

tourism and private park management companies. Case studies have been drawn from 20 different countries including Indonesia, Canada, Paraguay, Palestine, El Salvador, Australia, Scotland, Eastern Europe and, closer to home, our neighbouring Swaziland.

The report argues that this trend is stimulated by the growing market of so-called carbon parks that are developed to offset the carbon emissions in developed countries. It is especially financial institutions like the World Bank that are promoting these market-based approaches to biodiversity conservation.

The report also focuses on "biopiracy" - the privatisation of biodiversity through the rapid growth of patents on life forms and related traditional knowledge. While most biodiversity and related traditional knowledge is found in developing countries, the overwhelming majority of these patents are in the hands of western transnational corporations. A number of countries rich in biodiversity, like Brazil and India, recently announced their intention to establish an international agreement to address biopiracy.

However, as long as the World Trade Organisation (WTO) Agreement on Trade Related Intellectual Property Rights forces governments to permit the establishment of patents and other intellectual property rights on life, Friends of the Earth International fears that such an agreement will only legitimise and promote biopiracy.

The full version of the report can be downloaded from www.foei.org/publications/link/privatization/index.html or a printed hardcopy version can be obtained from

In the pipeline:

29 March 2005 - Closing date for registration as a stakeholder in the process of developing a provincial Waste Management Strategy for Gauteng. For more information contact Anne Barrett from SRK Consulting by fax 011-441 1174 or email abarrett@srk.co.za

March/April 2005 - Government is expected to release a draft Waste Bill for public comment. groundWork will be coordinating a joint civil society response to this Bill and those wanting to be included in this process should contact Llewellyn at Llewellyn@groundwork.org.za or 033-3425662.

27 May 2005 - The Corpse Awards ceremony will take place in Johannesburg. A Corpse Award is a spoof award given to those companies operating in South Africa that have been voted by NGOs and/or communities as causing the greatest environmental injustice. For more information see our website.

June 2005 - Government proposes to release a draft Energy Bill for comment

Future - The long awaited National Environmental Advisory Forum (NEAF) has finally been established and is to meet in the near future. Bobby Peek of groundWork is one of the NGO representatives on the NEAF.