

CASE NO: 3795/2015

IN THE HIGH COURT OF SOUTH AFRICA
(EASTERN CAPE DIVISION, GRAHAMSTOWN)

8TH SEPTEMBER 2015

BEFORE THE HONOURABLE MR. JUSTICE PICKERING

IN THE MATTER BETWEEN:

MAKANA UNITY LEAGUE	APPLICANT
AND	
MAKANA MUNICIPALITY	1ST RESPONDENT
THE ADMINISTRATOR OF MAKANA MUNICIPALITY NOMINE OFFICIO	2ND RESPONDENT
THE EXECUTIVE MAYOR OF MAKANA MUNICIPALITY NOMINE OFFICIO	3RD RESPONDENT
THE MUNICIPAL MANAGER OF MAKANA MUNICIPALITY NOMINE OFFICIO	4TH RESPONDENT
THE MEMBER OF THE EXECUTIVE COMMITTEE FOR ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS & TOURISM, PROVINCE OF THE EASTERN CAPE, NOMINE OFFICIO	5TH RESPONDENT

Having heard Adv. Smuts (S.C.), Counsel for the Applicant and Mr. Nettelton, Attorney for the First, Second, Third and Fourth Respondents and having read the documents filed of record

IT IS ORDERED: (BY AGREEMENT)

2. THAT the First Respondent be and is hereby ordered to comply with the conditions of the permit granted on 10th September 1996 for the development and operation of the Grahamstown waste disposal site in the district of Albany, and in pursuit of this order, to:

- (i) Comply with the requirements of the compliance notice in terms of Section 31L of the National Environmental Management Act issued by

Fifth Respondent's department to the First Respondent on 9th March 2015 and, to the extent that the said compliance notice does not include the requirements set out hereunder;

- (ii) Refurbish the perimeter fence of the Makana Municipality waste disposal site ("the site") within sixty (60) days of the granting of this order, and ensure that access to the site is controlled within ten (10) days of the granting of this order;
- (iii) Develop a waste screening mechanism for screening permissible waste to be disposed of on the site in accordance with Government Notice 634 of 2013 (Waste Classification and Management Regulation) and 636 of 2013 (National Norms and Standards for Disposal of Waste to Landfill) within sixty (60) days of the granting of the order;
- (iv) Develop a storm water management plan to be designed and implemented for the site which should include *inter alia* the treatment and discharge, or use of water, captured in a properly designated and managed leachate containment pond within sixty (60) days of the granting of the order, and the implementation thereof within a further sixty (60) days of the granting of the order of the development of such management plan;
- (v) Appoint an independent specialist within forty five (45) days of the granting of the order, to review all relevant and available environmental monitoring data and to determine whether there is scientific evidence that the facility poses a threat to human or environmental health, which review should include a review of the adequacy of the existing water (surface and sub-surface) and air quality monitoring;
- (vi) Appoint a specialist to monitor the air quality of the site on a monthly basis and to report back to the council of the First Respondent in regard to the quality of air with proposals to the First Respondent within forty five (45) days of the granting of the order;

- (vii) Appoint an independent service provider and specialist to sample and analyse the ground and surface water in conjunction with a laboratory certified by the South African National Accreditation System within forty five (45) days of the granting of the order;
- (viii) Ensure that the mediation measures are taken immediately if the analysed samples of water are found to be contaminated by the aforesaid independent service provider within forty five (45) days of the granting of the order;
- (ix) Appoint an independent service provider, an expert, to monitor and analyse gas submissions and air quality relating to gas within forty five (45) days of the granting of the order;
- (x) Call a council meeting of the First Respondent, to discuss the contents of this order within thirty (3) days of the granting of the order and to develop a proper management plan of the site, and to implement such management plan immediately, (such management plan to incorporate the abovementioned orders, and to ensure sit housekeeping and general site management), and such management plan to be completed within sixty (60) days of the meeting of the council of the First Respondent;

3. THAT a report be made to this Honourable Court on or before the last day of each month on the progress made by the First Respondent in giving effect to this order.

4. THAT the First Respondent is to pay the costs of suit, such costs to include the costs of the previous postponement.

BY ORDER OF COURT



N. BIKITSHA

COURT REGISTRAR

WR & C

Received 2 copies
 thereof this 11th day
 of Sep. 2015
09/09/15

 Notations