



# MINUTES OF THE 11<sup>TH</sup> QUARTERLY MEETING IN MATATIELE ON 02/12/2015.

## 1. Welcome, introduction and apologies

Opening prayer by Lwazi Khuzwayo. Apologies received from Joyce Loza (DEA MDTP), plus Megan Ellis (LIMA) who was supposed to give a presentation on food security.

## 2. Minutes of the last meeting and matters arising

- DWS Umzimvubu classification project update: no feedback on the appointment of a professional service provider yet. Nothing has been communicated on the request that was made by the forum to have information session on water use license application and CMF establishment process clarity. Requested Nomhle from DWS to follow up on this. Also to ask someone at the provincial office to make a presentation at the next UCPP meeting in March 2016 regarding this.
- To request feedback from WESSA and Municipality regarding the leadership seminar on 'Capacity for Catchments' that was held in October 2015 to find out how traditional authorities felt.
- DAFF likes the way things are working at Motseng. To communicate with Rosie from CSA regarding interactions she has been having with Land Bank.
- Presentations made by Nicky to Matatiele Council in their quarterly meeting; the Lobby team; the public and to Traditional leaders by Sinegugu. Purpose of the presentations was to make people aware of the impacts of proposed exploration right application on water resources, livelihood and climate change impacts. Some UCPP members attended a meeting in Howick in KZN to discuss a strategy on how to stop the exploration application by Rhino and linked up with them on the national anti-fracking campaign. KZN FRACK FREE group had a local awareness march against climate change in Howick.
- Sent a request to Centre of Environmental Rights (CER) requesting assistance regarding the Rhino exploration right application. At this stage they cannot assist due to internal constraints.
- EGS monitoring at sample sites postponed due to unavailability of EWT staff.
- Where to for UCPP now: five year strategy deferred to next meeting due to poor attendance of this meeting with year end commitments.
- Lwazi gave a feedback on the Mehloding Heritage day race. It was a very successful event which had horse racing, traditional dancing and prizes. Also there was a member from the gambling board who gave awareness on gambling issues. To request Mehloding to address the issue of their event and Mabeneng being hosted on the same day to both Chiefs of the area; either look into collaborating or hosting the event on separate days since they are both important and people want to attend both.
- LOTTO funding application for expanding rangeland stewardship submitted by ERS in collaboration with Wildlands.
- Follow up meeting of Matatiele Water Factory concept coming up on the 08<sup>th</sup> December 2015: Tracey Potts from ECPTA confirmed, CSA has already sent an apology. Objective: the stewardship plan implementation (based on Council adoption), need DEDEAT or ECPTA as the driver for such proposals.

## 3. Environmental Management in the Umzimvubu Catchment – where do we go?

### a. Experience of an EAP and an ECO: why do we keep doing this, is it worth it? (Sissie Matela and Mafuza Nkomo – ERS)

Sissie outlined the scope of work of an EAP (Environmental Assessment Practitioner) during the EIA Environmental Impact Assessment) phase, and the frustrations they experience as EAPs. ERS does not do sand mining applications due to the law changing frequently. Was hoping Mr Mthembu would be here to outline the process with regard to the Shale exploration application by Rhino. Some of the frustrations include:

- their mandate as the ECO (Environmental Control Officer) in the project whether it is a standard requirement or not;

- mandate on environmental auditing in a project, at what stage it should be done;
- complicated WUL (Water Use Licence) procedures and alignment with EIA process;
- significance of a community resolution because some projects start without one, at what stage do we need this?
- the issue of borrow pits, that there is no database as to which ones have licenses. Are opened borrow pits accessible for everyone? Requested guidance from DEDEAT and DMR as these are not clear so that the legislation is enabling for everyone; also need forums to address such matters.

DEDEAT doing a good job despite changes within the department. Lack of staff (Only 2 in ANDM) in compliance section is a big issue for ECO. When reporting matters to DEDEAT, ECO called 'whistle blowers'. There is a good cooperation between ECO and DEDEAT. They give good guidance when encountering problems between contractor and engineer. The ECO is aware of the contractor grading system but fail to understand why incompetent contractors are given big projects, what is its purpose then? Do contractors at least get any training? What is the criteria for selecting contractors? Can contractors get briefing prior to the project commencing? Aware that transgression by the contractor leads to a charge in terms of S24G but is it relevant since government cannot charge government?

Mafuza (ECO) explained the personnel of the project team during a development: the Health & Safety officer, Engineer, Contractor and ECO. Before construction, the contractor is given RoD (Record of Decision) and briefed on the contents of RoD, and EMP (Environmental Management Plan), but they are not followed. Some of the contents of the above documents include preparing of a method statement before work in sensitive area such as water resources and indigenous grassland. Regardless of the above legal guiding documents, there is no adherence to them. For example, a method statement was produced but the contractor did not adhere to it.

Some of the issues faced by the ECO daily are: trenches opened for long periods then filled up with water leading to the walls collapsing; trenches going through wetlands, mixing of cement on ground surface, construction not done accordingly – rectification compromising the environment, pipeline route diverted without notifying ECO, unauthorised activities such as opening borrow pits without permits or rehab plan, and roads that resulted in the removal 2ha of grassland for no reason. Mostly in these projects, water resources are contaminated. The position of ECO not recognised. How to deal with projects in one area, one being monitored and one not?

Questions were: is an ECO an essential part of the project to prevent damage to ecological infrastructure?

### **b. Environmental Quality Management**

Mr Mtonjeni outlined the purpose of the EIA, which is to assess potential damage due to developments, and how to mitigate the damage. S24D of NEMA gives powers to the Minister to stop activities that cannot commence without authorisation due to them being too detrimental to the environment. S24F allows activities that commenced without authorisation to be given a chance to apply for it. In the NEMA regulations R982 is the process to be followed in the EIA, also includes mining. There are 3 listing notices that differ in thresholds. LN3 R985 is specific to the geographic area whereas others cover any landscape. For example, most projects in Bizana trigger LN 3 (which has smaller threshold) due to it being along the coast and also being characterised by a lot of indigenous forest.

As per S24G, DEDEAT does charge the government, for example the construction of Gxeni Bridge without authorisation. This matter was handed to the department then finally taken to compliance. S24G charges can be administrative or criminal. Normally the department prefers the administrative route, then proceed to criminal if the matter cannot be resolved. There are instances where some municipality was charged as the 2014 regulations amendments allow. Some activities require authorisation but as the project unfolds the listed activity falls away and will only require EMPr. There is a non-refundable application fee of R2000.00 for the BAR and R10 000.00 for full EIA, payable by private state and state. The EMPr forms part of the EIA.

For auditing, the ECO is needed depending on the scale and sensitivity of the project to the environment (S28 of NEMA still needs to be followed). The EAP is an independent practitioner. The EAP who compiled the reports may not necessarily be ECO, having a different ECO helps by giving a different perspective and information that might have been missed by an EAP, but same ECO also allows for continuity and deeper understanding of project area. Water use licenses are SEMA's (Specific Environmental Management Acts), for example if a project does not require authorisation and it happens that the project needs water supply they can be charged by DEDEAT for using water without WUL.

Answer to training of contractors: DEDEAT does not have the authority to disqualify incompetent contractors. However, the ECO has powers to charge contractor for non-compliance.

### **c. Mobilise, Educate and Transform our communities**

Nosisa explained how Environmental affairs directorate composed of 4 pillars: - (a) Cult of wilderness (b) gospel of eco-efficiency (c) environmentalism of the poor and...., all these have led to EE (Environmental Education). EE mandate is derived from S24 of the constitution. EE whether formal or informal can still serve its purpose. DEDEA has to ensure sustainable use of environmental resources. Empowering legislation of all SEMA's. Mobilising communities through identification of stakeholders, acknowledgement of indigenous knowledge to name a few. Educate communities through a holistic and progress approach. Empowering through information sharing, awareness raising through workshops, public talks. Aims to influence the public in decision making. Transform our communities for example some communities continue to take upon initiatives that were started in their area such adapting the celebration of environment day.

Question were: How to use the DEDEAT EE system to address the fracking issue in the communities.

### **d. The MPRDA application process**

Mr Mthembu: 2 years mining permit need one to identify the mineral/ area then lodge application online. Must show financial competence, technical competence (includes proof of competence: CV), title deeds (letter from deeds office or letter from Chief in a communal land that serves as proof that the Chief and Community have consultant). To be noted that, a letter from Chief does not give right to mine. Municipality is exempted from this in terms of S106.

Questions were: Is the letter from the Chief sufficient as a proof of the consultation process?

No, letter serves as an acknowledgement of the proposed development not a permit. The Chief still has to consult with the community to give permission in the presence of relevant stakeholders like DRDLR.

Q: How is the consultation conducted?

DMR checks the application to determine if necessary steps were followed

Q: Does DMR in Mthatha have a say in the national process?

Heavy minerals follow same process, need other departments to come on board.

Q: At what stage do you require the EA to lodge the application?

As early as possible when mineral are identified

Comment: consultation should include the whole community not just the Chief.

### **e. Sustainability of Projects: where are we, where do we go?**

Dean Ricketts made a presentation on sustainability of projects mainly focusing on EPWP projects. EPWP projects are aimed at fulfilling and abiding by S24 of the constitution. Also aims to secure ecologically sustainable development and use of natural resources, while promoting justifiable economic and social development. Showed example of unsustainable developments within the ANDM which included donga rehabilitation project that had R2 million funding; alien plant clearing project worth R3 million. We need to move from being in the comfort zone where people are getting jobs and making to where the magic happens. Focus more on working together in order to balance factors that influence sustainability, i.e. environmental, social and economic through some initiative like the EPWP projects. Moreover, link and align projects; look at things holistically; look at existing strategies like the EMF; screening before a development commences by looking at existing data. Gave an example of a sustainable project that was the proclamation of the nature reserve near Ntabankulu where numerous stakeholders were consultant.

Questions included: How is funding sourced, criteria for selecting implementers and who makes the decision.

Funding comes from DEDEA. Projects are supposed to be managed by DEDEA officers but they do not get full support to do.

Q: Does the fund go to the municipality or directly to the Applicant?

Funding is only to the municipalities.

Comment to the presentation: need to revise the selection process and criteria.

#### **4. Mineral exploration in Matatiele: Update on the 295 ER Rhino gas & oil exploration application**

DMR was not aware because it is a national application that went through via PASA.

A public meeting was held on the 09<sup>th</sup> November 2015 at Nokhwezi hall regarding the application. Got positive feedback from people saying no, they making a living out of farming; a utube clip is available for those who would like to see meeting's proceedings.

Met with Matatiele council, traditional leaders and the public prior to the meeting, to let them know about the impacts of fracking. Comments submitted on the draft scoping report. Final Scoping report supposed to be out: Matthew (SLR consultant) ducking to provide it. Need people to help with strategies when looking at alternative ways for renewable energy. CSIR doing the SEA study for the Karoo, have requested whole country to be covered by SEA scope. Need DEDEAT to do EE awareness work on this. Producers of "High cost of cheap gas & unEarthed" agreed to come in January or April 2016 to hear what we have to say about fracking and share their stories from impacts in the USA. Dates to be confirmed.

#### **6. Update on partner activities, Uucoming events and announcements**

DEDEAT reviewing waste management plan.

LIMA Proposal from Job fund between R10 – 100 million

Matatiele stewardship meeting on Tuesday.

#### **7. Any other items and next meeting date**

Next meeting set for 9<sup>th</sup> March 2016. Suggested to have the same theme that is compliance with environmental standards and NEMA processes for catchment protection. Responsible person would still be Sissie Matela.

#### **9. Closure and lunch**