

IN THE HIGH COURT OF SOUTH AFRICA
(NORTH GAUTENG HIGH COURT, PRETORIA)

CASE NO.

In the application of:

TREASURE THE KAROO ACTION GROUP

Applicant

and

MINISTER OF MINERAL RESOURCES

First Respondent

DIRECTOR-GENERAL, MINERAL RESOURCES

Second Respondent

NOTICE OF MOTION

PLEASE TAKE NOTICE that application will be made to the above Honourable Court on _____ at 10h00 or so soon thereafter as the matter may be heard, for an order in the following terms:

1. The Respondents are directed, in terms of the Promotion of Access to Information Act 2 of 2000, to provide the Applicant with the following records:

- 1.1. Terms of reference and/or instructions relating to the research to be conducted by the multi-disciplinary task team (*“the task team”*) on hydraulic fracturing (*“fracking”*) and the members of the *“working group”* that, according to the First Respondent, is supporting the function of the task team.
- 1.2. The identities and qualifications of the individual working group and task team members.
- 1.3. The department, organisation, corporation or other entity that each working group and task team member represents and the capacity in which he or she is representative of such entity.
- 1.4. Minutes of all working group and task team meetings.
- 1.5. A copy of the most recent version of the reports of the working group and task team, irrespective of whether or not they are currently in draft form or whether they have already been finalised.
- 1.6. The name of the entity and the particular person therein to whom the working group’s and task team’s reports will be, or have already been, furnished.

- 1.7. If the relevant report has not yet been finalised, the date on which the report is due to be finalised or is expected to be finalised.
- 1.8. All correspondence relating to the working group and task team, including, but not limited to:
 - 1.8.1. any correspondence between the various members of the working group and task team;
 - 1.8.2. any correspondence between the members of the working group and task team and any applicant for an exploration right under the Mineral and Petroleum Resources Development Act 28 of 2002, in particular Shell Exploration Company B.V. ("Shell"), Bundu Oil and Gas (Pty) Ltd ("Bundu"), and Falcon Oil and Gas Ltd ("Falcon"); and
 - 1.8.3. any correspondence between any member of the working group and task team and any official from any governmental department, institution or organisation that is not represented on the working group or task team.
- 1.9. All research documents (reports, studies, commentaries, academic papers and the like) that relate to fracking and which

have been, or may be, used as part of the working group's and task team's research, and in particular, any such documentation that may have been furnished to the members of the working group or task team by Shell, Bundu and Falcon.

2. Directing the Respondent to pay the Applicant's costs, including the costs of two counsel.
3. Further and/or alternative relief.

TAKE NOTICE FURTHER that the accompanying affidavits of Jonathan Kent Fuller Deal and Luke Paul Havemann and the documents referred to in Rule 3(3) of the Promotion of Access to Information Rules will be used in support of this application.

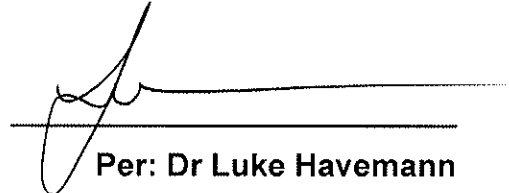
TAKE NOTICE FURTHER that the Applicants have appointed the offices of VAN ZYL LE ROUX INC, 2nd Floor Monument Office Park, Block 3, 71 Steenbok Avenue, Monument Park, Pretoria, as the address at which they will accept notice and service of all documents and process in these proceedings.

PLEASE TAKE NOTICE FURTHER THAT:

- (i) Notice of intention to oppose this application must be given within 15 (fifteen) days after receipt hereof and must contain an address within eight kilometres of the court to which the application is brought, where notice and service of documents will be accepted.

- (ii) Answering affidavits, if any, must be filed within 15 days after service of the notice of intention to oppose the application.
- (iii) In default of your complying with Rule 3(5) of the Promotion of Access to Information Rules, the Applicant may request the Registrar to place the application before the Court for an order in terms of section 82(b) of the PAIA.
- (iv) In default of your delivering a notice of intention to oppose, the matter will without further notice be placed on the roll for hearing after the expiry of the period mentioned in paragraph (i) above, on a date fixed by the Registrar.

SIGNED at CAPE TOWN this 21st day of OCTOBER 2011



Per: Dr Luke Havemann

HAVEMANN INC

Attorneys for the Applicant

1st Floor Convention Tower

Cnr Coen Steytler Ave and Heerengracht St

Cape Town

8001

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c/o **VAN ZYL LE ROUX INC**

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Pretoria
0001
Tel: (012) 435-9444
Fax: (012) 435-9555

TO **REGISTRAR OF THE HIGH COURT**
PRETORIA

AND TO **MINISTER OF MINERAL RESOURCES**
Office of the State Attorney
Bothongo Heights
8th Floor
167 Andries Street
Pretoria
0002

AND TO **DIRECTOR-GENERAL: DEPARTMENT OF MINERAL**
RESOURCES
Trevenna Campus
Building 2C
Cnr Meintjie and Schoeman Street
Sunnyside
Pretoria
0002

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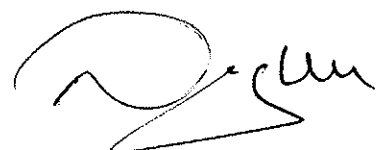
AFFIDAVIT

I, the undersigned

JONATHAN KENT FULLER DEAL

hereby make oath and say:

1. I am the chairperson of Treasure the Karoo Action Group ("the Applicant"). I am duly authorised to depose to this affidavit on behalf of the Applicant in terms of the resolution annexed and marked "JKFD1".



2. The statements in this affidavit are to the best of my knowledge true and correct. They fall within my personal knowledge, unless the context indicates otherwise. Any legal assertions made herein are made on the advice of my legal representatives.
3. The Applicant is a non-profit environmental organization, with a particular focus on the Karoo. Its purpose, as set out in its Constitution, is to ensure the sustainable development of natural resources and the protection of heritage resources in a manner that will be beneficial to the people of South Africa. Applicant is a juristic person with perpetual succession and the power to sue and be sued. It is in the process of being registered in terms of the Non-Profit Organisation Act 71 of 1997. A copy of the acknowledgement of receipt of the Applicant's application to be registered as such is annexed marked "**JKFD2**".
4. The Applicant is represented herein by attorneys Havemann Inc ("the Applicant's attorneys").
5. The First Respondent is the Minister of Mineral Resources ("the Minister"). She is cited in her official capacity. In terms of Uniform Rule 4(9) this application will be served on her at the Office of the State Attorney, Bothongo Heights, 8th Floor, 167 Andries Street, Pretoria.
6. The Second Respondent is the Director-General of the Department of Mineral Resources, in the national sphere of government ("the D-G"). He is sued in his official capacity. The Department of Mineral Resources ("the Department") is a public body in terms of the

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Promotion of Access to Information Act 2 of 2002 ("PAIA"). The D-G is the head of that Department and its information officer in terms of PAIA. His place of business is at Trevenna Campus, Building 2 C, Cnr Meintjie and Schoeman Street, Sunnyside, Pretoria, 0002.

THIS APPLICATION

7. A number of companies have applied to the Minister for an exploration licence in order to carry on the process of hydraulic fracturing ("*fracking*") in substantial areas of the Karoo. Fracking is a means of searching for and extracting petroleum from the earth. It is highly controversial because of its environmental consequences, and is prohibited in some parts of the world.
8. As I describe more fully below, the Cabinet has placed a moratorium on the granting of exploration licences for fracking until a government-appointed task team has reported on the implications of fracking. The Minister is the member of the national executive who is responsible for this matter. The task team is chaired by the D-G.
9. The Applicant is opposed to the process of fracking. It attempted, over an extended period, to obtain information from the Minister in relation to the task team and related matters. Those attempts met with no success. The Minister did not respond in any way to the letters which the Applicant sent her in this regard.

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10. The Applicant then made a formal request for access to information in terms of PAIA. The information officer of the Department did not give a decision on the request within the period stipulated under PAIA, or at all. This amounted to a deemed refusal of the request.
11. The Applicant then appealed in terms of PAIA to the Minister, who is the “relevant authority” under PAIA. The Minister failed to decide the appeal within the period stipulated under PAIA, or at all. She is accordingly regarded as having dismissed the appeal.
12. This application is now brought in terms of section 78(2) and 82 of PAIA. The Applicant seeks the relief set out in the notice of motion.

THE FACTS

13. On 21 April 2011, the Cabinet announced that a moratorium would be placed on the granting of exploration licences for fracking until a multi-disciplinary task team had reported on the full implications of fracking. A copy of the statement by the Cabinet is annexed marked “**JKFD3**”.
14. The Minister confirmed this moratorium in a media statement made on 29 April 2011. A copy of that statement is annexed marked “**JKFD4**”.
15. When Cabinet announced the moratorium and the establishment of the task team, the Applicant attempted to obtain information regarding the task team from the Minister and various other parties. The Applicant’s attempts included the following:

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- 15.1. On 28 April 2011, the Applicant's attorneys sent a letter to the Minister ("JKFD5") requesting information about the constitution of the task team.
- 15.2. No answer was received to this letter.
- 15.3. On 9 May 2011, the Applicant's attorneys again sent a letter to the Minister ("JKFD6") requesting such information.
- 15.4. No answer was received to this letter.
- 15.5. On 7 July 2011, the Applicant's attorneys again sent a letter to the Minister ("JKFD7") in which information about the task team was requested. In particular, they requested that the identities and qualifications of the task team members be made known, as well as the entities they represented, whether the task team had received representations from any of the applicants for exploration rights (being Shell, Bundu and Falcon, as described more fully below), whether civil society was invited to serve on the task team, whether the task team was furnished with terms of reference, and when the task team's report would be made available.
- 15.6. No answer was received to this letter.

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- 15.7. On 26 July 2011 the Applicant's attorneys again sent a letter to the Minister ("JKFD8") referring to the abovementioned unanswered letters and the questions contained therein, and requesting that they be answered as soon as possible.
- 15.8. No answer was received to this letter.
16. Some information about the task team did emerge from answers which the Minister gave to questions which were asked in the National Assembly.
17. In Parliamentary Question 1409 dated 26 May 2011 and annexed marked "JKFD9", the Minister was asked the following questions by Mr G R Morgan MP:
- 17.1. For how long will the moratorium on gas exploration in the Karoo, where fracking is proposed, be in force as announced in a Cabinet media release on 21 April 2011?
- 17.2. What are the names and designations of all the members of the task team which is researching the implications of fracking, who appointed them and what budget does the task team have to complete its work?

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- 17.3. Will the report of the task team be made available for peer review and public comments? If not, why not? If so, what are the relevant details?
- 17.4. Will any members of civil society be invited to serve on the task team and nominate people to serve on the task team? If not, why not? If so, what are the relevant details?
18. In her answer (see annexure "JKFD9") the Minister provided only limited information, namely:
- 18.1. The recommendations of the task team will determine the date on which the moratorium will end, as well as the terms upon which applications and proposed operations shall be assessed.
- 18.2. The task team is chaired by the Director-General of the Department of Mineral Resources, Adv Sandile Nogxina, and comprised of Deputy Directors-General of the Department of Mineral Resources, the Department of Science and Technology, the Department of Trade and Industry, and the CEO of the Petroleum Agency of South Africa.
- 18.3. The task team is supported by a working group comprising of representatives from the Petroleum Agency of South Africa, the Council for Geosciences, and the Council for Scientific and Industrial Research.

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- 18.4. The members of the task team were nominated by the Directors-General of the participating Departments.
- 18.5. There is no central budget for the task team, and the members shall use the financial resources of their respective departments.
- 18.6. Public interest issues, including concerns raised by interested and affected parties during the consultation processes of the exploration rights applicants, would be taken into account by the task team. The Minister stated that *"[i]t shall thus not be necessary to subject the outcomes to further peer review and public commentary."*
- 18.7. No members of civil society will serve on the task team or be invited to nominate persons to serve on the task team.
19. In Parliamentary Question 2124 dated 12 August 2011, a copy of which is annexed marked "JKFD10", the Minister was asked further questions by Mr G R Morgan MP, namely:
- 19.1 With reference to her reply to question 1409 on 25 July 2011, what are the (a) names and (b) designations of all persons appointed by (i) her director-general and (ii) the directors-general of (aa) the Department of Trade and Industry and (bb) the

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Department of Science and Technology to conduct work on behalf of the fracking task team?

19.2 What are the (a) names and (b) designations of all persons from (i) Petroleum SA, (ii) the Council for Geosciences and (iii) the Council for Scientific and Industrial Research who have conducted work on behalf of the fracking task team?

19.3 Whether, with reference to the moratorium on gas exploration licences where fracking is proposed, as announced in a Cabinet media release on 21 April 2011, the moratorium was published in the Government Gazette; if no, why not; if so, what is the number of the Government Gazette in which it was published?

20. In her answer to Parliamentary Question 2124 (annexure "JKFD10") the Minister stated as follows:

20.1 The names and designations of the fracking task team members cannot be divulged at this stage as the team has to execute its mandate free from any possible interference.

20.2 In reference to the publication of the moratorium of 21 April 2011, the Minister answered that it was published in Government Gazette No. 33988, Vol. 584, Pretoria, on 1 February 2011.



21. Accordingly, the Minister has not provided the information requested in terms of this application.

APPLICATIONS IN TERMS OF PAIA

22. On 10 August 2011, the Applicant applied to the information officer of the Department for access to the requested records, as described in the following paragraph, in terms of section 18(1) and Form A of PAIA. (A copy of the request is annexed marked “**JKFD11**”). The Applicant stated in its cover letter “*we look forward to being notified, as soon as possible, as regards the fee that will be payable in order for us to gain access to the aforementioned information.*”

23. The requested records were the following:

23.1. Terms of reference and/or instructions relating to the research to be conducted by the multi-disciplinary task team on hydraulic fracturing (“*fracking*”) and the members of the so-called “working group” that, according to the Minister, is supporting the function of the task team. (All references to the “*task team*” in that application and this affidavit are to both the multi-disciplinary task team and the working group).

- 23.2. The identities and qualifications of the individual task team members.

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- 23.3. The department, organisation, corporation or other entity that each task team member represents and the capacity in which he or she is representative of such entity.
- 23.4. Minutes of all task team meetings.
- 23.5. A copy of the most recent version of the task team's report, irrespective of whether or not it is currently in draft form or whether it has already been finalised.
- 23.6. The name of the entity and the particular person therein to whom the task team's report will be, or has already been, furnished.
- 23.7. If the relevant report has not yet been finalised, the date on which the report is due to be finalised or is expected to be finalised.
- 23.8. All correspondence relating to the task team, including, but not limited to:
- 23.8.1. any correspondence between the various members of the task team;
- 23.8.2. any correspondence between the members of the task team and any applicant for an exploration right under

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the Mineral and Petroleum Resources Development Act 28 of 2002, in particular Shell Exploration Company B.V. ("Shell"), Bundu Oil and Gas (Pty) Ltd ("Bundu"), and Falcon Oil and Gas Ltd ("Falcon"); and

23.8.3. any correspondence between any member of the task team and any official from any governmental department, institution or organisation that is not represented on the task team.

23.9. All research documents (reports, studies, commentaries, academic papers and the like) that relate to fracking and which have been, or may be, used as part of the task team's research, and in particular, any such documentation that may have been furnished to the members of the task team by Shell, Bundu or Falcon.

24. In the light of the Minister's indication in her answer to Parliamentary Question Number 1409 (annexure "JKFD9") that the Department of Science and Technology, the Department of Trade and Industry, the Petroleum Agency of South Africa, the Council for Geosciences and the Council for Scientific and Industrial Research were also involved in the task team, the Applicant's attorneys made a request for access to the requested records to each of these entities on 10 August 2011.

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25. The only responses that the Applicant received to the above were the following:

25.1. On 25 August 2011, Dr Gerhard Calitz of the Department of Trade and Industry sent an email addressed to the Applicant's attorneys which stated that the Applicant's request had been forwarded to Mr Siyabonga Vezi, Head: Administration (Mineral Regulation) of the Department, in terms of section 20 of PAIA. A copy of the email is annexed marked "JKFD12". A telephone number and an email address for Mr Vezi were provided.

25.2. On 12 September 2011, Ms Ilse Lombard of the Council for Scientific and Industrial Research sent a letter to the Applicant's attorneys stating that no specific employee of the Council for Scientific and Industrial Research had been appointed to the task team and that it could not, as such, furnish the Applicant with any of the requested records (a copy of the letter is annexed marked "JKFD13").

26. No response was received from the information officer of the Department.

27. The Applicant's attorneys attempted to contact Mr Vezi telephonically. However, Mr Vezi failed to answer his telephone, and a message could not be left as his mailbox was full. (I refer in this regard to the

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confirmatory affidavit of Dr Luke Havemann of the Applicant's attorneys.)

28. The information officer's failure to make a decision on the Applicant's request is a deemed refusal of the request in terms of section 27 of PAIA.
29. The Applicant then lodged an internal appeal in terms of section 75 of PAIA with the Minister on 15 September 2011. A copy of the notice of internal appeal is annexed marked "JKFD14".
30. Receipt of the internal appeal was acknowledged via email by Mr Mampuru Koma of the Department on 15 September 2011. A copy of that email is annexed marked "JKFD15".
31. The Applicant's attorneys also sent an internal appeal to the Council for Geosciences and the Petroleum Agency of South Africa.
32. On 15 September 2011, a letter from the CEO of the Petroleum Agency of South Africa, Mr Mthozami R Xiphu, was addressed to the Applicant's attorneys. A copy of the letter is annexed marked "JKFD16". The letter confirmed receipt of both the original request for access to information and the internal appeal. It stated that the Minister was the relevant authority to whom the appeal should be forwarded.

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33. Apart from the acknowledgement of receipt, no response whatsoever was received from the Minister regarding the internal appeal.
34. On 15 October 2011, the 30 day period for the decision on the internal appeal expired, as provided for in section 77(3)(a) of PAIA.
35. Accordingly, in terms of section 78(2)(a) of PAIA, the Applicant has been unsuccessful in its internal appeal to the Minister. The Applicant is accordingly left with no alternative but to bring this application in terms of section 78(2) of PAIA.

PUBLIC INTEREST IN REQUESTED RECORDS

36. I have been advised that although as a matter of law it is not strictly necessary, I should briefly set out the public interest in the disclosure of the requested records.
37. The task team appointed by the Minister was constituted in order to investigate the "full implications" of fracking (annexure "JKFD3"). It is expected to report on the issue of whether fracking-related exploration licences should be granted in South Africa. According to statements made by the Minister in Parliamentary Question 1409 (annexure "JKFD9"), the task team has a wide scope. Its report is likely to be of great importance in the determination of whether, and if so when, the moratorium on the issuing of fracking-related exploration licences is to be lifted, as well as whether such licences should in fact be granted.



38. Fracking has national implications for public interest issues such as health, water resources, environmental protection, wildlife protection, national heritage, agriculture, the economy, employment and infrastructure. In other jurisdictions, fracking is extremely controversial and several states have either prohibited fracking or placed moratoriums on it. Fracking is known to have caused serious water contamination in several states. In a water-scarce region such as the Karoo, fracking may prove to be disastrous.
39. For these reasons the issue of fracking has been the subject of widespread media coverage. There has been a significant public outcry from numerous interested and affected parties, including various civil organisations.
40. Specifically, concerns have arisen regarding the competence of the task team to perform the function for which it was constituted. From the limited information provided by the Minister, it would appear that the task team does not have any members from the Department of Water Affairs, the Department of Environmental Affairs or the Department of Agriculture. In the light of the nature of fracking, it accordingly seems highly unlikely that the task team's members are adequately qualified to investigate and report on the "full implications" of fracking.
41. Despite the importance of and sound reasoning in having appointed the task team, the Minister has not acted in an open or transparent manner

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as regards, *inter alia*, the precise mandate, composition and powers of the task team. The public has been left in the dark as to whether the companies that applied for fracking-related exploration licences (Shell, Bundu and Falcon) have been allowed to engage with the task team. It was stated by Mr Bonang Mohale of Shell, in a radio interview on SAfm, that representatives from Shell have been in constant contact with the government about Shell's plans to conduct fracking in the Karoo. I annex ("JKFD17") a copy of an article which appeared on p.7 of Beeld newspaper on 16 August 2011, in which reference is made to that interview. If this is in fact the case, and if (as seems likely) the task team is not going to consult other interested parties such as civil society organisations, the task team's report would have to be considered tainted by bias.

42. The public has an interest in knowing whether these interactions have in fact been taking place. As a result, the Applicant is not the only party to have sought information from the Minister regarding the task team. The following parties have also applied in terms of PAIA for access to information similar to the requested records, also to no avail:

- 42.1. John Yeld, Environment and Science Writer for the Cape Argus and Independent Newspapers, requested full details of the task team and its terms of reference. He received no response. Moreover "*a copy of the application that was sent by registered mail to the department's information officer – designated in terms of the act - at the address listed on the government's*



website was returned to sender by the Post Office after being uncollected for 30 days." The application was also faxed to both the Cape Town and Pretoria offices of the Minister and *"transmission records show this was done successfully on both occasions."* In this regard I attach a copy of extracts from the Pretoria News, 16 August 2011, p. 6 annexed ("JKFD18") and the Cape Argus, 19 August 2011, p. 3 ("JKFD19").

42.2. The Centre for Environmental Rights has requested information regarding the task team and has also not received a response. In this regard I attach a copy of an extract from the Cape Argus, 19 October 2011 p.6 ("JKFD20").

43. Despite these public concerns, the task team is conducting its affairs not just behind closed doors, but without any disclosure of what investigations are being undertaken, and by whom. On 18 August 2011, at a press conference held at the Cape Town Press Club, the Minister was asked for the names of the members of the task team. She said that she was unable to provide them and said that she did not *"know by name the 700 members of her own department and the team were 'not my children'"*. In this regard I attach a copy of Business Report, Sunday Independent of 21 August 2011, p.19 ("JKFD21"). Nevertheless, the Minister did undertake to supply the names at a later date. She has however not done so, despite the requests and applications such as I have described above.



44. The public has a right to the information regarding the task team. I submit that the Minister's refusal to provide such information is in breach of her constitutional obligations of transparency and accountability. It gives rise to a suspicion of bias.
45. I submit that it is unacceptable that in an open and democratic society, the public and parties promoting the public interest should be denied access to information which has truly significant environmental, economic and public health implications.
46. I submit that it is also inconsistent with her constitutional obligations, and her obligations under PAIA, that the Minister has not only failed to provide the relevant information, but failed even to respond to the Applicant's requests. The Minister has not attempted to provide any justification for her failure to give access to the requested records.

CONCLUSION

47. The Applicant accordingly prays for the relief as set out in the notice of motion.



JONATHAN KENT FULLER DEAL



I certify that:

1. The deponent acknowledged to me that:
 - 1.1 He knows and understands the contents of this declaration.
 - 1.2 He has no objection to taking the prescribed oath.
 - 1.3 He considers the prescribed oath to be binding on his conscience.

2. The deponent thereafter uttered the words, "I swear that the contents of this declaration are true, so help me God";

3. The deponent signed this declaration in my presence at the address set out hereunder on this 21st day of **October 2011**.

Commissioner of Oaths

CAREL REGARDT NELSON

Kommissaris Van Ede Commissioner of Oaths
Praktiserende Prokureurs Practising Attorney R.S.A.
Oxfordstraat 34 34 Oxford Street
Tel: 021 976 4663 Fax: 021976 4665

DURBANVILLE



11 Oct 18 17:45 TKAG
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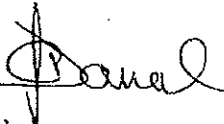
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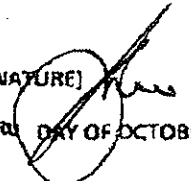
**RESOLUTION OF THE MANAGEMENT COMMITTEE OF THE TREASURE THE KAROO ACTION GROUP
OCTOBER 17 2011**


The Management Committee of the Treasure the Karoo Action Group ("TKAG") hereby resolves as follows:

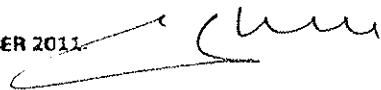
1. To institute legal proceedings against the Minister of Mineral Resources, and any other relevant parties, in terms of the Promotion of Access to Information Act 2 of 2000, and to ask for any relevant prayers in relation thereto.
2. To authorise Jonathan Kent Fuller Deal, Chairperson of TKAG, to depose to any necessary affidavits and sign any necessary documents in the pursuit of such legal action.
3. To appoint Havemann Inc, 1st Floor Convention Towers, Cnr Coen Steytler Avenue and Heerengracht Street, Cape Town, as the attorneys of record for TKAG in these legal proceedings.


1. [NAME] Charlotte Danneel [SIGNATURE] 
 SIGNED AT Franschhoek ON THIS 18th DAY OF OCTOBER 2011.

2. [NAME] SANDY VAN HOOGSTRAATEN [SIGNATURE] 
 SIGNED AT ON THIS DAY OF OCTOBER 2011.

3. [NAME] Evelyn Holthausen [SIGNATURE] 
 SIGNED AT CAPE TOWN ON THIS 18th DAY OF OCTOBER 2011.

4. [NAME] Jonathan Deal [SIGNATURE] 
 SIGNED AT CAPE TOWN ON THIS 18th DAY OF OCTOBER 2011.

5. [NAME] Derek Carstens [SIGNATURE] SIGNED ELECTRONICALLY
 SIGNED AT ON THIS DAY OF OCTOBER 2011 

6. MARC VAN TUBBERGH ON THIS 19th DAY OF OCTOBER 2011


TOTAL P.01



Dear Jonathan - This serves to confirm that I have received and read the resolution regarding the commencement of legal action against the DMR by TKAG and hereby add my vote and authority to the resolution as if I had signed the original document which regrettably I am unable to do given my remote proximity in the Karoo . Kind regards . Derek Carstens.

Sent from my iPad

A handwritten signature in black ink, appearing to read 'Derek Carstens', located in the bottom right corner of the page.

Nonprofit Organisations
Act, 1997
Section 13

APPLICATION FOR REGISTRATION BY A NONPROFIT ORGANISATION



READ THIS FIRST

WHAT IS THE PURPOSE OF THIS FORM?

This form is an application by a Nonprofit Organisation for registration. Registration is voluntary. If the Nonprofit Organisation complies with the requirements for registration then the Director for Nonprofit Organisations will enter its name in a register and send it a certificate of registration.

WHICH ORGANISATIONS MAY APPLY FOR REGISTRATION?

Organisations such as trusts, companies or other associations established for a public purpose whose income and property are not distributable to its members or office-bearers except as reasonable compensation for services rendered.

WHO FILLS IN THIS FORM?

The office-bearer responsible for managing the nonprofit organisation.

WHERE DOES THIS FORM GO?

To: Directorate for Nonprofit Organisations
Private Bag x901
PRETORIA
0001

OR

Human Science Research Council
Fifth Floor (South)
134 Pretorius Str
PRETORIA
0001

OTHER REQUIREMENTS?

Two copies of the nonprofit organisations' constitution must accompany this form.

1. ORGANISATIONAL DETAILS

Name of the organisation

TREASURE THE KAROO ACTION GROUP

Physical address

127 MAIN ROAD

BERGVLIEF

CAPE TOWN

Code 7945

Postal address

P O BOX 493

BERGVLIEF

CAPE TOWN

Code 7864

Tel (021) 715 3003

Fax (021) 715 7903

E-mail DAVE@WANNENBURGH.CO.ZA

Date FEBRUARY 28 of financial year-end



EXEMPT INSTITUTION

EI 153(e)

Acknowledgement of Receipt of Application

Enquiries should be addressed to SARS:
Branch - TAX EXEMPTION UNIT
Pro Equity Court, 1250 Pretorius Street, Hatfield, 0083
PO Box 11955, Hatfield, 0028
Tel 012 - 422 8800 Fax 012 - 4228830

Always quote this reference number in correspondence with this office or during interviews.

Reference number :
Date : 2011-09-20
Application number : 930037307

TREASURE THE KAROO ACTION GROUP
PO BOX 493
BERGVLIET
7864

Receipt is hereby acknowledged of your application, processed on 2011-09-16 in respect of exemption from taxes and duties.
The matter is receiving attention and further correspondence will be issued to you in due course.

ISSUED BY THE SOUTH AFRICAN REVENUE SERVICE

Statement on the Cabinet meeting held on 20 April 2011

21 April 2011

Note: Correction to Cabinet statement of meeting held on 20 April 2011

The Cabinet Spokesperson, Mr Jimmy Manyi sincerely apologises for the error in paragraph 1.2 of the Statement on the Cabinet meeting held on 20 April 2011 issued earlier. The statement incorrectly stated the name of the Constable who died in the course of duty. The statement below states the correct name of the deceased as Constable Fihliwe Mavis Bengeza.

Cabinet held its ordinary meeting in Pretoria, on 20 April 2011.

1. Current affairs

1.1 Cabinet has once again called on all South Africans to observe April as Freedom Month under the theme *Working together to Unite the nation, Promote democracy and Protect our freedom*. This month is also an opportunity for all cultural communities to display and celebrate our national diversity.

1.2 It is against this background that as we mourn the unfortunate circumstances around the passing away of Mr Andries Tatane and Constable Fihliwe Mavis Bengeza that Cabinet urges all South Africans to remain calm and let the law take its course. Cabinet sends its condolences to the bereaved families.

1.3. Cabinet also calls on all men and women in the police service to continue to remain true and faithful to their oath and responsibility to fight crime and corruption to carry on courageously, and without fear and favour to reach their goal of ensuring that all South Africans, feel and are safe thus protecting the nation. The various arms catches and drug busts continue to provide tangible evidence that our men and women in uniform are working hard.

1.4 Cabinet expressed its full support for the National Orders. These are the highest awards that a country through its President, bestows on its citizens and eminent foreign nationals. The National Orders Awards takes place on Freedom Day to mark the contribution and selflessness that the bestowed citizens have made to our country.

1.5 Cabinet has raised serious concern regarding death on our roads especially alcohol related accidents and is calling on the nation during this Easter period not to drink and drive, to take regular rest along the long journeys, adhere to the speed limits and all other regulatory signs on the roads.



2. Key strategic decisions by Cabinet included the following

2.1 Cabinet has approved that the South African Defence Force should fine-tune its strategy to protect our waters from piracy. Being a littoral country, South Africa needs to have a balanced naval capability to effectively respond to maritime security threats affecting South Africa. Cabinet noted the incursion of maritime crime into our waters, which might affect our trade routes through the seas.

2.2 Cabinet has endorsed the decision by the Department of Minerals to invoke a moratorium on licenses in the Karoo where fracking is proposed. The Department of Minerals will lead a multi disciplinary team including the Departments of Trade & Industry , Science and Technology, amongst others, to fully research the full implications of the proposed fracking. Cabinet has made it very clear that clean environment together with all the ecological aspects will not be compromised.

2.3 Cabinet noted the resolutions of the President 's Coordinating Council which sought to bring greater integration between national provincial and local government departments across all 9 provinces. All Premiers were encouraged to share best practice and ensure that service delivery is a reality on the ground. South Africa is a unitary state under the able leadership of President Zuma.

2.4 Government places high priority on issues of Climate Change. In this regard, Cabinet noted the report from Cancun COP16/CMP6 and South Africa's preparations for hosting the COP17/CMP7 in Durban as it relates to (a) international strategy towards a Durban outcome linked to COP presidency programme and (b) the national delegation preparatory programme.

2.5 In contributing to the conservation and sustainable use of biodiversity, Cabinet approved the signing of the Nagoya Protocol on Access to Genetic Resources and the fair and equitable sharing of benefits arising from their utilisation at the convention on biological diversity signing ceremony in New York on 11 May 2011 (United Nation Headquarters). South Africa is the third most biologically diverse country in the world after Indonesia and Brazil. These countries harbor the majority of the earth's species and collectively contain more than two- thirds of global biodiversity. Therefore South Africa attaches great importance to the Nagoya Protocol.

2.6 Cabinet noted progress made on the Hondeklip Bay abalone demonstrator and plans to expand the demonstrator into a commercial venture with public and private sector investment. Cabinet also noted the establishment of the abalone hatcheries in Hondeklip Bay and Hawston. The department of Health will participate in the project with a view to investigating the health related benefits and potential effects on human health. Crime related activities and illegal harvesting along the abalone industry will be closely monitored.

2.7 In taking its position internationally in terms of the space sector, Cabinet approved that the Ministers of Science and Technology and of Trade and Industry further consult



on the hosting the 62nd International Astronautical Congress (IAC 2011) on 3 to 7 October 2011. The IAC is the world's premier meeting of space industry companies and space professionals which is normally attended by over 3500 conference participants and exhibitors and is held annually. This is the "FIFA CUP" of space meetings and will be attended by heads and top executives of the world's leading space agencies.

2.8 In providing a platform for South Africa to position itself internationally, the department of Agriculture, Forestry and Fisheries (DAFF) will host the sixth session of the Food and Agriculture Organisation's (FAO's) sub-committee on Aquaculture in 2012. A growing aquaculture industry will provide additional economic activity linked to the sea food industry. Hosting this session in South Africa will promote the sector and enhance investment by the private sector and donors into the country and will contribute towards fast tracking the development and transformation of the aquaculture sector in South Africa and the rest of the continent.

2.9 Leading to the Youth Month in June, Cabinet noted the introduction of the National Rural Youth Service Corps (NARYSEC) programme by the Department of Rural Development and Land Reform. The main goal of NARYSEC is to enroll and develop youth to be paraprofessionals who will be trained to work in their own communities and municipalities leading to creation of employment opportunities and enterprises in the medium to long term.

2.10 In accelerating Government Land Reform Programme, Cabinet noted the introduction of the land reform recapitalisation and development programme by the Department of Rural Development and Land Reform and approved that the Departments of Agriculture, Forestry and Fisheries and Rural Development and Land Reform collaborate on this initiative and agrees that pilot sites be identified with a view to further extending them at an appropriate time; and agree that the cluster further discusses a mechanism for extending potential aid for graduating farmers.

2.11 Cabinet noted the report by the Ministerial task team on the audit of certain categories of inmates from 1 February to 31 December 2010. This will contribute to the reform of the criminal justice system by addressing problems associated with the overcrowding of correctional centres and the treatment of vulnerable groups.

3. International agenda

3.1 Cabinet welcomed the enthusiastic participation of South Africa in the BRIC Bloc. This participation is seen as a major milestone in asserting South Africa as a serious player in the global economic landscape.

3.2 Cabinet noted the participation of a select Cabinet Ministers in the forthcoming World Economic Forum Africa 4-6 May 2011 in Cape Town.

3.3 **Swaziland** – South Africa is very concerned about the situation in Swaziland.

A handwritten signature in black ink, appearing to be 'R. Zulu', located in the bottom right corner of the page.

3.4 **Cote de Voire** – South Africa encourages people of Cote de Voire to peacefully resolve their presidential matters.

3.5 **Libya** – South Africa is concerned about the continued loss of human lives in Libya and once again calls for cessation of hostilities from all sides and is in full support of the AU statement that seeks to restore peace.

3.6 **Nigeria** – The South African Government extends its sincere congratulations to President elect, Goodluck Jonathan and wishes to reaffirm its desire to further enhance its strong relations with his Government.

4. Bills/Regulations/Legislations approved for public comment

4.1 Municipal property rates amendment bill, 2011

This Bill is meant to provide the regulation of the power of the Municipality to impose rates on property and to provide for fair and equitable evaluation methods.

4.2 The publication of the South African Weather Service Amendment Bill, 2011

The amended Bill provides for further objectives and functions for the South African Weather Service pertaining to the ambient air quality information service. It further aligns the provisions pertaining to the Weather Services Board with the PFMA and the National Environment Management Air Quality Act, 2004.

4.3 The publication of the Geomatics Profession Bill, 2011

This Bill seeks to provide a mechanism to accelerate the transformation of the surveying profession in a meaningful manner which would serve the interests of both the profession and the public.

4.4 Member's Ethics Amendment Bill, 2011

This Bill will be published in the Gazette and made available for public consultation on the Departments website.

4.5 The publication of the draft Spatial Planning and Land Use Management Bill, 2011

The implementation of the Bill will provide critical support to a number of noble objectives of the government especially spatial economic, human settlement, rural development and economic and job creation programmes.

4.6 Promotion of National Unity and Reconciliation Act 1995

The regulation relating to assistance to truth and reconciliation (TRC) victims in respect of basic and higher education be published in the government gazette for public comment.

4.7 Promotion of National Unity and Reconciliation Act 1995

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The draft regulations relating to medical benefits for victims be published in the government gazette for public comment following the TRC process.

5. Appointments

Following the call by the President of the Republic, Mr Jacob Zuma that Ministers fill vacancies, Cabinet is pleased to report the appointment of four Directors-General and three Deputy Directors-General. These senior officials in turn have an immediate task to ensure that their departments fill other vacancies as soon as possible.

5.1 Mr Nkosinathi Phiwayinkosi Thamsanqa Nhleko was appointed as Director-General: Department of Labour.

5.2 Mr Lungisa Fuzile was appointed Director-General: National Treasury.

5.3 Mr Lionel October was appointed was appointed Director-General: Department of Trade and Industry.

5.4 Mr Sibusiso Samuel Xaba was appointed Director-General: Departments of Arts and Culture.

5.5 Mr Johannes Hendrik de Beer was appointed Deputy Director-General: Economic Statistics in Statistics South Africa.

5.6 Mr Sipho Reginald Zikode was appointed Deputy Director-General: Empowerment and Enterprise Development in the Department of Trade and Industry.

5.7 Mr Ronnie Mamoepa was appointed Deputy Director-General: Head of Communication at the Department of Home Affairs.

5.8 Ms VL Petersen was appointed Chief Executive Officer (CEO) to the **South African Social Security Agency (SASSA)**.

5.9 Cabinet approved the renewal of the contract of Mr P Baloyi as the CEO of the **Development Bank of Southern Africa (DBSA)** and his reappointment as an Executive Director to the Board of DBSA for the period 1 July 2011 to 30 June 2016.

5.10 **Passenger Rail Agency South Africa (PRASA)** appointments: Mr S Buthelezi (Chairperson), Mr T Gcabashe, Mr N Khena, Ms Z Mzaidume, Ms M Nkoenyane, Mr K Pillay, Mr G Salanje, Mr M Vilana and Mr X George (nominee of South African Local Government Association). Ms B Gasa and Ms M Moore as non-executive members to the Board of PRASA.

5.11. **South African Civil Aviation Authority (SACAA) Board appointments:** Ms P Riba was reappointed as chairperson to the Board. The following non executive directors

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Adv. RR Dehal, Mr S Motau, Mr P Ndlovu; Mr Z Nomvete and Dr N Sangweni were appointed.

5.12. Armament Corporation of South Africa (ARMSCOR) appointments:
Lt. General M Motau (chairperson); Dr RR Mgijima; Dr P Dyantyi; Dr JL Job; Mrs R Msiza; Ms V September, Mr LW Mosiako, Mr SA Msibi and Mr EL Borole were appointed non executive members for the Board of Directors.

Cabinet wishes all the new appointees good innings and Cabinet pledges its full support as they carry out their respective strategic mandates.

Enquiries:

Jimmy Manyi (Cabinet Spokesperson)
Cell: 082 379 3454

www.gcis.gov.za; www.gov.za

Issued by: Government Communications (GCIS)

A handwritten signature in black ink, appearing to be 'R. Dehaal', located in the bottom right corner of the page.

From: Pheliswa Sebati<Pheliswa@gcis.gov.za>
Subject: Media Release: Minerals Dept will neither accept nor finalise cu
Date: 4/29/2011 13:22:02

MEDIA RELEASE

MINERALS DEPARTMENT WILL NEITHER ACCEPT NOR FINALISE CURRENT APPLICATIONS FOR SHALE GAS EXPLORATION

The Minister of Mineral Resources, Ms Susan Shabangu, MP, today (**Friday**, 29 April) announced that the Department will neither accept new applications nor finalise existing applications until the department's feasibility study is finalised.

Minister Shabangu said, "Given the intensity and scale of the issue and the fact that this (shale gas exploration) has never been done before in our shores, my department will conduct a comprehensive study which will assist us to formulate our approach after which we will go back to cabinet."

The department is contemplating sending a team of experts to other jurisdictions so that they can draw lessons with regard to this issue.

Enquiries: Bheki Khumalo on 082 773 2388

Issued by the Department of Mineral Resources

Pretoria

29 April 2011



HAVEMANN INC

SPECIALIST ENERGY ATTORNEYS

To: Minister Susan Shabangu
 Department of Mineral Resources
 c/o Kholofelo Madisha

Date: 28 April 2011
 From: Dr Luke Havemann
 Our ref: LH201102/Shell

Per email: kholofelo.madisha@dmr.gov.za
 Per fax: +27 (0)12 444 3145

Dear Minister Shabangu

STATUS OF THE MORATORIUM ON HYDRAULIC FRACTURING IN THE KAROO

1. We act for Treasure the Karoo Action Group, a non-profit environmental association ("our client").
2. We have been instructed to write to you with a view to seeking your guidance regarding confusion that has arisen in relation to a key strategic decision that was taken on 20 April 2011 by Cabinet apropos hydraulic fracturing, which decision has been published online by the Department of Government Communications and Information System, as follows:

"Cabinet has endorsed the decision by the Department of Minerals to invoke a moratorium on licenses in the Karoo where fracking is proposed. The Department of Minerals will lead a multi disciplinary team including the Departments of Trade & Industry, Science and Technology, amongst others, to fully research the full implications of the proposed fracking. Cabinet has made it very clear that clean environment together with all the ecological aspects will not be compromised."
3. We shall for the purposes of this letter refer to the above-described decision as "the Decision".
4. In spite of the unambiguous wording of the Decision, our client and various other interested and affected parties are perturbed by recent statements made by Mr Bheki Khumalo on behalf of the Department of Mineral Resources ("the DMR"). Mr Khumalo is reported as having stated that the Decision is an endorsement of an earlier moratorium announced by the DMR in February this year ("the February Moratorium") and that the Decision applies only to new applications for licenses and not to applications that were

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DIRECTOR: DR LUKE HAVEMANN BA LLB LLM (UCT) PHD (ABDH) REGISTRATION NO: 2011000697/21



lodged prior to 1 February 2011. Undoubtedly, Mr Khumalo's assertions contradict the patently clear wording of the Decision as noted above.

5. Bearing the foregoing in mind, we are instructed to draw your attention to the following:

5.1. The Chief Executive Officer of the Petroleum Agency of South African ("PASA") is on record as having stated, in relation to the February Moratorium, that "the moratorium is not as a result of the DA's call for a moratorium on hydraulic fracturing (fracking). Rather, the purpose is to ensure good governance, fair competition and equitable access to South Africa's mineral resources." Accordingly, the February Moratorium cannot be confused with the unambiguous phrasing, which was used to publish the Decision taken by Cabinet, nor can it be offered as justification for the continued consideration and possible approval of applications for licenses that were received prior to the coming into force of the February Moratorium.

5.2. On 20 April 2011, PASA conveyed, in writing, to Mr Derek Light, an attorney acting for various interested and affected persons, that the applications for licenses that were at that stage under consideration, including those pertaining to various areas within the Karoo, would henceforth be considered collectively and a decision with regard to the aforesaid licenses would be reached in and around June 2011.

5.3. The appointment by the DMR of a multi-disciplinary task team to consider the issue of the environmental degradation that may be occasioned by hydraulic fracturing, while simultaneously allowing for hydraulic fracturing to be authorised and undertaken, would constitute an illogical and nonsensical approach. Such an approach would certainly not amount to a risk-averse and cautious approach and would thus constitute a breach of a cardinal principle of environmental law.

6. In the light of the above, it is our client's view – which view we submit would be shared by any other reasonable person who has read or reads the Decision – that the government has unequivocally reached a decision not to allow for the authorisation of hydraulic fracturing operations until such time as the implications thereof have been fully investigated and understood. Nevertheless, bearing in mind the confusion that has arisen due to Mr Khumalo's aforementioned assertions, we call upon you to clarify this issue and, in so doing, assist in giving effect to Cabinet's decision. To this end, we call upon you to kindly inform us of the precise nature of the new moratorium, including the period



for which it will be in force and the intended constitution of the relevant multi-disciplinary task team.

7. We look forward to hearing from you at your earliest convenience and we invite you to contact the writer directly should any of the aforesaid require clarification.

Yours faithfully,
HAVEMANN INC

Per:



DR LUKE HAVEMANN