

# HAVEMANN INC

SPECIALIST ENERGY ATTORNEYS

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

Date: 9 May 2011  
 From: Dr Luke Havemann  
 Our ref: LH201102/Shell

Per email: kholofelo.madisha@dmr.gov.za  
 Per fax: (012) 444 3145

Dear Minister Shabangu

## DEFIANCE OF THE MORATORIUM ON HYDRAULIC FRACTURING

1. As you are aware, we act for Treasure the Karoo Action Group, a non-profit environmental association ("our client").
2. Fairly recently, as a consequence of confusion that had arisen due to certain statements made Mr Bheki Khumalo, we were instructed to call upon you in writing to clarify Cabinet's decision to endorse the Department of Mineral Resource's ("the DMR") call for a moratorium on hydraulic fracturing. We refer you to our letter to you, dated 28 April 2011, a copy of which is attached and marked "A".
3. In response to our aforesaid letter, you stated that the DMR would not accept any new applications to explore for shale gas nor would it finalise any pending or existing applications until a comprehensive study into hydraulic fracturing had been undertaken and the DMR had reported its findings to Cabinet. On behalf of our client and numerous other interested and affected parties, we thank you for having addressed the concerns set out in our abovementioned letter.
4. Unfortunately, however, despite your and Cabinet's unequivocal instructions, our Client and various other interested and affected parties are surprised and, moreover, perturbed by the apparent defiance thereof by Shell and PASA. To this end, we are instructed to draw your attention to a letter, dated 4 May 2011, which was sent by Golder Associates (the environmental assessment practitioners acting on Shell's behalf) to various stakeholders, including our client and other interested and affected parties ("Golder's letter"). A copy of Golder's letter is attached hereto marked "B".
5. From a perusal of Golder's letter, it appears that PASA and Shell, in taking further steps pursuant to Shell's pending application, have acted in defiance of your and Cabinet's instructions as well as the concomitant legitimate expectations of the numerous interested

1st Floor, Convention Tower, Cnr Coen Steytler Ave & Heerengracht St, Cape Town, 8001, South Africa  
 Tel +27 (0) 21 403 6350 Cell +27 (0) 84 321 0079 Fax +27 (0) 21 403 6301 lhavemana@havemanninc.com www.havemanninc.com

DIRECTOR: DR LUKE HAVEMANN BA LLB LLM (UCT) PhD (ABDN) REGISTRATION NO: 2011/000697/21



and affected parties. In support of our contention, we draw your attention to the nature of the letter as a whole and, in particular, to the following statements contained therein:

"[t]he reports have been submitted to the PASA for consideration, and a decision by the Director General of Mineral Resources"; and, "[o]nce the Director General of Mineral Resources has made a decision on whether or not to issue the exploration right to Shell, registered interested and affected parties will be informed in writing, by registered mail and email. The decision will also be published in national, regional and local newspapers."

6. In addition to the foregoing, we are instructed to draw your attention to the fact that, not only does Golder's letter fail to acknowledge the current moratorium, it is dated 4 May 2011, which is some time after your and Cabinet's unambiguous statements on the matter. Undoubtedly, at the time of drafting the letter, Golder Associates, acting on behalf of Shell, must have been aware of your and Cabinet's instructions regarding the moratorium, yet Golder's letter is clearly phrased as if Cabinet and you had been entirely silent on the matter.
7. Given that, you are statutorily empowered under the Mineral and Petroleum Resources Development Act 28 of 2002 to have the precise nature and extent of the current moratorium published in the government gazette and given the undesirability of any further defiant conduct on the part of Shell, we write to request that you act in accordance with your aforesaid statutorily-authorized powers and have the details of the current moratorium so published. We are of the view that such publication will prevent Shell and PASA from further disregarding and/or defying your and Cabinet's instructions.
8. We look forward to hearing from you as a matter of urgency regarding the foregoing and we invite you to contact the writer directly should any of the aforesaid require clarification.

Yours faithfully,

**HAVEMANN INC**

Per:

  
\_\_\_\_\_  
**DR LUKE HAVEMANN**



# HAVEMANN INC

SPECIALIST ENERGY ATTORNEYS

To: Minister Susan Shabangu  
 Department of Mineral Resources  
 c/o Glenda Moloï and Lerato Maruping

Date: 7 July 2011  
 From: Dr Luke Havemann  
 Our ref: LH201102

Per email: Glenda.Moloï@dmr.gov.za  
 Lerato.Maruping@dmr.gov.za

Per fax: (012) 444 3145

Dear Minister Shabangu

## QUERIES REGARDING THE MORATORIUM, THE MULTI-DISCIPLINARY TASK TEAM AND THE DELEGATION OF DECISION-MAKING POWERS

1. As you are aware, we act for Treasure the Karoo Action Group, a non-profit environmental association ("our Client").
2. We refer you to our letter to you dated 28 April 2011 wherein we requested that you kindly inform us of the precise nature of the moratorium, including the period for which it will be in force and the intended constitution of the relevant multi-disciplinary task team. We refer you further to our letter to you dated 9 May 2011 wherein we called upon you to take such steps as may be necessary to have the precise nature and extent of the moratorium published in the government gazette.
3. We have yet to receive your reply to the requests set out in the abovementioned letters. We are accordingly instructed to request that you advise us as to: (a) the precise nature of the moratorium, including whether it will be published in the government gazette and, if not, why not?; and (b) the precise nature of the multi-disciplinary task team.
4. In relation to the nature of the multi-disciplinary task team, it has, by means of various reports in the media, come to our Client's attention that such a task team has in fact been constituted. Nevertheless, according to a report in the Cape Argus newspaper, dated 3 June 2011, the Department of Mineral Resources' spokesperson, Mr Bheki Khumalo, has declined to name the members of the task team and stated that you would announce its composition at a later stage. To the best of our Client's knowledge, you have yet to make any such announcement and thus we have been instructed to call upon you to answer the following questions:

1st Floor, Convention Tower, Cnr Coen Steytler Ave & Heerengracht St, Cape Town, 8001, South Africa  
 Tel +27 (0) 21 403 6350 Cell +27 (0) 84 321 0079 Fax +27 (0) 21 403 6301 lhavemann@havemanninc.com www.havemanninc.com

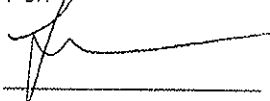
DIRECTOR: DR LUKE HAVEMANN BA LLB (LM (UCT)) PhD (ABDN) REGISTRATION NO: 2011030697/21



- 4.1 Who are the members of the task team and what are their qualifications?
- 4.2 Which government departments do the various members of the task team represent?
- 4.3 Have any persons from, or acting on behalf of, any oil and gas corporations, in particular those corporations that have made application for exploration rights, namely, Shell, Bundu and Falcon, met with, made presentations to, or in any other way engaged with, the task team? If so, with whom has the task team met, what was discussed at the meetings and were minutes taken of the meetings?
- 4.4 Have any members of civil society been invited to serve on the task team? If so, who are they and what are their qualifications?
- 4.5 Has the task team been furnished with any instructions or terms of reference? If so, who prepared these instructions or terms of reference and what precisely were they?
- 4.6 Will the report of the task team be made available for peer review and consideration by interested and affected parties? If so, precisely when and how will the report be made available? If the report is not to be made available, kindly explain why not?
5. In addition to the foregoing, we note that, in line with the relevant provisions of the Mineral and Petroleum Resources Development Act 28 of 2002, you are empowered with the ultimate decision-making power as regards the three shale gas-related applications for exploration rights that have been lodged with the Petroleum Agency of South Africa ("PASA"). Kindly advise us whether you have delegated these decision-making powers to any particular person and, if so, to whom?
6. We look forward to hearing from you as a matter of urgency.

Yours faithfully,  
**HAVEMANN INC**

Per:



**DR LUKE HAVEMANN**



# HAVEMANN INC

SPECIALIST ENERGY ATTORNEYS

To: Minister Susan Shabangu  
 Department of Mineral Resources  
 c/o Glenda Moloji and Lerato Maruping

Date: 26 July 2011  
 From: Dr Luke Havemann  
 Our ref: LH201102

Per email: Glenda.Moloji@dmr.gov.za  
 Lerato.Maruping@dmr.gov.za

Per fax: (012) 444 3145

Dear Minister Shabangu

## HYDRAULIC FRACTURING: QUERIES REGARDING THE MORATORIUM AND THE MULTI-DISCIPLINARY TASK TEAM

1. We refer you to our letters to you dated 28 April 2011, 9 May 2011 and 7 July 2011.
2. We have yet to receive your reply to the abovementioned letters.
3. In the circumstances, Treasure the Karoo Action Group ("our client") and all the other interested and affected parties ("IAPs") remain uninformed as regards the precise nature of the relevant moratorium and the multi-disciplinary task team ("the task team").
4. You will appreciate that the actions of the task team will undoubtedly affect the rights of our client and the other IAPs. Consequently, you will appreciate further that our client and the other IAPs are entitled to have knowledge of the precise nature of the task team, including, for example, who the members thereof are and what their terms of reference are.
5. By failing to furnish our client with the information that we have previously requested, you are prejudicing our client's ability, as well as the abilities of the other IAPs, to gauge the extent to which the activities of the multi-disciplinary team will, and may currently be, affecting their rights.
6. It cannot be an appropriate approach for the justifiable concerns of our client and those of the other IAPs to be ignored. We are accordingly instructed to demand that you furnish us with the information previously requested and record that our client and the other IAPs are being prejudiced by the manner in which this process is being conducted.

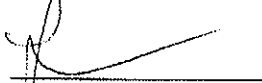
1st Floor, Convention Tower, Cnr Coen Steytler Ave & Heerengracht St. Cape Town, 8001, South Africa  
 Tel +27 (0) 21 403 6350 Cell +27 (0) 84 321 0079 Fax +27 (0) 21 403 6301 lhavemann@havemanninc.com www.havemanninc.com

DIRECTOR: DR LUKE HAVEMANN BA LLB LLM (UCT) PhD (ABDN) REGISTRATION NO: 2011/000697/21



Yours faithfully,  
HAVEMANN INC

Per:

  
\_\_\_\_\_  
DR LUKE HAVEMANN

NATIONAL ASSEMBLY  
FOR WRITTEN REPLY

QUESTION NUMBER 1409

DATE OF PUBLICATION IN INTERNAL QUESTION PAPER: 26 May 2011  
(INTERNAL QUESTION PAPER NUMBER 13)

1409. Mr G R Morgan (DA) to ask the Minister of Mineral Resources:

- (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 (copy furnished);
- (2) (a) what are the (i) names and (ii) designations of all the members of the task team that will research the implications of fracking, (b) who appointed them and (c) what budget does the task team have to complete its work;
- (3) whether the report of the task team will be available for (a) peer review and (b) public comment; if not, why not; if so, what are the relevant details;
- (4) whether any members of civil society will be invited to (a) serve on the task team and (b) nominate people to serve on the task team; if not, why not; if so, what are the relevant details? NW1577E

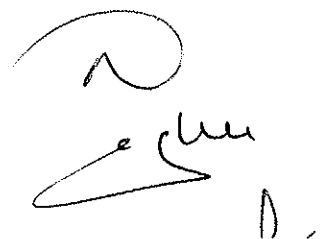
REPLY

- (1) The recommendations of the Task Team will determine the termination date of the moratorium as well as the terms upon which applications and proposed operations shall be assessed.
- (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 following Departments and CEO of Petroleum Agency SA
  - Department of Mineral Resources
  - Department of Science and Technology
  - Department of Trade and Industry
- (b) The function of the Task Team is supported by working group which is comprised of representatives from the following state entities:
  - Petroleum Agency SA



- Council for Geosciences
- Council for Scientific and Industrial Research

- (c) The members of the Task Team were nominated by the Directors General of the participating of their respective Departments.
- (d) There is no central budget for the Task Team. The members shall use financial resources of their respective Departments.
- (3) Public interest issues including concerns raised by interested and affected parties during the consultation processes of the applicants shall be taken into account by the Task Team. It shall thus not be necessary to subject the outcomes to further peer review and public commentary.
- (4) No. Refer to the answer in paragraph (3) above.

A handwritten signature in black ink, consisting of a large, stylized initial 'R' followed by a cursive name, possibly 'R. J. ...', and a small mark at the bottom right.

NATIONAL ASSEMBLY  
FOR WRITTEN REPLY

QUESTION NUMBER 2124

DATE OF PUBLICATION IN INTERNAL QUESTION PAPER: 12 August 2011  
(INTERNAL QUESTION PAPER NUMBER 23)

Mr G R Morgan (DA) to ask the Minister of Mineral Resources:

- (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 Department of Science and Technology to conduct work on behalf of the fracking task team;
- (2) what are the (a) names and (b) designations of all persons from (i) Petroleum SA (PetroSA), (ii) the Council for Geosciences (CGS) and (iii) the Council for Scientific and Industrial Research (CSIR) who have conducted work on behalf of the fracking task team;
- (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 not, why not; if so, what is the number of the *Government Gazette* in which it was published?  
NW2398E

- REPLY (1) (a) 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 ;
- (b) See (1) (a) above ;
- (2) See (1) (a) above ;
- (3) Government Gazette No. 33988 ,Vol. 584 ,Pretoria , 01 February 2011



# HAVEMANN INC

SPECIALIST ENERGY ATTORNEYS

To: Adv Sandile Nogxina  
Information Officer  
Department of Mineral Resources

Date: 10 August 2011  
From: Dr Luke Havemann  
Our ref: LH201102

Per email: mampuru.koma@dmr.gov.za

Per fax: (021) 461 0859

Dear Adv Nogxina

## ACCESS TO INFORMATION

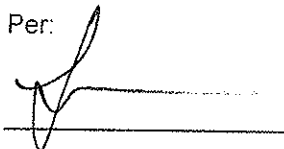
Kindly see the attached application for access to information.

We look forward to receiving your swift reply.

Yours faithfully,

**HAVEMANN INC**

Per:



**DR LUKE HAVEMANN**



ANNEXURE

FORM A

REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY

(Section 18(1) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000))

[Regulation 2]

<b>FOR DEPARTMENTAL USE</b>	
	Reference number: _____
Request received by _____ (state rank, name and surname of information officer/deputy information officer) on _____ (date) at _____ (place).	
Request fee (if any): R .....	
Deposit (if any): R .....	
Access fee: R .....	
	_____ SIGNATURE OF INFORMATION OFFICER/DEPUTY INFORMATION OFFICER

A. Particulars of public body

The Information Officer/Deputy Information Officer:

Department of Mineral Resources

Adv Nogxina

FAX: 021 461 0859      EMAIL: MAMPURU.KOMD@dmr.gov.za

**B. Particulars of person requesting access to the record**

- (a) The particulars of the person who requests access to the record must be recorded below.
- (b) Furnish an address and/or fax number in the Republic to which information must be sent.
- (c) Proof of the capacity in which the request is made, if applicable, must be attached.

Full names and surname: LUKE PAUL HAVEMANN

Identity number: 7903065020081

Postal address: 1<sup>st</sup> Floor, Convention Tower, Cnr Coen Strytler Ave and Heerengracht St, Cape Town, 8001.

Fax number: 021 403 6301

Telephone number: 021 403 6350 E-mail address: lhavemann@havemanninc.com

Capacity in which request is made, when made on behalf of another person: \_\_\_\_\_

ATTORNEY FOR TREASURE THE KAROO ACTION GROUP

**C. Particulars of person on whose behalf request is made**

*This section must be completed only if a request for information is made on behalf of another person.*

Full names and surname: JONATHAN KENT FULLER DEAL

CHAIRPERSON of TREASURE THE KAROO ACTION GROUP

Identity number: 5901215038088

Handwritten signature and initials in the bottom right corner of the page.

**D. Particulars of record**

- (a) *Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.*
- (b) *If the provided space is inadequate please continue on a separate folio and attach it to this form. The requester must sign all the additional folios.*

1. Description of record or relevant part of the record: \_\_\_\_\_

SEE THE LETTER ATTACHED AND MARKED "A"

2. Reference number, if available: UNKNOWN

3. Any further particulars of record: \_\_\_\_\_

**E. Fees**

- (a) *A request for access to a record, other than a record containing personal information about yourself, will be processed only after a request fee has been paid.*
- (b) *You will be notified of the amount required to be paid as the request fee.*
- (c) *The fee payable for access to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.*
- (d) *If you qualify for exemption of the payment of any fee, please state the reason therefor.*

Reason for exemption from payment of fees: \_\_\_\_\_

\_\_\_\_\_

**F. Form of access to record**

If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 hereunder, state your disability and indicate in which form the record is required.

Disability: _____	Form in which record is required: _____
_____	_____
_____	_____

Mark the appropriate box with an "X".

**NOTES:**

- (a) Your indication as to the required form of access depends on the form in which the record is available.
- (b) Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form.
- (c) The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.

**1. If the record is in written or printed form -**

<input checked="" type="checkbox"/>	copy of record*	<input type="checkbox"/>	inspection of record
-------------------------------------	-----------------	--------------------------	----------------------

**2. If record consists of visual images -**

(this includes photographs, slides, video recordings, computer-generated images, sketches, etc.)

<input type="checkbox"/>	view the images	<input checked="" type="checkbox"/>	copy of the images*	<input checked="" type="checkbox"/>	transcription of the images*
--------------------------	-----------------	-------------------------------------	---------------------	-------------------------------------	------------------------------

**3. If record consists of recorded words or information which can be reproduced in sound -**

<input type="checkbox"/>	listen to the soundtrack (audio cassette)	<input checked="" type="checkbox"/>	transcription of soundtrack* (written or printed document)
--------------------------	--	-------------------------------------	---

*Handwritten signature/initials*

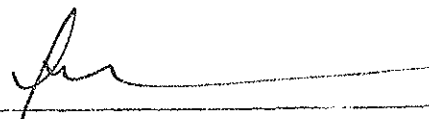
4. If record is held on computer or in an electronic or machine-readable form -							
X	printed copy of record*	printed copy of information derived from the record*	copy in computer readable form* (stiffy or compact disc)				
*If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? <b>A postal fee is payable.</b>			<table border="1"> <tr> <td>YES</td> <td>NO</td> </tr> <tr> <td style="text-align: center;">X</td> <td></td> </tr> </table>	YES	NO	X	
YES	NO						
X							
<i>Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available.</i>							
In which language would you prefer the record? <u>ENGLISH</u>							

G. Notice of decision regarding request for access

*You will be notified in writing whether your request has been approved/denied. If you wish to be informed thereof in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.*

How would you prefer to be informed of the decision regarding your request for access to the record? By email and by means of a letter sent by post.

Signed at CAPE TOWN this 10<sup>th</sup> day of AUGUST 2011

  
 \_\_\_\_\_  
 SIGNATURE OF REQUESTER / PERSON ON  
 WHOSE BEHALF REQUEST IS MADE



"A"

# HAVEMANN INC

SPECIALIST ENERGY ATTORNEYS

**To:** Adv Sandile Nogxina  
Information Officer  
Department of Mineral Resources

**Date:** 10 August 2011

**From:** Dr Luke Havemann

**Our ref:** LH201102

**Per email:** mampuru.koma@dmr.gov.za

**Per fax:** (021) 461 0859

Dear Adv Nogxina

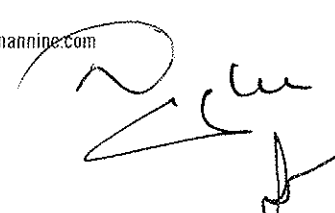
## ACCESS TO INFORMATION

We refer you to the reply, from Minister Susan Shabangu of the Department of Mineral Resources, to parliamentary question number 1409 regarding the moratorium on gas exploration in the Karoo and the task team that has been appointed to research the implications of hydraulic fracturing. A copy of the said reply is attached and marked "B". With reference to the reply, we require access to the information listed in points 1 to 9 below.

1. Terms of reference and/or instructions relating to the research to be conducted by the multi-disciplinary task team on hydraulic fracturing ("the task team") and the members of the so-called "working group" that, according to Minister Shabangu, is supporting the function of the task team. Note that all references to the task team in this letter are to be understood as references to both the task team and the aforementioned working group.
2. The identities and qualifications of the individual task team members.
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.
4. Minutes of all task team meetings.
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 finalized.
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.
7. If the relevant report has not yet been finalized, the date on which the report is due to be

1st Floor, Convention Tower, Cnr Coen Steytler Ave & Heerengracht St, Cape Town, 8001, South Africa  
Tel +27 (0) 21 403 6350 Cell +27 (0) 84 321 0079 Fax +27 (0) 21 403 6301 lhavemann@havemanninc.com www.havemanninc.com

DIRECTOR: DR LUKE HAVEMANN BA LLB LLM (UCT) PhD (ABDN) REGISTRATION NO: 2011/000697/21



finalized or is expected to finalized.

8. All correspondence relating to the task team, including, but not limited to:

8.1 any correspondence between the various members of the task team;

8.2 any correspondence between the members of the task team and any applicant for an exploration right under the Mineral and Petroleum Resources Development Act 28 of 2002, in particular Shell, Bundu and Falcon ("the applicants"); and,

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.

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

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.

Yours faithfully,

**HAVEMANN INC**

Per:

  
\_\_\_\_\_  
**DR LUKE HAVEMANN**



NATIONAL ASSEMBLY  
FOR WRITTEN REPLY

QUESTION NUMBER 1409

DATE OF PUBLICATION IN INTERNAL QUESTION PAPER: 26 May2011  
(INTERNAL QUESTION PAPER NUMBER 13)

1409. Mr G R Morgan (DA) to ask the Minister of Mineral Resources:

- (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 (copy furnished);
- (2) (a) what are the (i) names and (ii) designations of all the members of the task team that will research the implications of fracking, (b) who appointed them and (c) what budget does the task team have to complete its work;
- (3) whether the report of the task team will be available for (a) peer review and (b) public comment; if not, why not; if so, what are the relevant details;
- (4) whether any members of civil society will be invited to (a) serve on the task team and (b) nominate people to serve on the task team; if not, why not; if so, what are the relevant details? NW1577E

REPLY

- (1) The recommendations of the Task Team will determine the termination date of the moratorium as well as the terms upon which applications and proposed operations shall be assessed.
- (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 following Departments and CEO of Petroleum Agency SA
  - Department of Mineral Resources
  - Department of Science and Technology
  - Department of Trade and Industry
- (b) The function of the Task Team is supported by working group which is comprised of representatives from the following state entities:
  - Petroleum Agency SA

- Council for Geosciences
- Council for Scientific and Industrial Research

(c) The members of the Task Team were nominated by the Directors General of the participating of their respective Departments.

(d) There is no central budget for the Task Team. The members shall use financial resources of their respective Departments.

(3) Public interest issues including concerns raised by interested and affected parties during the consultation processes of the applicants shall be taken into account by the Task Team. It shall thus not be necessary to subject the outcomes to further peer review and public commentary.

(4) No. Refer to the answer in paragraph (3) above.

A handwritten signature in black ink, consisting of a large, stylized initial 'R' followed by a cursive name, possibly 'R. Khan', and a small flourish at the end.

---

**From:** Gerhard Calitz [GCalitz@thedti.gov.za]  
**Sent:** Thursday, August 25, 2011 2:53 PM  
**To:** lhavemann@havemanninc.com  
**Subject:** Fwd: PAIA Request: Multi-disciplinary task team on hydraulic fracturing  
**Attachments:** PAIA Request: Multi-disciplinary task team on hydraulic fracturing (2.25 KB)

Dear Dr Havemann

I refer to your request for access to records dated 10/08/2011.

Your request has been transferred to the Department of Mineral Resources as per Section 20 of The Promotion of Access to Information Act. It is being dealt with by Mr Siyabonga Vezi, Head: Administration (Mineral Regulation). For any follow up, he can be contacted on 012 444 3943 or [Siyabonga.vezi@dmr.gov.za](mailto:Siyabonga.vezi@dmr.gov.za).

Regards

Dr. Gerhard J. Calitz  
Records Manager  
Office of the Chief Information Officer  
Group Systems and Support Services Division  
The Department of Trade and Industry  
Tel: +27 12 394-5561  
Fax: +27 12 394-6561

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


**CSIR LEGAL**

PO Box 395 Pretoria 0001 South Africa  
 Tel: +27 12 841 2286  
 Fax: +27 12 841 4724  
 Email: [ilombard@csir.co.za](mailto:ilombard@csir.co.za)

12 September 2011

Havemann Inc.  
 Specialist Energy Attorneys  
 1<sup>st</sup> Floor, Convention Tower  
 Cnr Coen Steytler Ave & Heerengracht Street  
 CAPE TOWN  
 8001

Your Ref: LH201102

Fax: (021) 403 6301  
 e-mail: [lhavemann@havemanninc.com](mailto:lhavemann@havemanninc.com)

Dear Mr Havemann

**ACCESS TO INFORMATION**

Further to the application filed by you on 10 August 2011 and my communication to you dated 2 September 2011, I have had the opportunity of meeting with our Dr Thulani Dlamini, Group Executive: R & D of the CSIR.

We wish to advise that we have established that a task team on hydraulic fracturing was put in place by the Department of Mineral Resources.

No specific CSIR employee was appointed to such task team, however, and it is our understanding that the Department of Science and Technology (through its Energy Strategy function) represents all Science Councils on such task team.

We are therefore not in a position to furnish you with any of the requested records, as we do not possess of any.

Kindly advise whether this communication will suffice, or whether you wish the writer as Deputy Information Officer of the CSIR to take any further steps, pursuant to either Section 20 or Section 23 of the Promotion of Access to Information Act.

Kind regards

**Ilse Lombard**  
**Manager: Legal Services**  
**The CSIR**  
**Tel: (+2712) 841 2286**  
**Fax: (+2712) 841 4724**  
**e-mail: [ilombard@csir.co.za](mailto:ilombard@csir.co.za)**

[www.csir.co.za](http://www.csir.co.za)

**Subject:** ACCESS TO INFORMATION: NOTICE OF INTERNAL APPEAL

**Date:** Thursday 15 September 2011 10:18:20 AM SAST

**From:** Luke Havemann

**To:** mampuru.koma@dmr.gov.za

Dear Sirs

Kindly see the attached document.

Yours faithfully,

**Luke Havemann** BA LLB LLM (UCT) PhD (ABDN)  
Director

**HAVEMANN INC**  
SPECIALIST ENERGY ATTORNEYS

1st Floor, Convention Tower, Cnr Coen Steytler Ave & Heerengracht St, Cape Town, 8001, South Africa  
Tel +27 (0) 21 403 6350 Cell +27 (0) 84 321 0079 Fax +27 (0) 21 403 6301 [www.havemanninc.com](http://www.havemanninc.com)



# HAVEMANN INC

SPECIALIST ENERGY ATTORNEYS

To Adv Sandile Nogxina  
Information Officer  
Department of Mineral Resources

Date: 14 September 2011

From: Dr Luke Havemann

Our ref: LH201102

Per e-mail: mampuru.koma@dmr.gov.za

Per fax: (021) 461 0859

Dear Adv Nogxina

## ACCESS TO INFORMATION : NOTICE OF INTERNAL APPEAL

Kindly see the attached notice of internal appeal in terms of section 74 of the Promotion of Access to Information Act 2 of 2000.

We look forward to receiving your reply.

Yours sincerely,

**HAVEMANN INC**

Per:



**DR LUKE HAVEMANN**



## FORM B

## NOTICE OF INTERNAL APPEAL

(Section 75 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000))

[Regulation 8]

<p>STATE YOUR REFERENCE NUMBER: _____</p>
---

## A. Particulars of public body

The Information Officer/Deputy Information Officer:

Adv. NqoxinaDepartment of Mineral Resources

Fax: (021) 461 0859

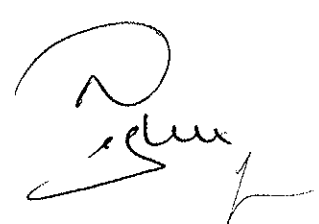
E-mail: mampuru.koma@dmr.gov.za

## B. Particulars of requester/third party who lodges the internal appeal

- |  |
|--|
| <p>(a) The particulars of the person who lodge the internal appeal must be given below.</p> <p>(b) Proof of the capacity in which appeal is lodged, if applicable, must be attached.</p> <p>(c) If the appellant is a third person and not the person who originally requested the information, the particulars of the requester must be given at C below.</p> |
|--|

Full names and surname: Luke Paul HavemannIdentity number: 790306 5020 081Postal address: 1st Floor, Convention Tower, Cnr. CoenSteyler Ave & Heerengracht St, Cape Town, 8001Fax number: (021) 403 6301Telephone number: (021) 403 6350 E-mail address: lhavemann@havemanninc.co

Capacity in which an internal appeal on behalf of another person is lodged: \_\_\_\_\_

Attorney for Treasure the Karoo Action Group


**C. Particulars of requester**

*This section must be completed ONLY if a third party (other than the requester) lodges the internal appeal.*

Full names and surname: \_\_\_\_\_

Identity number: \_\_\_\_\_

**D. The decision against which the internal appeal is lodged**

*Mark the decision against which the internal appeal is lodged with an X in the appropriate box:*

<input checked="" type="checkbox"/>	Refusal of request for access
<input type="checkbox"/>	Decision regarding fees prescribed in terms of section 22 of the Act
<input type="checkbox"/>	Decision regarding the extension of the period within which the request must be dealt with in terms of section 26(1) of the Act
<input type="checkbox"/>	Decision in terms of section 29(3) of the Act to refuse access in the form requested by the requester
<input type="checkbox"/>	Decision to grant request for access

**E. Grounds for appeal**

*If the provided space is inadequate, please continue on a separate folio and attach it to this form. You must sign all the additional folios.*

State the grounds on which the internal appeal is based: \_\_\_\_\_

See attached document marked "A"

State any other information that may be relevant in considering the appeal: \_\_\_\_\_

"Request for Access to Record of Public Body"  
dated 10 August 2011 attached and marked "B"

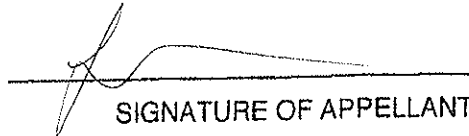
**F. Notice of decision on appeal**

You will be notified in writing of the decision on your internal appeal. If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

State the manner: By e-mail and by means of a letter sent by post

Particulars of manner: lhavemann@havemanninc.com

Signed at Cape Town this 14<sup>th</sup> day of September 20 11

  
SIGNATURE OF APPELLANT



**FOR DEPARTMENTAL USE:**

**OFFICIAL RECORD OF INTERNAL APPEAL:**

Appeal received on \_\_\_\_\_ (date) by \_\_\_\_\_  
\_\_\_\_\_ (state rank,  
name and surname of information officer/deputy information officer).

Appeal accompanied by the reasons for the information officer's/deputy information officer's decision and, where applicable, the particulars of any third party to whom or which the record relates, submitted by the information officer/deputy information officer on \_\_\_\_\_ (date) to the relevant authority.

**OUTCOME OF APPEAL:**

DECISION OF INFORMATION OFFICER/DEPUTY INFORMATION OFFICER  
CONFIRMED/NEW DECISION SUBSTITUTED

NEW DECISION: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE

RELEVANT AUTHORITY

RECEIVED BY THE INFORMATION OFFICER/DEPUTY INFORMATION OFFICER  
FROM THE RELEVANT AUTHORITY ON (date): \_\_\_\_\_



# HAVEMANN INC

SPECIALIST ENERGY ATTORNEYS

"A"

The information officer failed to give a decision on the requester's "Request for access to record of public body" dated 10 August 2011 within the period contemplated in section 25(1) of the Promotion of Access to Information Act, 2000, and, as such, is in accordance with section 27 of the Act, deemed to have refused the request.

Under such circumstances and in accordance with s74 of the Act, the requester is entitled to launch an internal appeal, as he hereby does.

We once again request access to the information referred to in the attached "Request for access to record of public body" dated 10 August 2011.



"B"

**Subject:** PAIA APPLICATION  
**Date:** Wednesday 10 August 2011 9:26:53 AM SAST  
**From:** Luke Havemann  
**To:** mampuru.koma@dmr.gov.za

Dear Adv Nogxina

Kindly see the attached application for access to information.

Yours faithfully,

Luke Havemann BA LLB LLM (UCT) PhD (ABDN)  
Director

**HAVEMANN INC**  
SPECIALIST ENERGY ATTORNEYS

1st Floor, Convention Tower, Cnr Coen Steytler Ave & Heerengracht St, Cape Town, 8001, South Africa  
Tel +27 (0) 21 403 6350 Cell +27 (0) 84 321 0079 Fax +27 (0) 21 403 6301 [www.havemanninc.com](http://www.havemanninc.com)



# HAVEMANN INC

SPECIALIST ENERGY ATTORNEYS

To: Adv Sandile Nogxina  
Information Officer  
Department of Mineral Resources

Date: 10 August 2011  
From: Dr Luke Havemann  
Our ref: LH201102

Per email: mampuru.koma@dmr.gov.za

Per fax: (021) 461 0859

Dear Adv Nogxina

## ACCESS TO INFORMATION

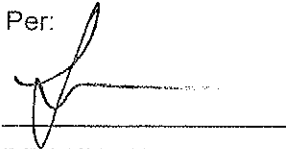
Kindly see the attached application for access to information.

We look forward to receiving your swift reply.

Yours faithfully,

HAVEMANN INC

Per:



DR LUKE HAVEMANN



## ANNEXURE

## FORM A

## REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY

(Section 18(1) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000))

[Regulation 2]

FOR DEPARTMENTAL USE	
	Reference number: _____
Request received by _____	(state
rank, name and surname of information officer/deputy information officer) on _____	
_____ (date) at _____	(place).
Request fee (if any): R .....	
Deposit (if any): R .....	
Access fee: R .....	
	_____
	SIGNATURE OF INFORMATION
	OFFICER/DEPUTY INFORMATION
	OFFICER

## A. Particulars of public body

The Information Officer/Deputy Information Officer:

Department of Mineral ResourcesAdv NogzinaFAX: 021 461 0859EMAIL: MAMPURU.KOMD@dmr.gov.za


**B. Particulars of person requesting access to the record**

- (a) The particulars of the person who requests access to the record must be recorded below.
- (b) Furnish an address and/or fax number in the Republic to which information must be sent.
- (c) Proof of the capacity in which the request is made, if applicable, must be attached.

Full names and surname: LUKE PAUL HAVEMANN

Identity number: 7903065020081

Postal address: 1<sup>st</sup> Floor, Convention Tower, Cnr Coen Stryker Ave and Heerengracht St, Cape Town, 8001.

Fax number: 021 403 6301

Telephone number: 021 403 6350 E-mail address: lhavemann@havemanniac.com

Capacity in which request is made, when made on behalf of another person: ATTORNEY FOR TREASURE THE KAROO ACTION GROUP

**C. Particulars of person on whose behalf request is made**

*This section must be completed only if a request for information is made on behalf of another person.*

Full names and surname: JONATHAN KENT FULLER DEAL  
CHAIRPERSON of TREASURE THE KAROO ACTION GROUP

Identity number: 5901215038088



**D. Particulars of record**

- (a) Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.
- (b) If the provided space is inadequate please continue on a separate folio and attach it to this form. The requester must sign all the additional folios.

1. Description of record or relevant part of the record: \_\_\_\_\_

SEE THE LETTER ATTACHED AND MARKED "A"

2. Reference number, if available: UNKNOWN

3. Any further particulars of record: \_\_\_\_\_

**E. Fees**

- (a) A request for access to a record, other than a record containing personal information about yourself, will be processed only after a request fee has been paid.
- (b) You will be notified of the amount required to be paid as the request fee.
- (c) The fee payable for access to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.
- (d) If you qualify for exemption of the payment of any fee, please state the reason therefor.

Reason for exemption from payment of fees: \_\_\_\_\_

*[Handwritten signature]*

**F. Form of access to record**

*If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 hereunder, state your disability and indicate in which form the record is required.*

Disability: _____ _____ _____	Form in which record is required: _____ _____ _____
-------------------------------------	---

Mark the appropriate box with an "X".

**NOTES:**

- (a) Your indication as to the required form of access depends on the form in which the record is available.
- (b) Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form.
- (c) The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.

**1. If the record is in written or printed form -**

<input checked="" type="checkbox"/>	copy of record*	<input type="checkbox"/>	inspection of record
-------------------------------------	-----------------	--------------------------	----------------------

**2. If record consists of visual images -**

(this includes photographs, slides, video recordings, computer-generated images, sketches, etc.)

<input type="checkbox"/>	view the images	<input checked="" type="checkbox"/>	copy of the images*	<input checked="" type="checkbox"/>	transcription of the images*
--------------------------	-----------------	-------------------------------------	---------------------	-------------------------------------	------------------------------

**3. If record consists of recorded words or information which can be reproduced in sound -**

<input type="checkbox"/>	listen to the soundtrack (audio cassette)	<input checked="" type="checkbox"/>	transcription of soundtrack* (written or printed document)
--------------------------	--	-------------------------------------	---


4. If record is held on computer or in an electronic or machine-readable form -							
X	printed copy of record*	printed copy of information derived from the record*	copy in computer readable form* (stiffy or compact disc)				
*If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? A postal fee is payable.			<table border="1"> <tr> <td>YES</td> <td>NO</td> </tr> <tr> <td style="text-align: center;">X</td> <td></td> </tr> </table>	YES	NO	X	
YES	NO						
X							
Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available.							
In which language would you prefer the record? <u>ENGLISH</u>							

G. Notice of decision regarding request for access

*You will be notified in writing whether your request has been approved/denied. If you wish to be informed thereof in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.*

How would you prefer to be informed of the decision regarding your request for access to the record? By email and by means of a letter sent by post.

Signed at CAPE TOWN this 10<sup>th</sup> day of AUGUST 2011

  
 \_\_\_\_\_  
 SIGNATURE OF REQUESTER / PERSON ON  
 WHOSE BEHALF REQUEST IS MADE



"A"

# HAVEMANN INC

SPECIALIST ENERGY ATTORNEYS

**To:** Adv Sandile Nogxina  
Information Officer  
Department of Mineral Resources

**Date:** 10 August 2011  
**From:** Dr Luke Havemann  
**Our ref:** LH201102

**Per email:** mampuru.koma@dmr.gov.za

**Per fax:** (021) 461 0859

Dear Adv Nogxina

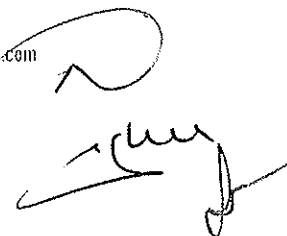
## ACCESS TO INFORMATION

We refer you to the reply, from Minister Susan Shabangu of the Department of Mineral Resources, to parliamentary question number 1409 regarding the moratorium on gas exploration in the Karoo and the task team that has been appointed to research the implications of hydraulic fracturing. A copy of the said reply is attached and marked "B". With reference to the reply, we require access to the information listed in points 1 to 9 below.

1. Terms of reference and/or instructions relating to the research to be conducted by the multi-disciplinary task team on hydraulic fracturing ("the task team") and the members of the so-called "working group" that, according to Minister Shabangu, is supporting the function of the task team. Note that all references to the task team in this letter are to be understood as references to both the task team and the aforementioned working group.
2. The identities and qualifications of the individual task team members.
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.
4. Minutes of all task team meetings.
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 finalized.
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.
7. If the relevant report has not yet been finalized, the date on which the report is due to be

1st Floor, Convention Tower, Cnr Coen Steytler Ave & Heerengracht St, Cape Town, 8001, South Africa  
Tel +27 (0) 21 403 6350 Cell +27 (0) 84 321 0079 Fax +27 (0) 21 403 6301 [lhavemann@havemanninc.com](mailto:lhavemann@havemanninc.com) [www.havemanninc.com](http://www.havemanninc.com)

DIRECTOR: DR LUKE HAVEMANN BA LLB LLM (UCT) PhD (ABDN) REGISTRATION NO: 2011/000697/21



finalized or is expected to finalized.

8. All correspondence relating to the task team, including, but not limited to:

8.1 any correspondence between the various members of the task team;

8.2 any correspondence between the members of the task team and any applicant for an exploration right under the Mineral and Petroleum Resources Development Act 28 of 2002, in particular Shell, Bundu and Falcon ("the applicants"); and,

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.

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

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.

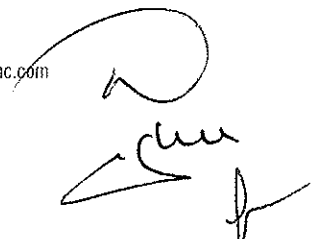
Yours faithfully,

**HAVEMANN INC**

Per:



**DR LUKE HAVEMANN**



NATIONAL ASSEMBLY  
FOR WRITTEN REPLY

QUESTION NUMBER 1409

DATE OF PUBLICATION IN INTERNAL QUESTION PAPER: 26 May 2011  
(INTERNAL QUESTION PAPER NUMBER 13)

1409. Mr G R Morgan (DA) to ask the Minister of Mineral Resources:

- (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 (copy furnished);
- (2) (a) what are the (i) names and (ii) designations of all the members of the task team that will research the implications of fracking, (b) who appointed them and (c) what budget does the task team have to complete its work;
- (3) whether the report of the task team will be available for (a) peer review and (b) public comment; if not, why not; if so, what are the relevant details;
- (4) whether any members of civil society will be invited to (a) serve on the task team and (b) nominate people to serve on the task team; if not, why not; if so, what are the relevant details? NW1577E

REPLY

- (1) The recommendations of the Task Team will determine the termination date of the moratorium as well as the terms upon which applications and proposed operations shall be assessed.
- (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 following Departments and CEO of Petroleum Agency SA
  - Department of Mineral Resources
  - Department of Science and Technology
  - Department of Trade and Industry
- (b) The function of the Task Team is supported by working group which is comprised of representatives from the following state entities:
  - Petroleum Agency SA

Handwritten signature and initials in the bottom right corner of the page.

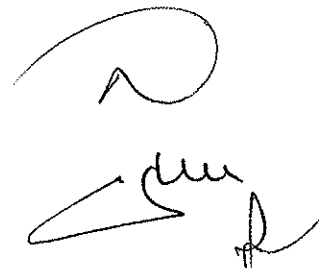
- Council for Geosciences
- Council for Scientific and Industrial Research

(c) The members of the Task Team were nominated by the Directors General of the participating of their respective Departments.

(d) There is no central budget for the Task Team. The members shall use financial resources of their respective Departments.

(3) Public interest issues including concerns raised by interested and affected parties during the consultation processes of the applicants shall be taken into account by the Task Team. It shall thus not be necessary to subject the outcomes to further peer review and public commentary.

(4) No. Refer to the answer in paragraph (3) above.

Handwritten signature and initials in the bottom right corner of the page.

**Subject:** RE: ACCESS TO INFORMATION: NOTICE OF INTERNAL APPEAL

**Date:** Thursday 15 September 2011 11:45:14 AM SAST

**From:** Mampuru Koma

**To:** Luke Havemann

Good Day

Receipts of your letter pertaining the above subject matter is hereby acknowledged.

Please note that the contents of your correspondence has been noted, consequently, it has be referred to Mr Siyabonga Vezi, Head: Administration to respond to your request. For any follow up in this regard, he can be reached at 0124443000 or [Siyabonga.vezi@dmr.gov.za](mailto:Siyabonga.vezi@dmr.gov.za) .

I hope you will find the above to be in order.

Regards, Mampuru

Office of the DDG: Mineral Regulation

A handwritten signature in black ink, consisting of a large, stylized initial 'M' followed by a surname that appears to be 'Mampuru'.



## Petroleum Agency SA

South African Agency for Promotion of Petroleum Exploration and Exploitation (Pty) Ltd.  
 Reg. Status No. 1929-015715-07

TYGERPOORT BUILDING  
 7 MISPEL STREET  
 BELLVILLE 7530  
 P.O. BOX 5111  
 TYGERVALLEY 7536  
 SOUTH AFRICA

TEL: +27 21 938-3500  
 FAX: +27 21 938-3520  
 plu@petroleumagencyrsa.com



15 September 2011

Havemann Inc  
 1<sup>st</sup> Floor, Convention Tower  
 Cnr Coen Styler Ave & Heerengracht St  
**Cape Town**  
 8001

Attention: Dr Luke Havemann

Per email address: lhavemann@havemanninc.com

Dear Sir

**ACCESS TO INFORMATION: NOTICE OF INTERNAL APPEAL  
 IN TERMS OF THE PROMOTION OF ACCESS TO INFORMATION ACT, 2002  
 (ACT 2 OF 2002 / "The Act")**

We refer to the above matter and to the related letters you have sent to us, and confirm as follows:

1. We are in receipt of both the request for information and the notice of appeal.
2. As you are aware, the Task Team was instituted by the Minister of Mineral Resources, and is headed by the Director General of the Department of Mineral Resources.
3. It is therefore reasonable to assume that you have referred this same request to the Department, and thus we have not seen it necessary to advise you to do so.
4. Individual and institutional members of the Task Team serve only to research, compile and provide information which will enable the Task Team to advise the Minister on the formulation of policy that will be appropriate to the proposed exploration methods of Shale Gas.

Directors: Dr T Ramontja (Chairperson)

R Nkambule F Nzimande (Alt.) A Osman N Qata T Ramuedzisi \*M R X(Phw) (\*Executive)

Company Secretary: Lesley-Ann Steer

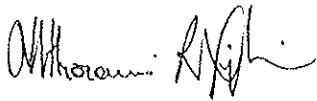
Subsidiary of CEF (Pty) Ltd

5. As you know, such research information is protected information in terms of section 44 of the Act, from being divulged by the member institutions, including the Petroleum Agency. For ease of reference, the said section protects records containing -

- “(i) an opinion, advice, report or recommendation obtained or prepared; or
- (ii) an account of a consultation, discussion or deliberation that has occurred, including, but not limited to, minutes of a meeting, for the purpose of assisting to formulate a policy or take a decision in the exercise of a power or performance of a duty conferred or imposed by law”

In light of the above, please advise if you still wish for us to forward your appeal to the "Relevant Authority" in terms of Part 4 of the Act, which, in terms of section 1, is the Minister. We trust, however, that this will not be necessary, and that we can regard this matter, as between your client and Petroleum Agency SA, as closed.

Yours sincerely



**Mthozami R. Xiphu**  
Chief Executive Officer.



BEELD  
16 Aug 2011, p.7

# Groep wil meer weet van Karoo-taakspan

Elise Tempelhoff

Die Treasure the Karoo Action Group (TKAG) gaan ingevolge die Wet op Openbare Toegang tot Inligting meer probeer uitvind oor die taakspan wat hidrobreking in die Karoo ondersoek.

Mnr. Jonathan Deal, voorsitter van die TKAG, het gister in 'n verklaring verwys na 'n onderhoud op die radio-stasie SAfm waartydens mnr. Bonang Mohale van Shell gesê het dié maatskappy is in "konstante gesprek" met die regering oor sy planne vir hidrobreking (*fracking*) in die Karoo.

Deal het gesê die TKAG weet nie wie in die taakspan is nie, het geen inligting oor bevindings nie en weet ook nie wat dit ondersoek nie.

Deal wou weet met wie Shell gesels en waarom dié maatskappy toegang tot die regering het, terwyl die burgerlike gemeenskap se pleidooie om inligting op dowe



**Me. Susan Shabangu**

ore val.

"Ons het me. Susan Shabangu (minister van minerale bronne), herhaaldelik versoek om die burgerlike gemeenskap in haar vertrou te neem en ons te sê wie is lede van die taakspan, maar dit het op dowe ore geval," het Deal gesê.

Die departement van minerale bronne het vroeër vanjaar 'n multidissiplinêre taakspan aangestel wat aspekte

van hidrobreking moet ondersoek. Die taakspan sou vroeg vandeemaand 'n verslag aan die kabinet voorlê.

Deal het gesê die TKAG wil onder meer weet wie die lede van die span is en wat hul kwalifikasies is.

Die groep wil al die notules van die taakspan se vergaderings hê, asook 'n afskrif van die jongste weergawe van die verslag en alle dokumente ten opsigte van hidrobreking wat die taakspan in hul navorsing gebruik het.

Mnr. Bheki Khumalo, Shabangu se woordvoerder, het verlede maand by navraag aan *Beeld* gesê die taakspan staan onder leiding van adv. Sandile Nogxina, direkteurgeneraal van minerale hulpbronne, en die adjunk-direkteurgeneraal van minerale bronne, wetenskap en tegnologie en handel en nywerheid.

Verteenwoordigers van die Petroleum-agentskap van Suid-Afrika, die Raad vir Geowetenskappe en die WNNR staan hulle by.

PRETORIA NEWS  
16 Aug 2011, p.6

# Public kept in the dark about fracking probe

JOHN YELD

THE DEPARTMENT of Minerals and Energy is keeping mum about how the task team established to investigate proposed fracking is progressing.

When the minister, Susan Shabangu, set up the team that was to make policy recommendations for this controversial method of exploiting shale gas in the Karoo and elsewhere, she announced that it would complete its work and submit a report by the end of last month. This report was to be considered by the cabinet this month.

This appears not to have happened, and the department has not responded to questions put to it by Independent Newspapers last week about the task team's progress, nor a formal request, submitted under the Promotion of Access to Information Act (PAIA) in mid-June, for full details of the task team and its terms of reference.

Under the act, the department should have responded within 30 days.

Not only has there been no response, but 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 official website was returned to sender by the Post Office after being uncollected for 30 days.

The PAIA application was faxed to the department at its Cape Town and Pretoria offices and transmission records show this was done successfully on both occasions.

Under the act, if an application is not responded to within the time limit, it is

deemed to have been refused. Pretoria News' sister publication, the Cape Argus, has now submitted an internal appeal, also in terms of the act, against this deemed refusal.

The DA, which has also been seeking information about the task team, has had more success, with Shabangu partially answering a parliamentary question.

She told the DA's Gareth Morgan that the task team was chaired by the outgoing director-general in the department, Sandile Nogxina.

Its members were the deputy directors-general of her department, as well as the departments of Science and Technology, and of Trade and Industry, along with the chief executive of the Petroleum Agency of SA (Pasa), which was responsible for processing applications for prospecting, like that of Shell, for shale gas in the Karoo, Shabangu said.

The task team was being assisted by a working group of representatives from the Council for Geosciences, the CSIR and Pasa, all nominated by the respective department heads.

But Shabangu's answer did not satisfy Morgan, who has asked a follow up parliamentary question. He wants to know, among other things, the names and designations of all individuals from Pasa, the Council for Geosciences and the CSIR who have done work for the task team.

He has also asked "whether, with reference to the moratorium on gas exploration licences where fracking is proposed, as announced in a cabinet media release on April 21, the moratorium was published in a Government Gazette. If so, in which gazette; if not, why not?"

Handwritten signature and initials, possibly 'R' and 'Glu', located at the bottom right of the page.

CAPE ARGUS (City Late)  
19 Aug 2011, p.3

# Minister grilled on fracking concerns

**JOHN YELD**

*Environment & Science Writer*

MINERAL Resources Minister Susan Shabangu says she is not aware that her department is "untransparent" and that they want to engage with everyone about fracking for shale gas.

She was answering questions at a Cape Town Press Club breakfast yesterday about the controversial fracking and other mining issues.

Jonathan Deal, chairman of anti-fracking lobby group Treasure the Karoo Action Group, asked Shabangu why there was an "almost complete lack of communication" about the task team she has appointed to investigate fracking.

"Why has the department chosen to erect a barrier between the public and the task team, to the extent that we're completely in the dark?"

The action group, like the Cape Argus, has filed a Promotion of Access to Information application after failing to get responses to its questions about the task team.

But Shabangu denied they had "closed shop" and said the government first needed to be informed about fracking and to understand it before engaging in a public participation

process that would precede its taking a decision. "The time will come when we will engage with everyone... I cannot put something in the public space that I don't have a clue about."

Shabangu was challenged by Malie Grütter of the Verlorenelei Coalition as to why a company "with no track record" had been awarded a right to mine tungsten in the agricultural valley of Moutonshoek.


Shabangu replied it was government policy that agriculture and mining could coexist and that the mining industry had to be transformed.

Vuyisa Jantjies, co-ordinator of the Karoo Shale Gas Community Forum, told Shabangu they supported "responsible" extraction of shale gas. The forum suggested one of the approval conditions for fracking should be a committee to monitor licence conditions.

Shabangu said such a committee would "deviate" from legislation and the department would be taken to court.

Environmentalist Marilyn Lilley told Shabangu she was "very concerned" about the waste water from fracking. Shabangu said this was among the issues that would be dealt with "at an appropriate time".

*John Yeld/ANI 2011*



CAPE ARGUS (City Late)  
19 Oct 2011, p.6

# Secretive mining officials are 'undermining freedom'

**JOHN YELD**

Environment & Science Writer

REPEATED snubbing of formal requests under the Promotion of Access to Information Act (Paia) was to be discussed today at a meeting between Department of Mineral Resources legal officials and the non-governmental Centre for Environmental Rights.

The centre says a "significant majority" of Paia requests has been "simply ignored".

"In our experience, the DMR is... accepting a processing fee but in most cases is taking no steps to process requests or appeals, fundamentally undermining the provisions of Paia and the constitutional right to information," said centre attorney Dina Townsend.

The Cape Argus recently approached the Public Protector to investigate why the department had failed to acknowledge or respond to its Paia application for details of the fracking task team.

The Observatory-based Centre for Environmental Rights is a non-profit, independent institution part-funded by the Open Society Foundation. It provides legal support to non-governmental and community-based groups in the environmental and environmental justice sectors.

It has been particularly active in helping groups respond to mining and mineral exploration applications.

Townsend said that in the past year, the centre had sub-

## Only 5 requests out of 37 yield success

IN THE past year, the Centre for Environmental Rights submitted 37 requests to the Department of Mineral Resources under the Promotion of Access to Information Act (PAIA). These were the outcomes:

- In five cases, documents were received by the centre.
- In two of those five cases, only part of the documentation requested was received.
- In eight cases, the department granted partial access to the

mitted 37 requests for information to the department (see box below), and 19 appeals in respect of applications that had been refused. It had not had a decision in respect of any of these appeals.

She said a distinction had to be drawn between actual refusals and deemed refusals in response to Paia requests.

No response to an application was a "deemed refusal" and the centre was entitled to appeal.

"However, we have not yet had a single decision in respect of any of the appeals submitted to the department.

"Again in terms of Paia, this is understood to mean the appeal has been unsuccessful and the requester has no choice but to proceed to court.

"By simply failing to process requests, the department has rendered the most basic information wholly inac-

cessible to the public as it is impossible for any requester to proceed to court in respect of every request for information."

The centre arranged a meeting today with the department's legal services branch to discuss the issue.

Centre executive director Melissa Fourie said she would be happy if the department encouraged mining companies to provide documentation directly, instead of discouraging them from doing so.

Permits, in particular, should be public documents, she argued.

"Departments like the DMR need to reconsider the information they make available voluntarily, so that we can eliminate the administrative burden and cost."

● The DMR has been asked to comment.

requested information but never provided the documentation.

● In three cases, the access sought was refused on each occasion, because providing information would "unreasonably divert the resources of the state", despite the requests being for a single report or copy of delegations.

● The remaining 21 requests were deemed to have been refused because no decision – and often no correspondence of any nature – was received. – John Yeld

john.yeld@nl.co.za



# Six-month moratorium on Karoo fracking

**Donwald Prestsy**

THE GOVERNMENT has put on hold hydraulic fracturing in the Karoo for another six months but pressure is building on the mineral resources department to give the green light despite major environmental concerns.

Mineral Resources Minister Susan Shabangu was confronted by representatives from both sides of the debate, at a Cape Town Press Club function last week.

The Karoo Fracking Forum headed by Chris Nissen, a former ANC Western Cape leader, said the community - the mass of largely coloured and poor workers - had been marginalised in the raging debate. He pointed out that it was mainly white landowners who opposed fracking while the workers supported it.

This community which was generally too poor to attend hearings either held by the Treasury the Karoo Action Group (TKAG), which bitterly opposes fracking or parliamentary debates - supported the exploitation of a potential vast pool of shale gas - which is in the sights of various multinational companies including Royal Dutch Shell and Sasol.

urged the minister to take their views into consideration.

Jorathan Deal, TKAG chairman, challenged the minister to name the members of the multi-departmental task team studying the potential impact of fracking. The minister was unable to name them, noting that she did not know by name the 700 members of her own department and the team were "not my children". She promised to supply the names.

Deal previously complained that the team did not include the environment and water affairs department.

Responding to a question about mining in an agricultural environment - referring to the Velorensvllei area of the Western Cape where tungsten mining is planned - the minister said it was the stance of her department that agricultural activities should continue with the minimal disruption from mining, but they could take place side-by-side.

This pointed to the pendulum swinging in the direction of favouring fracking in the arid Karoo, although the minister was careful not to show any bias in favour of the procedure last week. She constantly claimed not to be an expert on hydraulic fracturing and

needed to be properly informed by experts.

While outside the venue environmental activists carried posts "Fracking fools", "Shale gas is not clean or green", and "Don't frack with our water". She said there would be a public consultation process - which would be taken to the Karoo.

## 'Shale gas may have a role to play in our energy future and we are supportive of further study'

Meanwhile, the TKAG received a Wildlife and Environmental Society of South Africa award for creating awareness about the potential dangers of fracking in the Karoo.

DA shadow environment minister Careth Morgan welcomed the extension of the moratorium on prospecting for shale gas for "a further six months". He said by doing so Shabangu had acknowledged that there were various aspects surrounding the legislative framework, processes

and the method of hydraulic fracturing that needed further investigation.

Importantly, she had committed her department to consulting the public outside of the legislated application processes that applicants were expected to follow.

He believed the initial deadline of having a report ready for the cabinet by the end of July was "always pure folly". The task team included mineral and energy department as well as the science and technology department which has oversight over the Sutherland telescope project in the Karoo.

Morgan did not rule out the potential of the shale gas energy source. "Shale gas may have a role to play in our energy future, we are ... supportive of further study on fracking."

"If South Africa can satisfy itself that the controls and legislative processes around gas exploration applications are strong and if we know the department ... has the capacity to perform strong compliance and enforcement, and is prepared to protect affected communities, then we are in a position to debate whether the risks are worth the reward," Morgan said.



**Mineral Resources Minister Susan Shabangu addresses the Press Club in Cape Town.**

PHOTO: KERRY AGASSON

otherwise - of the procedure had fallen upon the potential damage to the environment and the poisoning of the underground water supply.

It had not focused on those parts of the world where it had been a successful and undamaging procedure, he said.

But the community wanted access to the jobs and potential wealth of Karoo shale gas. He

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**

Respondent

**DIRECTOR-GENERAL, MINERAL RESOURCES**

Second Respondent

---

**AFFIDAVIT**

---

I, the undersigned

**LUKE PAUL HAVEMANN**

hereby make oath and say:

1. I am an adult male attorney and director of Havemann Inc, 1<sup>st</sup> Floor Convention Tower, Cnr Coen Steytler Avenue and Heerengracht Street, Cape Town. I am the attorney of record for the Applicant and as such am duly authorised to depose to this affidavit.




2. The statements in this affidavit are to the best of my knowledge true and correct, and fall within my personal knowledge, unless the context indicates otherwise.
3. I have read the founding affidavit deposed to by Mr Deal and confirm the contents thereof insofar as it relates to me.

  
LUKE PAUL HAVEMANN

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 21<sup>st</sup> day of **October 2011**.

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