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Sustainability Legal Specialists (Pty) Ltd



MAY 2019 SUSTAINABILITY NEWSLETTER

For a copy of the Safety, Health and Environmental (SHE) Legislation Update, please go to:
<https://imbewu.co.za/wp-content/uploads/2019/06/Monthly-Sustainability-Legislation-Update-May-2019.pdf>

INTERNATIONAL

GENERAL

DAMAGES CLAIM: BHP faces a landmark \$5 billion damages claim for being “woefully negligent” in the run up to the 2015 Fundão tailings dam failure which led to Brazil's worst environmental disaster. **Source: Mining Weekly dated 7 May 2019.** <https://www.miningweekly.com/article/bhp-faces-5bn-claim-over-2015-brazil-dam-failure-2019-05-07>

CLIMATE CHANGE ELECTION: In a result that stunned most analysts, the Australian public re-elected the conservative coalition that has for a long period of time resisted plans to reduce carbon emissions and its reliance on coal. **Source: New York Times dated 17 May 2019.** <https://www.nytimes.com/2019/05/19/world/australia/election-climate-change.html>

US AND THE PARIS AGREEMENT: The Climate Now Action Act has been passed in the US House of Congress. The legislation, which would disallow federal funding for the United States to withdraw from the Paris Agreement, was sponsored by 224 Democrats but was not backed by a single Republican. The legislation also compels the government to comply with the country's national climate pledges. However, the Republican-controlled Senate will most probably not allow the legislation to be passed into law and the White House may also veto the legislation. **Source: Climate Change News dated 2 May 2019.** <https://www.climatechangenews.com/2019/05/02/congress-passes-bill->

[opposing-trump-paris-agreement-withdrawal/](#)

RENEWABLE ENERGY: According to data published by the Institute for Energy Economics and Financial Analysis, renewable energy surpassed coal generation in the United States for the first time in April 2019. **Source: Climate Action Programme dated 3 May 2019.** http://www.climateaction.org/news/renewable-energy-surpasses-coal-in-the-us-for-first-time-ever?utm_source=ActiveCampaign&utm_medium=email&utm_content=CCC+releases++game-changing++report+on+how+UK+can+be+net+zero+by+2050+-+Climate+Action+News&utm_campaign=CA+Newsletter+3rd+May+2019

ZERO WASTE: Qantas launched a commercial flight which produced no landfill waste. All inflight products were disposed of via recycling, reuse or compost. **Source: BizCommunity dated 17 May 2019.** <https://www.bizcommunity.com/Article/196/787/190904.html#more>

PUBLICATIONS

GREENHOUSE GAS INVENTORIES: The Intergovernmental Panel on Climate Change (IPCC) have released the "2019 Refinement to the 2006 IPCC Guidelines for National Greenhouse Gas Inventories". **Source: Environmental Law Association (ELA) Newsletter 20 dated 17 May 2019.** <https://www.ipcc.ch/report/2019-refinement-to-the-2006-ipcc-guidelines-for-national-greenhouse-gas-inventories/>

ELEPHANT HUNTING: The ban on elephant hunting, implemented in 2014 by former Botswana President Ian Khama, has been lifted by Khama's successor, President Mokgweetsi Masisi. A Cabinet report released earlier this year entitled "*The Hunting Ban Social Dialogue*" recommended that the hunting ban be lifted and that the culling of elephants be allowed. **Source: BizCommunity dated 17 & 24 May 2019.** <https://www.bizcommunity.com/Article/29/628/191165.html> and <https://www.bizcommunity.com/Article/29/628/190889.html#more>

PLASTIC POLLUTION: Fauna and Flora International, the Institute of Development Studies, WasteAid and TearFund have released a report entitled "*No Time To Waste – Tackling the plastic pollution crisis before it is too late*" which has found that one person dies every 30 seconds in developing countries from diseases and illnesses caused by plastic pollution and uncollected rubbish dumped or burnt near homes. **Source: Climate Action Programme dated 14 May 2019.** http://www.climateaction.org/news/plastic-killing-up-to-one-million-people-a-year-says-sir-david-attenborough?utm_source=ActiveCampaign&utm_medium=email&utm_content=UK+Government+awards+%C2%A325+million+to+fund+innovations+for+net-zero+transport+-+Climate+Action+News&utm_campaign=CA+Newsletter+17th+May+2019

NATIONAL

GENERAL

NEW MINISTERS AND PORTFOLIOS: President Cyril Ramaphosa announced that he had combined a number of different portfolios and therefore reduced the number of Ministers from 36 to 28:

- The Department of Environmental Affairs has been combined with the Department of Forestry and Fisheries. The Minister of Environment,

Forestry and Fisheries is Barbara Creecy. The Deputy Minister is Maggie Sotyu.

- The Department of Agriculture has been combined with the Department of Land Reform and Rural Development. The Minister of Agriculture, Land Reform and Rural Development is Thoko Didiza. The Deputy Ministers are Sdumo Dlamini and Mcebisi Skwatsha.
- The Department of Mineral Resources has been combined with the Department of Energy. The Minister of Mineral Resources and Energy is Gwede Mantashe. The Deputy Minister is Bavelile Hlongwa.
- The Department of Human Settlements has been combined with the Department of Water and Sanitation. The Minister of Human Settlements, Water and Sanitation is Lindiwe Sisulu. The Deputy Ministers are Pam Tshwete and David Mahlobo.

Source: SA Government News dated 29 May 2019. <https://www.sanews.gov.za/south-africa/reduced-cabinet-purpose-built-effective-delivery>

CLEAN ELECTRICITY: The North Gauteng High Court has set a date for the City of Cape Town Metropolitan Municipality's petition to purchase electricity directly from Independent Power Producers (IPPs) – the matter will be heard on 18 June 2019. **Source: Engineering News dated 22 May 2019.** <https://www.engineeringnews.co.za/article/court-date-set-for-cape-metros-bid-to-buy-power-directly-from-ipps-2019-05-22> The Centre for Environmental Rights (CER) have applied to be an *amicus curiae* ("friend of the court") in order to demonstrate the important role that local municipalities can play in protecting the environment by procuring electricity from renewable (wind and solar) sources. **Source: CER dated 20 May 2019.** <https://cer.org.za/news/municipalities-must-be-allowed-to-provide-clean-electricity-cer-intervenies-in-electricity-case>

SHALE GAS EXPLORATION: Agri SA has commenced with court proceedings in the North Gauteng High Court against the granting of environmental authorisations and exploration rights for shale gas to Rhino Oil and Gas Exploration South Africa (Rhino Oil). **Source: Mining Weekly dated 7 May 2019.** https://www.miningweekly.com/article/agri-sa-launches-court-proceedings-against-granting-of-shale-gas-exploration-rights-2019-05-07/rep_id:3650 The Supreme Court of Appeal (SCA) has set aside the decision of the Western Cape High Court and have allowed Rhino Oil to explore a vast area in KwaZulu-Natal for potential gas reserves. Normandien Farms, which owns some of the nearly 5 500 farms in KwaZulu-Natal that Rhino Oil want to explore, had successfully applied to the Western High Court to review and set aside the acceptance of Rhino Oil's application. The SCA held that the relief should not have been granted because Normandien had not been prejudiced by the steps taken and because no final decision had been taken on Rhino Oil's application. **Source: IOL News dated 3 June 2019.** <https://www.iol.co.za/capetimes/news/battle-against-needless-gas-exploration-rages-in-court-24899650>

WATER: Kusini Water has developed a solar-powered water purification system that uses an activated carbon filter made from locally sourced macadamia nut shells. **Source: Engineering News dated 17 May 2019.** <https://www.engineeringnews.co.za/article/company-uses-macadamia-nut-shells-to-purify-water-2019-05-17> WSP Africa's environment and energy sector senior associate, Karen King, noted that mine managers are investigating using wetlands to passively treat some of their used water which reduces the volume of water that needs to be actively treated before and during discharge. **Source: Mining Weekly dated 3 May 2019.** <https://www.miningweekly.com/article/miners-pursuing-alternative-water-treatment-detailed-calculations-2019-04-18> The R60 million V&A Waterfront desalination plant has not been operational since February 2019 due to concerns about dirty sea water. Quality Filter Systems (QFS), the plant owner and contractor, noted that they had sent the City of Cape Town Metropolitan Municipality a letter in February 2019 requesting confirmation that their water feed was safe for injection but the City had not provided clarity on the issue. They have therefore terminated their water supply contract with the City and are pursuing legal action. **Source: Engineering News dated 16 May 2019.** <https://www.engineeringnews.co.za/article/desalination->

[plant-ends-contract-with-city-of-cape-town-plans-to-sue-2019-05-16/rep_id:4136](https://www.engineeringnews.co.za/article/ppps-could-help-ailing-municipal-water-sector-suggests-nbi-2019-05-16/rep_id:4136) The National Business Initiative (NBI) have launched a project called "Kopano ya Metsi" which aims to help ailing local water and sanitation departments with a series of public-private partnerships (PPPs) through strengthening municipal water management and unlocking water investment. **Source: Engineering News dated 16 May 2019.** https://www.engineeringnews.co.za/article/ppps-could-help-ailing-municipal-water-sector-suggests-nbi-2019-05-16/rep_id:4136

INDUSTRY MILESTONE: The Minister of Minerals and Energy, Gwede Mantashe, handed over 50% shareholding held by mining company Exxaro in the Arnot Coal Mine in Mpumalanga to former Arnot Coal employees as an industry milestone towards the inclusion of workers as meaningful stakeholders. **Source: Mining Weekly dated 1 May 2019.** <https://www.miningweekly.com/article/former-exxaro-employees-receive-shares-in-arnot-mine-2019-05-01>

PUBLICATIONS

STRATEGIC LAWSUITS AGAINST PUBLIC PARTICIPATION: Human Rights Watch, the CER, groundWork and Earthjustice have released a report entitled "*We Know Our Lives Are in Danger – Environment of Fear in South Africa's Mining Communities*" which outlines tactics used to suppress environmental defenders' effectiveness by intimidating them and burdening them with legal defence costs. **Source: The Green Times dated 9 May 2019.** https://www.hrw.org/sites/default/files/report_pdf/southafrica0419_web.pdf

HEALTHIER OCEANS: The World Wide Fund for Nature South Africa (WWF-SA) and the Southern African Sustainable Seafood Initiative (SASSI) have released their "*All Hands On Deck - WWF-SASSI Retailer/ Supplier Participation Scheme Report*". **Source: WWF SASSI dated May 2019.** https://www.wwf.org.za/our_research/publications/?28401/all-hands-on-deck

CONFERENCES AND OTHER EVENTS

IMBEWU WORKSHOPS

MINE CLOSURE AND RECENT CASE LAW WORKSHOP: 20 June 2019 in Johannesburg. R2750 per delegate, excluding VAT. Please contact Lulu Lewis on 011 214 0660 or at lulu@imbewu.co.za for more information or go to: <http://imbewu.co.za/services/>

HALF-DAY CARBON TAX WORKSHOP: 25 June 2019 in Johannesburg. R1500 per delegate, excluding VAT. Please contact Lulu Lewis on 011 214 0660 or at lulu@imbewu.co.za for more information or go to: <http://imbewu.co.za/services/>

NATIONAL

SUSTAINABILITY WEEK: 24-26 June 2019 in Pretoria.

IFAT 2019 (AFRICA'S LEADING TRADE FARE FOR WATER, SEWAGE, REFUSE AND RECYCLING): 9-11 July 2019 in Johannesburg.

IAIASa ANNUAL CONFERENCE: 21-23 August 2019 in Bela Bela, Limpopo.

ZERO WASTE WEEK: 2-6 September 2019.

NOSCHON: 12 September 2019 in Sandton.

8TH WORLD CONFERENCE ON ECOLOGICAL RESTORATION: 22-27 September 2019 in Cape Town.

ELA STUDENT AND ANNUAL CONFERENCE: 26-28 September 2019 in KwaZulu-Natal.

12TH GREEN BUILDING CONVENTION: 2-4 October 2019 in Cape Town.

INTERNATIONAL

CITES COP18: NOTE: COP 18, which was initially scheduled for 23 May – 3 June 2019 in Colombo, Sri Lanka, has been postponed. The Government of Sri Lanka have proposed alternative dates on 1 – 13 September 2019.

WORLD OCEANS DAY: 8 June 2019.

2019 ANNUAL CONFERENCE: WORLD ASSOCIATION OF MINING LAWYERS: 9-11 June 2019 in Marrakech, Morocco.

THE GLOBAL FOREST WATCH SUMMIT: 18-19 June 2019 in Washington DC, USA.

2019 AFRICA BLUE ECONOMY FORUM: 25-26 June 2019 in Tunis, Tunisia.

LONDON CLIMATE ACTION WEEK: 1-8 July 2019.

NELSON MANDELA INTERNATIONAL DAY: 18 July 2019.

GREEN ENERGY AND ENVIRONMENTAL TECHNOLOGY CONFERENCE: 24-26 July 2019 in Paris, France.

WORLD RANGER DAY: 31 July 2019.

WILDLIFE DISEASE ASSOCIATION 68TH ANNUAL INTERNATIONAL CONFERENCE: 4-9 August 2019 in California, USA.

7th INTERNATIONAL CONFERENCE ON SUSTAINABLE DEVELOPMENT: 4-5 September 2019 in Rome, Italy.

INTERNATIONAL COASTAL CLEAN UP DAY: 15 September 2019.

WORLD OZONE DAY: 16 September 2019.

WORLD RHINO DAY: 22 September 2019.

IMBEWU's environmental note: The most effective ways to curb climate change may surprise you. CNN have devised a climate change quiz:
<https://edition.cnn.com/interactive/2019/04/specials/climate-change-solutions-quiz/>

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