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## SUSTAINABILITY NEWSLETTER

APRIL 2024

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### NATIONAL

**GREEN SCORPIONS SECURE RECORD FINE AGAINST MUNICIPALITY FOR POLLUTING VAAL RIVER** – On 9 April 2024, the Bethal Regional Court imposed a record R150m fine and criminal court conviction against the Govan Mbeki Local Municipality for unauthorised disposal of sewage waste into the Vaal River, causing significant harm to the environment including residential areas and farming land. The Court ordered that the fine money be used to rehabilitate collapsed wastewater infrastructure in the Govan Mbeki Local Municipality over the next three years. The Municipality, represented by municipal manager, Elliot Maseko, pleaded guilty to six charges relating to the poor management of the Govan Mbeki wastewater treatment works. This included discharging untreated sewage into the Vaal River (Gauteng's main water supply) as well as overflows from manholes and substations in residential areas and fields once used to raise crops and livestock. Commending the Green Scorpions, Department of Water and Sanitation (DWS) Director-General Sean Phillips said this case had asserted the Department's role as a regulator of the water and sanitation sector. The court conviction has also highlighted similar matters involving municipalities in other provinces. The DWS issued at least 16 directives to several municipalities in KZN during 2022 and 2023 to remedy water pollution and sewage overflows with one example being an interdict application against the eThekweni Municipality for alleged non-compliance with a DWS directive. Two years after this directive was issued, the uMgeni River remains heavily polluted, with recent independent tests by Talbot Laboratories showing *E. coli* levels more than 2,000 times higher than the regulated discharge limit next to the eThekweni sewage treatment plant. The DWS also said that "actions are in process" to ensure compliance in KZN, including the directives issued to municipalities.

**Source: Daily Maverick dated 28 April 2024**

**RETROFITTING COAL-FIRED POWER STATIONS A COSTLY AND TEMPORARY SOLUTION** – According to a new report by the Department of Public Enterprises, Eskom is not complying with the National Environmental Management Air Quality Act, which presents the threat of a number of coal power plants having to shut down in the next year. The Act requires all power stations to comply with air quality standards, as noted in Public Enterprises Minister Pravin Gordhan's annual performance report released last week, in which he raised concerns about Eskom's non-compliance with the national emissions standards. The Report said the failure to comply with the Act has resulted in Eskom requiring time-consuming and costly refurbishment with flue-gas desulphurisation technology and other equipment to ensure the plants become compliant. The technology removes sulphur dioxide from exhaust flue gases produced by coal-fired power plants. To tackle these concerns, the Department of Mineral Resources and Energy's draft 2023 Integrated Resource Plan proposes that South Africa invests in coal retrofit technology. This involves installing pollution reduction technology that enhances existing coal-fired power plants to boost efficiency, lower emissions and comply with environmental regulations and energy policies. With 10 coal-fired power plants reaching the end of their design life by 2030, more than 10 000 megawatts will be lost. The Department said the retrofitting technology was the best-case scenario in expanding the plants' life expectancy. However, the Report warned that the government's plan to extend the lifespan of the coal plant fleet could endanger investment prospects, given investors' aversion to funding coal-related initiatives. Gordhan added that retrofitting for life extension would require a minimum of two years, and that flue gas desulphurisation retrofits could take up to seven years to finalise. Groups who commented on the draft plan, argued that carbon capture storage technology would not solve the emission problem because they are energy-intensive and require significant resources to power them, which can increase greenhouse gas emissions and pollution from coal mining and transport. The report proposed that SA should take advantage of the large-scale renewable energy generation, particularly in solar photovoltaic and onshore wind projects because delays in these programmes pose potential risks to South Africa's power supply.

[Source: Mail & Guardian dated 20 April 2024](#)

## INTERNATIONAL

**PACIFIC WHALES AND DOLPHINS GRANTED LEGAL PERSONHOOD** – The marine mammals have been officially recognised as “legal persons” in a new treaty formed by Pacific Indigenous leaders from the Cook Islands, French Polynesia, New Zealand and Tonga. He Whakaputanga Moana, a treaty that translates as “The ocean declaration of Māori”, promotes the protection and survival of these animals in a holistic way, according to Mere Takoko, vice president of environmental organisation Conservation International Aotearoa. However, this treaty may not stop illegal or harmful activity against cetaceans (whales and dolphins). When the Whanganui river in New Zealand was granted status as a living person, personhood meant that “the law now sees no differentiation between harming the tribe or harming the river because they are one and the same”. Should He Whakaputanga Moana take a similar approach, Pacific nations could enforce harsh penalties against violators in accordance with their local criminal or customary justice practices, however, the extent of these protections, and potential punishments when those are violated, are unclear. Cetaceans face a combination of various direct and indirect threats including noise pollution, fishing practices, seabed mining, climate change and ship strikes with the latter recognised as one of the leading causes of whale mortality. Given the importance of whales and dolphins to many Pacific communities, spiritualities, and customs, this treaty is another watershed moment for Indigenous self-determination. The Treaty provides transnational protection to cetaceans and marks a significant jump in scope from previous declarations aimed at protecting cetaceans. This transnational focus provides greater protection against crimes that harm cetaceans, as it engages with multiple criminal justice systems, which creates multiple points for enforcement.

[Source: The Conservation dated 15 April 2024](#)

**DOES CLIMATE LIGATION LEAD TO GOVERNMENTS TAKING ACTION?** – Climate litigation is in the spotlight once again, following a landmark decision where the European Court of Human Rights deemed that the Swiss government was violating its citizens' human rights through its lack of climate action. The case, brought by more than 2,000 veteran female activists, is one of more than 2,300 climate lawsuits that have been filed against companies and governments around the world since 1986. In 2020, young environmental activists in Germany, backed by organizations such as Greenpeace, won a case arguing that the German government's target of reducing greenhouse-gas emissions by 55% by 2030 compared with 1990 levels was insufficient to limit

global temperature rise to “well below 2 °C”, the goal of the 2015 Paris climate agreement. As a result, the government strengthened its emissions-reduction target to a 65% cut by 2030, and set a goal to reduce emissions by 88% by 2040. It also brought forward a target to reach ‘climate neutrality’ ensuring that greenhouse-gas emissions are equal to or less than the emissions absorbed from the atmosphere by natural processes by 2045 instead of 2050. “In the Netherlands and Germany, action was taken immediately after court orders,” says Lucy Maxwell, a human-rights lawyer and co-director of the Climate Litigation Network, a non-profit organization in London. In its 2022 report, the Intergovernmental Panel on Climate Change acknowledged for the first time that climate litigation can cause an “increase in a country’s overall ambition to tackle climate change”. Cases that fail in court can also be beneficial, says Joana Setzer at the Grantham Research Institute on Climate Change and the Environment at the London School of Economics and Political Science. In a 2015 case, *Juliana v. United States*, a group of young citizens sued the US government for not doing enough to slow down climate change, which they said violated their constitutional right to life and liberty. “This is a case that has faced many legal hurdles, that didn’t result in the court mandating policy change. But it has raised public awareness of climate issues and helped other cases,” says Setzer. Maxwell thinks that people will bring more lawsuits that demand compensation from governments and companies for loss and damage caused by climate change. More cases will be focused on climate adaptation i.e. prosecuting governments for not doing enough to prepare for and adjust to the effects of climate change, she says. There will also be more climate cases filed in the global south, which generally receive less attention than those in the global north, says Antonia Tigre, director of the Sabin Center for Climate Change Law at Columbia University in New York City. “There is more funding now being channeled to the global south for bringing these types of cases,” she says. As an example, earlier in April 2024, India’s Supreme Court ruled that people have a fundamental right to be free from the negative effects of climate change.

[Source: Nature dated 16 April 2024](#)

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**Endangered Species Day – 17 May 2024:**

<https://jabulanisafari.com/blog/the-animals-we-may-one-day-forget/>

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