



environment & tourism

Department:
Environmental Affairs and Tourism
REPUBLIC OF SOUTH AFRICA

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Ref. D/E/Operation Ferro/Assmang Cato Ridge

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Dear Sir / Madam

CONTRAVENTIONS OF PERMIT TO OPERATE A H:H DISPOSAL SITE IN TERMS OF SECTION 20(1) OF THE ENVIRONMENT CONSERVATION ACT (ACT 73 OF 1989) ("ECA"); NOTICE OF INTENTION TO SUSPEND PERMIT

1. The contents of the letter entitled "Report of Environmental Compliance Inspection dated July 2007, and Assmang's response dated 21 August 2007" must be read as incorporated in this notice.

Muhesho we Zwa Vhuvu na Vhuvudziendafango • Utho le Tshwondzwa nabeke/Vhuvu • lebe lemiCami yokusiNgooogfeya nokhensho
Ndasavula ya Tshako & Mbege • Department: Environmental Affairs and Tourism • LeFofa le Tshoko le Botankhosi • LeFofa le Botankhosi
Kgoro ya Tshoko le Botankhosi • UmNyango wezibhuloko nokuVakalwa • UmNyango Wezwelelo Nakuyelwa

Batho Pate - putting people first

Non-compliance with permit conditions

2. Assmang Limited ("Assmang") is the holder of a Class H:H permit with the number 16/2/7/U203/B3/Y1/P506, issued by the Department of Water Affairs and Forestry ("DWAF") on 23 November 2005, for the waste disposal site described as "Assmang Manganese Cato Ridge Works (two active slimes dams and dust storage facility) located on the remaining extent of Portion 39 of the Farm Uitkomst and Doornrug No. 852 ("the permit").
3. The report on the compliance inspection held at Assmang Limited's Cato Ridge site set out the findings of non-compliances with the permit conditions. These findings, together with details of Assmang's response on 21 August 2007, are set out in Annexure 1 to this notice.
4. In addition, no response was received from Assmang to the outstanding issues listed in the report; in particular that compliance with condition 7.2.3.2 (monthly inspection of liners) by Assmang must be confirmed. Without a response and/or supporting evidence from Assmang to the contrary, it appears likely that there is no compliance with this permit condition.
5. In preparing this notice it also came to our attention that Assmang did not, during or after the compliance inspection in February 2007, provide EMIs with a copy of the external audit conducted by an independent external auditor as required by condition 9.2 of the permit. This first audit report was due on 23 November 2006.
6. Condition 14.6 of the permit provides that "[t]ransgression of any condition of this Permit could result in the validity of the Permit being terminated by the Minister".

Notice of intention to suspend permit

7. Having regard to:
 - 7.1. the fact that Assmang by its own admission only had one page of the permit on site since 2005, and had made no efforts to obtain a copy of the rest of the permit so as to familiarise itself with the conditions in order to ensure compliance;
 - 7.2. the many and serious non-compliances listed above, particularly in relation to the lack of leachate and emissions monitoring and the failure to establish a monitoring committee;
 - 7.3. the almost two-year period in which Assmang has already been in non-compliance with the permit conditions;
 - 7.4. the fact that the non-compliances relate to a high-hazardous disposal site;
 - 7.5. Assmang's inadequate response to the findings of non-compliance (in particular, the absence of terms of reference, timeframes and supporting documents) relating to projects to address the non-compliances on an urgent basis; and
 - 7.6. the principles set out in Section 2 of the National Environmental Management Act (Act 107 of 1998),

Assmang is hereby given 21 calendar days to make representations as to why its permit should not be suspended pending compliance with all permit conditions to the satisfaction of this department.

Operating a disposal site without a permit

8. In terms of Section 20(1) of ECA, no person may "establish, provide, or operate any disposal site without a permit". In terms of Section 20(6) of the same Act, "no person shall discard waste or dispose of it in any other manner, except (a) at a disposal site for which a permit has been issued in terms of subsection (1); or (b) in a manner or by means of a facility or method and subject to such conditions as the Minister may prescribe".
9. In terms of ECA's Section 22(1), "[n]o person shall undertake an activity identified in terms of section 21 (1) or cause such an activity to be undertaken except by virtue of a written authorisation...". In GN R1182 in GG 18261 of 5 September 1997, "the disposal of waste as defined in section 20 of [ECA], excluding domestic waste, but including the establishment, expansion, upgrading or closure of facilities for all waste, ashes and building rubble" is listed as such an activity.
10. Hazardous slag from the furnaces is stored in a very large slag dump on site, constituting a disposal site for the purposes of Section 20(1) of ECA. Refer to section 11.2 of the Inspection Report and photographs 22-25 in this regard. This slag dump is not permitted in terms of Section 20(1) of ECA.
11. You are hereby warned that in terms of Section 29(4) of ECA, operating a waste disposal site without a permit constitutes a criminal offence. A person found guilty of this offence is liable on conviction to a fine not exceeding R100 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of any thing in respect of which the offence was committed. Read with the Adjustment of Fines Act (Act 101 of 1991), this fine increases to R200 000, and to a fine not exceeding three times the commercial value of any thing in respect of which the offence was committed.
12. You are hereby afforded 21 calendar days to submit the necessary applications form for a permit in terms of Section 20(1) of ECA (contact the Directorate: Waste Authorisations on 012-310 3920), and to provide this department with reasons why a criminal prosecution should not be initiated against Assmang for operating a waste disposal site without the requisite permit.
13. These representations, as well as any questions you may have, may be submitted to the official indicated for enquiries above.
14. Trusting that this matter will receive your most urgent attention, I look forward to your response.

Yours sincerely



MS Pam Yako
DIRECTOR-GENERAL
DATE: 17/10/2007

Annexure 1

Conditions in the November 2015 permit	Finding of non-compliance	Assmang's response on 21 August 2007	Comment
<p>1. Condition 5.6 requires the Permit Holder to ensure that all entrance gates are manned during the hours of operation and locked outside the hours of operation. Condition 5.7 requires the Permit Holder to ensure effective access control to the site.</p>	<p>There is an unmanned gate at the entrance to the slimes dams.</p>	<p>"There will be a person available only when there is operation. Otherwise the gates are always locked."</p>	<p>Response accepted.</p>
<p>2. Conditions 7.1.1.1 and 7.1.1.2 require an approved comprehensive air quality and gas monitoring programme to be implemented within 4 months after the date of the permit.</p>	<p>Although there is some monitoring on site (see EcoServ reports), no comprehensive air quality and gas monitoring program has been submitted for approval, or implemented.</p>	<p>"Assmang is in the process of conducting an air quality assessment. The project has commenced and the envisaged completion date is October 2007."</p>	<p>No details are given of the terms of the proposed projects, and no documents are provided to support the vague statements of intent to comply.</p>
<p>3. Condition 7.1.1.3 requires an interim air quality monitoring programme for the quantitative detection of the total volatile organic carbons and benzene on site during a 4 month period.</p>	<p>No such interim air quality monitoring programme was implemented.</p>	<p>"Please note that this will be included in the comprehensive air quality gas monitoring programme that will be submitted to yourselves."</p>	<p>No details are given of the terms of the proposed projects, and no documents are provided to support the vague statements of intent to comply.</p>
<p>4. Conditions 7.2.1.1, 7.2.3.1.2, 7.2.5.2 require leachate monitoring to be conducted. Condition 7.2.1.4.1 as read with</p>	<p>No leachate monitoring is being conducted.</p>	<p>"Leachate monitoring will be implemented in September 2007."</p>	<p>No details are given of the terms of the proposed projects, and no documents are provided to support the vague statements of intent to</p>