MINISTER

QUESTION NO. 440 FOR WRITTEN REPLY: NATIONAL ASSEMBLY

A draft reply to Mr M J Ellis (DA) to the above-mentioned question is enclosed for your consideration.

Ms Nosipho Ngcaba
DIRECTOR-GENERAL

DATE:

DRAFT REPLY APPROVED/AMENDED

MRS B E E MOLEWA, MP
MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS

DATE:
NATIONAL ASSEMBLY
(For written reply)

QUESTION NO. 440
INTERNAL QUESTION PAPER NO. 2 NW470E

DATE OF PUBLICATION: 25 February 2011

Mr M J Ellis (DA) to ask the Minister of Water and Environmental Affairs:

(1) On what dates were section 24(G) applications received from Coal of Africa in terms of the National Environmental Management Act, Act 107 of 1998, for alleged activities at the Vele Colliery;

(2) whether her department has adjudicated on the section 24(G) applications; if not, why not; if so, what are the relevant details;

(3) whether she has received a report from the United Nations Educational, Scientific and Cultural Organisation (UNESCO) following its visit to Mapungubwe in November 2010 to assess the impacts that mining at Vele Colliery could have on the World Heritage site; if not, when does she expect to receive the report; if so, what are the relevant details;

(4) whether her department intends commissioning an Environmental Management Framework for the area north of the Soutpansberg in which the Vele Colliery is located; if not, why not; if so, what are the relevant details?

Mr M J Ellis (DA)
SECRETARY TO PARLIAMENT
HANSARD
PAPERS OFFICE
PRESS
440. THE MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS ANSWERS:

(1) The Director: Enforcement issued CoAL of Africa ("CoAL") with a Section 31 L Compliance Notice on 5 August 2010. This notice was preceded by three pre-compliance notices providing opportunities to CoAL to make representations as to why a final notice should not be issued (including oral representations on 23 July 2010). The Compliance Notice was issued in response to firstly, the fact that CoAL commenced with activities despite the Department issuing a negative decision for those activities (roads and storage of hazardous goods) and secondly, as a result of CoAL commencing with a number of other EIA listed activities without obtaining prior authorization from the Department. The Department maintained the view that, even though the activities fall within the mining right area, they still require authorisation from this Department as they were listed in terms of NEMA.

CoAL complied with the notice and ceased with the relevant activities. The section 24G application for rectification (for four listed activities only) was received by the Department on 03 September 2010. This was acknowledged by the department on 15 October 2010. This letter included a request for an environmental impact assessment report with detailed requirements to be compiled and submitted to the Department in order for the Department to make an informed decision regarding the section 24G application.

The outstanding section 24G application (for the illegal activities that had been left out of the original S24G applications) was submitted to the Department on 03 January 2011 and subsequently acknowledged on 17 January 2011. A further letter dated 26 January 2011 requesting an environmental impact assessment report with detailed specific requirements to be compiled and submitted to the Department in order for the Department to make an informed decision regarding the section 24G application was sent to the consultant by the Department.

At this juncture, the Department awaits the requested information, after which a fine will be calculated in accordance with the section 24G penalty calculator protocol and guideline developed for activities unlawfully commenced with in terms of the National Environmental Management Act, 2004 (Act No. 8 of 2004), as amended. The penalty calculator protocol and guideline was jointly developed by the National Department of Environmental Affairs and the Provincial Departments. These tools were designed to assist in the determination of fines imposed in terms of Section 24G of the NEMA, as amended, and accordingly are only being used to guide decision making in relation to the amount of fines in respect of illegal activities listed in terms of the NEMA, as amended.

(2) As explained above, the Department awaits receipt of the requested information; whereafter a decision regarding the fine will be reached. Once a fine has been determined, this will be communicated to the applicant. The Department then awaits the proof of payment of the determined fine before reaching a decision on the application. This is also dependent upon the submission of the final requested documentation from the applicant and their environmental assessment practitioner.

(3) No, once the final report has been completed by the World Heritage Centre and the World Heritage Committee Advisory Body, it will be provided to the country (SA) for information until it is discussed by the World Heritage Committee in June 2011.

(4) There are plans to develop an EMF for the Mapungubwe area. The Biodiversity and Conservation branch, together with Environmental Impact Management (EIM) have compiled draft Terms of
Reference for the framework and thus far one consultation meeting with representatives from the province was held at the department. However, with recent developments around Mapungubwe, a decision was taken to wait until the UNESCO visit and the appeals by Vele had been finalised before the process is taken further.

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