groundWork is a non-profit environmental justice service and developmental organisation working primarily in South Africa, but increasingly in Southern Africa.

groundWork seeks to improve the quality of life of vulnerable people in Southern Africa through assisting civil society to have a greater impact on environmental governance. groundWork places particular emphasis on assisting vulnerable and previously disadvantaged people who are most affected by environmental injustices.

groundWork’s current project areas are: air quality, waste (including health care waste, industrial landfill waste and incineration) and corporate accountability.

groundWork is constituted as a trust. The Chairperson of the Board of Trustees is Pietermaritzburg attorney, Jonathan White. The other trustees are: Farid Esack, Patrick Kulati, Richard Lyster, Thuli Makama, Sandle Ndawonde and Joy Kistnasamy.

GROUNDWORK'S SOUTH AFRICAN STAFF ARE:
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Deputy Director: Gill Addison
Office Manager: Bathoko Sibisi
Air Quality Campaign Manager: Siziwe Khanyile
Waste Campaign Manager: Musa Chamane
Health Care Waste: Nomcebo Mvelase
Research Manager: Rico Euripido
Exec. Assistant to Director: Jane Harley

GROUNDWORK'S USA STAFF ARE:
Director: Heeten Kalan
Coordinator: Sunita Dubey

HOW TO CONTACT US:
6 Raven Street
Pietermaritzburg
P O Box 2375, Pietermaritzburg, 3200
Tel: 033-342-5662
Fax: 033-342-5665
e-mail: team@groundwork.org.za
Web: www.groundwork.org.za

555 Amory Street, Boston
MA 02130, USA
Tel: +1-617-522-0604
Fax: +1-617-522-5591
e-mail: info@groundwork-usa.org

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AFFILIATIONS:
groundWork is affiliated to the following international organisations:
Health Care Without Harm
International POPs Elimination Network
Basel Action Network
Oilwatch International
Global Anti-Incineration Alliance
groundWork is the South African member of Friends of the Earth International

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Cover photo: The groundWork staff standing outside their new offices at 6 Raven Street. Pic courtesy groundWork.
It is Spring! Well, at least for us in the South!

I write this smokestack from ‘The groundWork House’. After eight years we finally have our own place to call home. As much as we loved ‘191 C Burger Street, around the back and upstairs’, we now have our own home, and a place that will be our legacy in downtown Pietermaritzburg! We join a strong tradition of NGOs who have made Pietermaritzburg their home!

I have been called an eternal optimist by my colleagues because, after the 21st of June each year, although it is the beginning of our winter, I start the celebrations of the returning of the sun. I understand why ancient people worshipped the sun - it gives us life, lights and warms us. After all it is the one thing that gives us energy consistently. I thought at one stage it was Eskom. But I am sad to report Eskom’s days are numbered. So enjoy the sun for those of you that have had energy blackouts.

Energy has been a big issue this winter. We have had blackouts in the Western Cape, Gauteng and even in KZN, where the winter is milder. All of this is caused by Eskom’s poor planning and attitude, one where they imagine themselves to be above the law. Just ask them for information on the air emissions and ambient air monitoring and watch their response! Most of all I am frustrated by Eskom for giving our energy away at cost to multi-national industrial users while we have to pay cost plus high profit!

On the 14th of August, the Minister of Public Enterprises, Alec Erwin, was at the sod turning ceremony at Medupi ‘Power’ Station, Lephalale. This is the first ‘power’ station that has been built in twenty years.

Minister Erwin stated that ‘we need to ensure that we move quickly towards better security of electricity supply for South Africa’. Alarming is he uses the word ‘security’. It conjures up images of United States and United Kingdom troops in Iraq, ensuring that these countries have oil at any cost. I am hoping that, being aware of the limitations of fossil fuel supply, ‘energy security’ does not mean we end up ‘muscling’ other countries for our electricity ‘security’. What we should be doing instead is ensuring energy sovereignty. To ensure that we use what we have wisely, to ensure longevity and equal access to energy for all South Africans. We must be careful of the misnomer “economic growth” that we are chasing. We need another growth, and that is a people centred growth.

The question one has to ask Mr Erwin is: Who is going to fund the R150 billion capital expenditure? Will it be industry that is getting electricity at cost to make the economy grow, or will it be people with prepaid meters?

On another note, we finally welcome the National Environmental Management: Waste Management Bill into parliament. We note that there are some critical challenges that still await civil society as this Bill reaches its last stages of debate. Two key issues of concern are the fact that the mining waste dumps that litter our beautiful land, and poison our people and ecosystems, will not be managed under the Waste Bill. Secondly, despite all the evidence available that incineration is not a good choice of waste management it is still on the cards.

groundWork has had a frustrating past quarter attempting to track the parliamentary process for the Bill which has gone to parliament. There has been no final date for a public hearing set as yet. During the month of August the dates that were set were repeatedly moved, and still we do not have a date to be able to raise our concerns in Parliament.

In order to make the democratic parliamentary process work, we need to ensure that people have the time to prepare sufficiently – we cannot make it to Parliament on the last minute!

Till summer!
Still nothing happening at Thor

Rico Euripidou & Bobby Peek

The fate of the contaminated Thor Chemical site is still not decided

After 2 years of silence the Department of Environmental Affairs and Tourism (DEAT) notified all registered interested and affected parties (IAPs) of a public meeting on the 8th September to report on the Environmental Impact Assessment (EIA) for the Waste Treatment, Waste Disposal and Decontamination at the Guernica* Industrial Site (hereinafter referred to as Thor Chemicals), located at Cato Ridge, KwaZulu-Natal.

Surprisingly the reason for this public meeting was to notify IAPs that the DEAT-initiated EIA being undertaken by SRK Consulting was being closed and that a new EIA application will be initiated by Guernica Chemicals (Pty) Ltd in order to continue this process and address the need for remediation and disposal of mercury waste stockpiles.

SRK consulting were commissioned to prepare a detailed waste inventory to quantify, (within reasonable limits of accuracy) the amounts of waste materials on the site, and to classify these wastes in terms of their type and degree of mercury (Hg) contamination. The following sub-objectives were identified:

• Develop and implement a waste classification system that will facilitate the efficient decontamination and treatment of the waste.
• Label the wastes appropriately to allow for efficient sorting and treatment.
• Chemically characterise the waste in sufficient detail to permit the selection of the most appropriate treatment option.
• Develop an accurate database of the wastes stored on the site, including those contained in warehouses and on the leach pad, but also eventually including buildings and soil.

The current situation following the SRK Investigation

Presently the waste at Thor Chemicals (stored on site) has just been inventoried and the waste types and quantities established and captured on a database linked to a barcode system. The total volume of waste stored on site is approximately 3 590m³ and adds up to approximately 2 704 tons. The majority of the waste is catalyst and most of this is stored in a leach pad. SRK Consulting state that 79% of the waste cannot be linked to where it originated.

A total of 9 054 drums stored within the three warehouses have a total mass of 972 tons and a volume of 1 279 m³. The different waste types have varying chemical compositions with the highest determined Hg content of 36% in a sludge. The highest level of mercury in catalyst was 27% from a Thor Chemicals catalyst sample. The extent of on-site soil contamination was determined previously. Some 2150 m³ of soil had levels of mercury above the EPA limit of 610 ppm.

The water in the Storm water dam and Earth dam did not contain any detectable Hg, suggesting that negligible additional mercury is entering the storm water dam from on-site surface water run-off. Mercury levels in the sediment and water from the stream to the north of the site have improved since 2002. The Hg level in the plants along the stream is significantly higher than in the water and sediment, suggesting that the plants are taking up and accumulating mercury.

SRK Treatment and Disposal Option Review

SRK then undertook a review and identified technical disposal options from the international literature based on the characterisation of the waste described above. Much of the information within their report draws heavily from the US EPA and US Department of Energy reports of mercury treatment technologies.

Not surprisingly the main conclusion SRK Consulting draw in this regard is that the most preferred option for the waste stockpiled at the Thor site is mercury roasting and retorting – another name for incineration – which is the very same technology that got us to where we are in the first place.

However, in a dramatic twist of events, DEAT has decided to absolve itself from the present situation and has decided that Thor Chemicals will now begin a new EIA process to assess Waste Treatment, Waste Disposal and Decontamination at the Guernica Industrial Site.

* Thor changed their name to Guernica in the late 90s
So why the fuss?
The critical issue at the public meeting on 8 September was that ex-workers of Thor Chemicals are still calling on compensation from government and Thor Chemicals for health impacts they relate to having worked at Thor Chemicals. The meeting was dominated by this, but there was no meaningful response to the questions of workers! Government needs to deal with this issue unambiguously as soon as possible. To allow this issue to go unresolved for more than a decade is a travesty of justice.

The challenge that we now face is that on two different occasions, one within the Commission of Enquiry in 1997 as well as within the DEAT SRK Consulting EIA in 2007, the ‘predictable’ conclusion drawn is that roasting and retorting are indicated to be the suitable technology to deal with the waste. A ten year period for the same mantra to be sung.

The DEAT are also somewhat devious in their approach to hand over the process that they initiated and took full responsibility for in 2003. The only conclusion that I can draw from this is that the Thor Chemicals EIA will now be strongly informed and limited to roasting and retorting, and the DEAT and the Department of Agriculture and Environmental Affairs will take the usual approach of ‘well if we receive an EIA application we have to respond to it’ knowing full well that civil society is against this.

More deviously, if this is the approach, Thor Chemicals will most probably ask for an exemption from undertaking a full EIA with public participation (based on the 1997 and 2007 findings), which they have a right to do if they are not going to look at alternatives, and at the most we will get an environmental impact report…and eventual incineration!

We must look back at the Davies Commission of Enquiry and reflect on the following:

“3.3.4.2 On the basis of its findings in Chapter 2 the Commission recommends that the cost of the operation of the plant in the disposal of the waste should be for the account of Thor. Given the Commission’s finding of government culpability whether by omission or commission in the creation of the problem, all other costs incurred incidental to the disposal of the waste including for example the cost of the independent team of engineers, should be borne by the government.”

Government according to the above have fulfilled their side of the bargain, but they have not undertaken a proper EIA. In the three years since 2004 when the DEAT EIA was started, civil society had one public meeting with SRK the EIA consultants after which both SRK and DEAT ‘went into hiding’ and the next thing we heard was that waste was being dumped at Holfontein. When questioning the Deputy Minister on this she chose to ignore our correspondence for it had the wrong date on it!

What is interesting is that SRK and DEAT have made findings which could not be interrogated, i.e. retorting and roasting, and I am sure that this is what Guernica will focus on! Guernica will no doubt say twice there has been a call for retorting so we are not going to do anything but that! More importantly SRK who advised on retorting and roasting will be the technical advisors for DEAT on the EIA.

Nearly twenty years after the scandal broke, we are going back to incineration and the workers are still fighting!

groundWork’s position is simple. The EU must take responsibility for this waste considering it is a British company that allowed this to happen in the first place! And, considering that the European Greens have already supported this option way back in 1997, the waste must go back to Europe and be treated under the strict regulatory regime that exists there.

(Footnotes)
1 The SRK Consulting reports containing the inventories and disposal option selection have been made available online (http://www.srk.co.za/publicdocuments.asp?projID=83).
### A Thor Chronology

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
<th>Investigation/information/data</th>
<th>Action taken</th>
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<tbody>
<tr>
<td>1978</td>
<td>Thor SA begins operating.</td>
<td>Thor records first excessive mercury levels in urine of workers. This is not revealed.</td>
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<td>1983</td>
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<td>Department of Manpower writes report warning of danger to workers. No further steps are taken.</td>
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<td>1986</td>
<td>Thor begins massive imports of mercury waste.</td>
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<td>1987</td>
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<td>Department of Manpower writes another report warning of danger to workers. No further steps are taken.</td>
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<td>1988</td>
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<td>July - Umgeni Water Board measures mercury pollution in Umgeni River 25 kilometres downstream from Thor at 1000 times higher than WHO’s drinking water standard. They trace source to Thor, and begin monitoring the concentration of mercury in the Umgeni river.</td>
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<td>1989</td>
<td>September - The Department of Water Affairs says it will investigate Thor for water pollution.</td>
<td>October - American Cyanimid officials visit Thor, and say it is safe.</td>
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<td>November - St. Louis Dispatch reporter, Bill Lambrecht, discovers that toxic waste from the USA is regularly exported to Thor. He travels to Cato Ridge to research the impact of US waste shipments; takes sample at head of Mngcweni River, and finds some of the highest levels of mercury pollution ever recorded.</td>
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<td>1990</td>
<td>March - Earthlife Africa - PMB (ELA-PMB) receives reports that workers at Thor are ‘going mad’.</td>
<td>Feb - At the request of ELA, Greenpeace International sends a scientific team to SA. Greenpeace researchers and ELA activists take soil and water samples around plant - sediment samples 8000 times US standard classification for hazardous waste. Scientists at London University, who also analyse the samples, say that Thor is an immediate risk to human health and the environment, and call for an immediate investigation into Thor.</td>
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<td>April - Government temporarily suspends Thor’s mercury-related operations.</td>
<td>Doctor from Industrial Health Unit (IHU) diagnoses mercury poisoning in 4 workers. He asks to inspect the plant, but is refused entry by Thor.</td>
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<td>July - government grants permission for Thor to reopen its plant.</td>
<td>A former shift leader at Thor resigns and reveals serious malpractice in the plant; high levels of mercury in urine samples of workers, and burns from skin exposure.</td>
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<td>September - SA government bans import of toxic waste - but when Greenpeace asks how this will affect Thor, government says they are not importing waste, they are importing ‘raw material’. Thor thus granted permission to continue importing wastes, if these are generated from the use of products sold by Thor.</td>
<td>Wildlife Society asks Ray Lombard, President of Institute of Waste Management, to investigate. He says everything is fine.</td>
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<td>1991</td>
<td>April - American Cyanimid says it will no longer ship waste to Thor because of all the fuss.</td>
<td>Officials from US company Borden Chemicals and Plastic, who also exports waste to Thor, visit Thor. They say it is well-kept and well-maintained.</td>
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<td>August - Chemical Workers Industrial Union (CWIU) wins recognition agreement.</td>
<td>CWIU obtains routine urine test results done at Thor, passes these to Industrial Health Unit. 87% of workers above safe limit of 50ppb (average is 200ppb). IHU calls for full government enquiry, but gets no response. Findings are published in a national weekend newspaper.</td>
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A protest of ELA activists, farmers in the area, labour activists from Chemical Workers Industrial Union (CWIU) and community members is held outside the factory gates. At the same time, Greenpeace organises a march in USA against shipping of waste by US company American Cyanimid to Thor. The march is broken up by riot police.
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<tr>
<td>1992</td>
<td>February - First Thor worker, Peter Cele, hospitalised. Three more are hospitalised in March and April, one after going berserk at the Thor plant. Two slip into a coma. Thor opens new rotary incinerator, capable of burning 12 tons of toxic waste per day. Thor operates this without license or guidelines from Department of National Health.</td>
<td>February - ELA presents Thor case to IWT. Thor refuses to attend (but does make submission), and government won’t release important information. IWT therefore finds insufficient evidence to link Thor directly with water pollution, but slams Thor for secrecy and misleading information. Thor’s submission to the IWT says that the pollution of water sources is the result of the theft of toxic waste drums from the Thor plant.</td>
<td>February - ELA runs front-page story that 5 current workers and at least 8 retrenched workers are suffering from chronic mercury poisoning.</td>
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<td>May - A few days before BBC visit, Thor releases press statement that it will permanently close its mercuric acetate processing operation. 15 workers forced to sign retrenchment documents.</td>
<td>IHU examines 9 of the 15 workers - 5 have symptoms of mercury poisoning.</td>
<td>March - ELA holds press conference, calling on Thor and government to accept and implement IWT recommendations; reiterate call for judicial commission of enquiry.</td>
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<td>November - Thor applies for (and is given) permission to import sulphide of mercury in order to extract the sulphide. Thor imports this from Calgon, a US company based in Indonesia. DWAF refuses to make public the results of its pollution monitoring of rivers in the province, including those next to Thor.</td>
<td>Residents downstream from Thor, on Mngcweni River, report skin rashes in children swimming in the river, and cattle drinking there. Also blood in cattle faeces. ELA concerned re: impact of shutdown on workers - liaise with Greenpeace on this. ELA meet with DWAF as part of its “Right to Know” campaign, to demand access to river pollution reports.</td>
<td>April - ELA reports that 4 workers hospitalised, 2 in coma.</td>
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<td>Throughout this year, Thor continues to operate its rotary incinerator without a license, guidelines, monitoring or control. July - Thor worker, Peter Cele (22) dies after 16 months in hospital. At death, his kidneys contained over 1900 nanograms of mercury per gram. Another worker dies a few weeks later. August - Attorney-General charges Thor and 3 top managers with culpable homicide and 42 other charges, including falsification of medical records of workers for 13 months in a row. Thor argues deaths (and pollution of river) are the result of sabotage, not unsafe production methods.</td>
<td>ELA obtains documents and correspondence between Ministry of Environment and Thor, showing that Thor managed to get ‘product’ substituted for ‘waste’ to allow it to continue importing; and that Thor is not dumping waste ash on class one site, as required, but is dumping it in dam. Thor also incinerating at 450 degrees not 900 degrees as required (thus producing deadly dioxins released into atmosphere). In addition, no filtration system is in place, as required by law. Attorney-General’s investigation compares Thor’s own records on mercury in urine samples with those submitted to the Department of Manpower. This shows that Thor submitted false information to the Department between January 1991 and January 1992.</td>
<td>December - Scientists employed by World in Action shows rats in area have 7 times as much mercury as rats in nearby valley. This means mercury entering food chain.</td>
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<td>1993</td>
<td>September - another worker is admitted to hospital. Thor engages a private doctor to treat him, and makes him sign a documenting limiting who is allowed to visit him. November - after submission of dossier by ELA, A-G orders further investigation into Thor. Thor managers plead not guilty. The case is set for trial May 1994.</td>
<td>ELA contacts ANC, CWIU and IRU re: information obtained. ELA publishes report that governments in SA and UK have been covering up evidence of malpractice by Thor for 10 years. Reveals reports by Department of Manpower in 1983 and 1987, as well as proof that Thor continued importing waste, with government approval, even as workers were in hospital.</td>
<td>November - Nelson Mandela, campaigning for President, visits worker Engelbrecht Ngcobo in hospital, where he is in a coma. November - at press conference, ELA and CWIU call for national commission to investigate Thor and other ‘dirty and dangerous’ industries in SA. November - ELA hands dossier on Thor to Attorney-General of Natal.</td>
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<td>Year</td>
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<tr>
<td>1994</td>
<td>January - US company Borden Chemicals and Plastics sends shipment of waste to Thor.</td>
<td>1994: Thor announces to ANC mission that it will no longer import toxic waste, and will cease its mercury business entirely within 2 years (which is co-incidentally when its largest customer, AECI, will no longer require mercury in its production processes). Thor say they want permission to incinerate the stockpiled waste without recovering any mercury from it. Department of National health closes down Thor’s recovery plant and incinerator - but production of mercury catalysts allowed to continue. Technical Committee set up to decide what to do with the waste stockpiled at Thor. Court case postponed to January 2005. October - 3 SA workers sue Thor UK for compensation for mercury poisoning. The three are joined by another 17 former workers. Government releases proposed legislation allowing import and export of toxic waste. EPA (USA) serves summons on Borden Chemicals and Plastics for exporting waste to Thor.</td>
<td>January - Greenpeace writes to Borden about Thor. February - ELA campaigns against Borden shipment. Protest held. ELA and USA environmental organisations ask US Department of Justice to take action against Borden.</td>
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<td>1995</td>
<td>February - Ineffective prosecution of case against Thor SA leads to withdrawal of 19 charges, and plea bargain deal. Thor admits to negligence, and pays fine of R13 500. All remaining charges (including culpable homicide) are dropped. Thor worker Engelbrecht Ngcobo dies. February - Attorney-General of Natal informs ELA that there is little hope of a successful prosecution against Thor for illegally dumping incinerator ash on-site; declines to prosecute.</td>
<td>1995: Department of Manpower inspector says Thor has ‘massive’ stockpile of imported waste, including from American Cyanimid, Borden and Calgon (all US companies). There is also waste from Thor’s Margate site in UK, closed down in 1987 after an ultimatum by UK government to clean up or face action.</td>
<td>March - ELA and Greenpeace release detailed report on Thor. ELA says waste at Thor should be returned to sender. Releases names of companies doing business with Thor, and encourages members to write to them. Increasing public call for Commission of Enquiry. ELA begins protest action against proposed legislation.</td>
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<tr>
<td>1995</td>
<td>February - Government announces there will be Commission of Enquiry (CoE) into what to do with waste stockpiled at Thor.</td>
<td>1995: Environmental Justice Networking Forum (EJNF) highly critical of court case outcome - expresses concern about government’s role.</td>
<td>February - Legal Resources Centre (NGO) send letter to President Mandela asking that ELA and CWIU be allowed to help frame terms of reference of CoE. No response. March - LRC delivers letter to President, saying ELA will take President’s Office to Supreme Court if ELA-PMB is not allowed input into the terms of reference of the CoE - LRC agree to represent ELA at the commission.</td>
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### Waste Project

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<tr>
<td>1996</td>
<td>February - CoE begins.</td>
<td>CoE investigation - this allows ELA access to documents and information previously out of reach.</td>
<td>ELA and CWIU argue to CoE that waste should be returned, not incinerated. ELA also argues that soil in and around plant should be treated as waste. EJNF employs researcher for 4 months to prepare evidence for second stage (what happened at Thor and how this could be prevented in future). June - ELA addresses Federation of Green Parties in EU; they vote in favour of waste being returned to European sources.</td>
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<td>1996</td>
<td>July - CoE completes first stage (what to do with stockpiled waste).</td>
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<td>1997</td>
<td>CoE releases report. Says Thor and government responsible, since Thor given special treatment by apartheid government. But recommends waste be burned, with government paying technical cost of waste disposal, and Thor paying for cleanup and disposal. However, this is not done. Department of Environmental Affairs and Tourism sets up Project Steering Committee to implement recommendations; includes labour, industry, NGOs and Cato Ridge Community Leaders. PSC to report on suitability of environmental mercury standards as recommended by CoE as well. March - Thor resumes production of mercuric chloride for export to Borden. 16 more workers suffering symptoms of mercury poisoning. 20 former workers accept out-of-court settlement of R9.4m from Thor UK. Second group of workers initiate legal action against Thor UK. Green representative from EU visits Thor.</td>
<td>Green representative from EU visits Thor.</td>
<td>ELA criticises some of the findings of CoE - eg. CoE included report on water and soil pollution, although ELA prevented from gathering or presenting information on this; recommends incinerating waste.</td>
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<td>1998</td>
<td>February - another 21 workers institute legal action for illnesses resulting from mercury poisoning due to unsafe production methods.</td>
<td>August - EJNF interviews former and current Thor workers for national poverty hearings - links poverty and worker health and safety.</td>
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<td>2000</td>
<td>June - USA EPA visits SA to advise government on what to do with waste still stockpiled at Thor. October - Workers accept out-of-court settlement; Thor UK pays R2.7m. This means that Thor has not accepted liability.</td>
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<td>2003</td>
<td>Deputy Environment Minister Rejoice Mabudafhasi delivered a R60-million toxic chemical clean-up directive to Thor Chemicals’ lawyers earlier</td>
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<td>2004</td>
<td>Environmental Impact Assessment Scoping process starts</td>
<td>Waste inventory is developed and disposal choices investigated</td>
<td>SRK Consulting to undertake process that seeks to deliver the following: 1. Output A: Detailed Waste Inventory; 2. Output B: Agreed Decontamination Specifications; 3. Output C: Treatment and Disposal Options Review.</td>
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<tr>
<td>2006</td>
<td>Department of Waster Affairs and Forestry gives Thor Chemicals permissions to dump contaminated soil and building waste at Holfontein. SRK release scoping report findings and suggests retorting waste. DEAT announces that they are no more proponents of EIA, but rather Thor Chemicals is.</td>
<td>1000 m³ mercury contaminated waste dumped</td>
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<td>2007</td>
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Thanks to Anne Harley from the Centre for Adult Education (CAE) at the University of KwaZulu-Natal for the information for this chronology.
Our local landfill site has been facing dramatic challenges. It has been struggling over the past years to meet DWAF minimum requirements. Every permitted landfill site in South Africa has minimum requirements to comply with and the landfill permit or license is issued with specific obligations to be honoured by a license holder.

One of the requirements is that there must be a formal structure to oversee or monitor the landfill operations. The New England Road Landfill Site Monitoring Committee meets monthly. The last meeting was postponed by the chairman of the committee – apparently there was nothing to talk about. Since the landfill site had been on fire earlier this month and the external audit report had been recently distributed to the authorities and to some landfill committee members, I would have said that there was plenty to meet about. As I said earlier - there are challenges faced by the landfill.

What the Audit Report had to say

Compaction and cover material
The waste compaction process of the landfill should be followed by a covering. Soil is a suitable material to cover levelled waste. Covering has many advantages like suppressing the waste odour, preventing flies and reducing the level of methane production. The New England Road Landfill is having trouble acquiring suitable cover material and as a result odours, flies and greenhouse gas emissions are strong in this landfill.
Uncontrolled waste picking
Scavenging is rife in this landfill. Men, women, children, mothers with babies at their back and trucks convene everyday to pick different materials. About 200 people daily come to work at the landfill site. The minimum requirements do not permit pickers on site. While the scavengers operate as if they are permitted, the risks they run are evident. Apart from anything else, municipal trucks and private cars flood the landfill to dump different materials and scavengers are not even giving them a chance to unload the materials before descending upon them, running the risk of being run over.

Leachate system
Leachate is liquid that has percolated through the landfill, carrying with it substances, invariably toxic, that have dissolved into it. The leachate system was broken at the time the auditors visited the site. The tanks, which contain extracted leachate and which should have been fenced, had allegedly been vandalised by scavengers.

Storm water management
The storm water management system is also a challenge because it is not there. The small roads on a buffer are used as a storm water channel because of the lack of a storm water system. Storm water gets mingled with leachate and ends up in the nearest water course - Umsunduzi river - which is unacceptable.

Signage
While present, the permit signage at the gate has insufficient information and, while the landfill permit holder is, as required by law, on the signage, it is obscured by the entrance wall.

Landfill fire
The landfill had been on fire the night before the auditors’ visit. The fires are fuelled by uncovered waste material at the landfill. The lack of cover material was deemed to be caused by a lack of funds to collect cover material for this activity.

Internal audit
Even though the licence requirements stipulate that an internal audit needs to be done every quarter, no internal audit report has yet been produced by the municipality in 2007.

The internal audit is supposed to assist the landfill manager or waste officer to monitor progress of the landfill operation.

Water quality
It was also found that most of the water boreholes on site are more contaminated than they had been in 2006. It is thought that the reason for this is that the landfill operation is worsening. The broken leachate system no doubt contributes to this high groundwater contamination.

Unavailability of minutes for monitoring meetings
The license requirements make it clear that there must be a formal structure to monitor landfill operation and this structure should comprise different stakeholders. The auditors, in consultation with the site manager, failed to get minutes of previous meetings of the landfill site monitoring committee.

Recommendations
There are very limited recommendations put forward by the Geomeasure Group who performed the audit:
• It is very important that the proper systems are put in place so that the landfill will not contravene the license requirements e.g. leachate system, monitoring committee.
• Training of landfill staff is needed to prevent the landfill impacting on the lives of the neighbouring community.
• Funding from the municipality should be made available for a smooth running of the landfill.
• Timeframes must be set up to remedy non-compliance.

The internal audit report was promised in June 2007 but we have yet to receive it. The landfill authorities are failing to comply with the requirements of the landfill site permit and DWAF’s minimum requirements. The internal audit, which is meant to help in the management of the site, has not been done. Basic systems are not working. Aish! The are indeed challenges being faced by the New England Road Landfill, and DWAF is doing nothing about it!
The Waste Management Bill goes to Parliament

By Rico Euripidou

The Waste Bill has been formally presented to the portfolio committee

On the 8th of August, on an atypically clear and sunny Cape winter’s day, Musa and I attended the DEAT presentation of the Draft Environmental Management Waste Bill to the Portfolio Committee on Environment. The purpose of this briefing was to formally enter the Bill into the parliamentary process and to allow the members of the Portfolio Committee to ask questions. Members of the public and public interest group were allowed to attend the briefing but not to ask questions or make interventions.

We entered the parliamentary complex through the Plein Street entrance and, en-route to committee room S12(a), catching glimpses of Table Mountain through the bay windows, one could not but feel a sense of pride and inspiration knowing that we were involved in a small part in ensuring civil society environmental justice towards our collective nation building.

My inspired sense of pride was further heightened when we chanced upon our new emblem, which I feel I must share with you. Using the symbolic form of a King Protea (P. Cynaroides) within a drum, with the backdrop of a rising sun over an open book, the new emblem contains four essential elements of our democracy – our South Africa – the Sun; our People – the Protea leaves; our Parliament – the Drum, Protea and Triangles (9 Provinces); and our Constitution – the Book.

The sun heals the divisions of the past, improves the quality of life of all South Africans, frees the potential of each person, and builds a united and democratic South Africa, taking its rightful place as a sovereign state in the family of nations.

The Protea leaves are our people, building on the foundation of a democratic and open society acting as the voice of the people and providing a national forum for public consideration of issues.

The drum calls the people’s Parliament, to consider National and Provincial issues, ensuring government by the people under the constitution.

The book – our Constitution – lays the foundation for an open and democratic society, based on democratic values, social justice and fundamental human rights. It is the supreme law of our country and ensures government by the people under the constitution.

What wonderful sentiments - would that the theory were truly put into practice on the ground.

Both Joanne Yarwich and Pam Yako of the DEAT presented to a core group of the Portfolio Committee on Environment members, including the Chairman Mr. Zita, Ms. J Chalmers, Mr. Maluleke, Mr. Moekena, Mr. GR Morgan and the esteemed Mr. Cochalia.

The mission statement of the Committee says: “The overall goal of the Portfolio Committee on Environmental Affairs and Tourism is to improve the quality of life of the people of South Africa based on the principles of Vukuzenzele, Social Contract and Voluntarism”

“Vukuzenzele” is an initiative by the Presidency to get all government departments involved, through volunteers and without government funds, in a social outreach program run under the auspices of each government department’s DG. Its core message is “lend a hand to build a better life for all”. This slogan puts emphasis on partnership between government and society in all sectors and communities on the basis of active participation in the programme of action. It evokes the spirit of volunteerism and civic responsibility. It stresses the task of Nation building in the context of joint action towards eradicating the imbalances of the past.
After Pam Yako introduced the DEAT team, Joanne Yawich provided an overview of the structure and purpose of the Bill, explaining that this is a framework piece of legislation that needs to be fleshed out with standards, etc. Joanne pointed out that we have a culture of uninhibited waste generation in South Africa - “a throw away culture” - and, more importantly, she also noted that the Waste Bill as it currently stands is not on par with the current trend in the international regulatory regimes, which focus more on waste minimisation than on management and disposal. This is because the DEAT does not believe that the municipalities have the capacity to act on more stringent waste measures.

The Bill was then briefly described to the Portfolio Committee chapter by chapter and below I have tried to provide a synopsis of which issues were raised and discussed by the DEAT and the Portfolio Committee members.

Most of the comments received by the DEAT on the Bill related to the definition of waste. The DEAT itself considers that they need to urgently address waste management tools in Chapter 3, especially at a local government level because municipalities are not planning properly for waste in the long term e.g. in terms of trucks, growth of waste, disposal options and so on.

**Conflicts and exclusions**

Conflicts with other legislation and exclusions from this Bill include the content of mine dumps. This, in the opinion of the DEAT, is dealt with by Minerals and Petroleum Resources Development Act of 2002 and any mine dump will not be subject to the Waste Act. Another notable exclusion in this Bill is radioactive waste which is not covered.

**General comments, questions and responses**

Will the Bill allow for the creation of economic value to drive a new business sector in SA? For example is there scope for small businesses to benefit from waste in the future? The discussion following this question centred on making the municipal waste stream more accessible in order to increase the waste recycling volume.

Municipalities will have to ultimately comply with this Act. They are in a constant struggle to find funds. The budget as it stands in the amendments to the Bill seems conservative and the costing might need to be rethought. However, municipalities should have some basic structure of integrated waste management plans and the costs to carry these out. A possible way to address this issue might be to get the Treasury to make more funding available for municipalities.

Too much responsibility within the Bill is placed on the Minister. Instead, the DEAT should consider recommending a Waste Monitoring Council (WMC) to assist in implementation of the Act using a model that draws from all stakeholders to alleviate pressure on the Minister and allow for more integrated decision making on waste.

Following this suggestion the DEAT expressed a concern about how the WMC would deal with functions outside of a parliamentary mandate to make executive decisions which might cause competition of power – they don’t want to create another centre of power and instead we should use the existing organs and make them more accountable.

Concern was expressed about when the regulations, norms and standards for this Bill will be finalised because in South Africa we lack an understanding of the costs of non-compliance - this Bill must (at all levels) make tougher, enforceable (with teeth) regulations for non-compliance. To this the DEAT indicated that there is currently an implementation project drafting norms and standards and finalising the list, but they lack quality information on the levels of waste and scope of industry which produce these wastes. Furthermore, the Bill will support municipalities to implement the Bill with model by-laws and costings etc.

How do we deal with rural waste? Has the DEAT analysed this? The DEAT approach to this question is to view the entire country is a wall to wall municipality and therefore all municipalities containing rural villages must provide for them in their plans! The Bill should encompass a comprehensive approach which might, for example, be a weekly skip. Statistics, however, indicate that poorer areas generate 15 times less waste than rich areas! The DEAT further indicated that this is possibly an area of enterprise generation which might have big potential in the form of small businesses being outsourced to undertake municipal functions.

**Incineration**

The committee members then raised the issue of management of incineration as a particular concern and stated that new and different ways of waste management are needed. Members agreed that it is of particular concern that almost all medical waste incinerators in South Africa are non-compliant with international standards. How does the Bill address incineration? To this the DEAT indicated that there is no view of incineration within the Bill. If one wants a license to incinerate one has to comply with conditions of the license e.g. meet AQ emissions, and Occupational Health and Safety requirement. DEAT understands that certain stakeholders want incineration banned but the DEAT cannot see a clear way to banning disposal methods as they don’t know what knock-on effects will occur - for example, what to do with the medical waste stream as the DEAT don’t see landfilling as the best method!

Questions were also asked about the Plastic bag recycling initiative, nuclear waste and a radioactive waste policy.

groundWork have in response to this piece of legislation held a two day National Civil Society workshop and submitted detailed comments to the DEAT. These comments are available at [http://www.groundwork.org.za/WasteBill/FinalWasteBillComments120407.pdf](http://www.groundwork.org.za/WasteBill/FinalWasteBillComments120407.pdf).

We now look forward to the public hearings on this Bill!
Waste Project

An update on the ASP

Meetings with the DEAT help clear the air about NGO involvement in the African Stockpile Programme

The Endangered Wildlife Trust has taken over from groundWork as the NGO coordinator of the ASP program in South Africa, as groundWork felt that it did not have the resources to give the program the undivided attention that it deserves. groundWork will, however, remain on the National Steering Committee. On the 12th of June 2007 there was a South African NGO meeting in Durban. Because there was a national civil servant strike we were not expecting DEAT representation, but were pleasantly surprised to find a representative present, especially as we were all eager to find out what the department was going to say in response to a series of hot letters sent to them about NGO involvement in the ASP.

Ms Nomphelo Daniels represented DEAT. She started by apologising for the exclusion of the NGOs in the programme. This follows an outcry from the NGO sector when DEAT failed to involve NGOs in a pilot project in Limpopo, despite the fact that the contract between the South African government and the World Bank states that the NGO sector must be part of the programme from initiation to closeout.

A brief background of the NGO ASP network was given at this meeting so that DEAT would know where we come from as the NGO network. Bobby Peek gave an account of why groundWork is involved in ASP (our concern is that the stock piles will be incinerated), the Stockholm convention and WWF burning waste in cement kilns.

He explained that, linked with other African NGOs, Agenda and The Pesticide Action Network (PAN) asked to do work in South Africa. In 2005 groundWork, Earthlife, and TWIG (Third World Investment Group) did some reports on ASP. At this point formalisation of a network was discussed. In September 2006 groundWork requested NGOs to attend a meeting and the NGO network was inaugurated at that meeting. groundWork took an administrative role and tried to engage with the DEAT to understand what DEAT was doing in South Africa. One of the battles we fought was to compel the DEAT to recognise the NGO network.

Presentation by Nomphelo Daniels (DEAT)

Ms Daniels started by giving a brief background to the project highlighting that ASP Phase 1 was initiated by DEAT and the World Bank in September 2005. She said that their pilot project in Limpopo collected a substantially greater amount of pesticides than had been expected. The greatest portion of ASP budget nationally has been spent and it was clear that the money left in the budget would not be able to accommodate other provinces. The collected stocks are now stored at Holfontein (a permitted hazardous waste storage facility). While the government is not yet ready to dispose of these pesticides, disposal techniques need to be explored.

A question was asked about what resources DEAT have budgeted for involving Civil Society Organisations. The response to this was that no money has been budgeted for NGO activities. This was seen as a problem as financial support from PAN/Agenda is mainly for administrative functions and is not sufficient to cover operational functions. Ms Daniels undertook to follow up funding issues with Dee Fisher.

Nomphelo concluded that she understands NGO frustration with regard to their involvement. She invited the NGO national steering committee to a meeting in Pretoria on the 12th and 13th of July, 2007, so that DEAT could explore the expectations that they have from the NGO network.

Meeting with DEAT

The meeting with DEAT took place as planned. The network raised its expectations as a network from DEAT and DEAT did the same. CropLife presented an ASP work plan and we agreed on quarterly meetings as a national project steering committee. The task teams are going to be set up in our next meeting. We were provided with Terms of Reference for National Steering Committee on which we submitted our comments individually as NGOs. We were also afforded an opportunity to comment on the operational manual.

From the 3rd to the 5th of October ten members of the NGO network will be attending ASP training by DEAT in Pretoria. It is not yet clear what the training is going to cover as we are still waiting for a training programme.

The ASP future looks much better now that DEAT has invited NGOs on board. We trust that this is a good sign for the success of this programme.
Waste Project

Alternatives to incineration

By Nomcebo Mvelase

Contrary to what many people insist, incineration is NOT the best way to deal with Medical Waste

“That all people are living in an environment that is not harmful to their health and wellbeing” - this is groundWork’s vision and when we all join hands and fight the same struggle groundWork’s vision will be a dream come true.

Health care waste is a mounting problem in SA, as it is in other countries, and will not disappear overnight. But, with the right investment of resources and commitment, this problem can be solved. It calls for all stakeholders involved to take ownership and be responsible.

Studies have shown that waste is still being illegally dumped, burnt or buried and this affecting the health of people, especially children, making them vulnerable to HIV/AIDS and Hepatitis infections, especially if exposed to sharps like needles.

Historically, in the USA, incineration was thought to be an effective way to deal with Health Care Waste, but in the 90s a move away from incineration began. Slowly South Africa is following suit as, over time, the ill effects and the disadvantages of incineration have emerged, and alternatives to incineration have become available.

In order to fulfil the medical ethic of “First do no Harm” the health care industry has a responsibility to manage waste in ways that protect the public and the environment. Burning matter does not destroy it. Burning it converts it into another form and re-distributes it in the air, land and water. We need to move away from waste disposal to genuine waste management. But despite attempts at management, there are still problems. For example the Green Scorpions shut down the AidSafe incinerator located in Benoni in June this year after months of negotiations to clean up the site, which was littered with expired medication, needles and amputated limbs. And in India the residents of New Delhi are suffering the consequences of improper waste management practices as The Synergy bio-medical waste treatment facility, a plant which treats all the medical waste from the clinics and hospitals, even radio-active matter, is in a residential area and creates black smoke which impacts on long-term health.

Not so long ago in KZN, in March 2006, the biggest incinerator, which was located at ikopo, was closed down because it did not meet the Health and Safety conditions of its permit and in Isipingo, in August 2007, the residents of an informal settlement were outraged after finding used hypodermic needles, syringes, bandages and other hospital apparatus covered in blood dumped in the area where children normally play.

No incinerators meet the operating standards in KZN, and it has been proven that incinerators in general have the following problems:

• Even though waste is reduced to ash, it does not disappear. Some people think that when you burn waste you destroy it. This is wrong. When you burn rubbish it does not go away it just turns to some thing else i.e. Toxic gases, toxic ash and other left over pieces.
• The ash that is left over after waste has been burned in an incinerator is much more poisonous.
• Incinerators are responsible for 69% of global emissions of dioxin, which is the most toxic substance known.
• Incinerators are also a major source of mercury pollution. Mercury is a neurotoxin, impairing motor, sensory and cognitive functions.
• Toxins in the waste are released, or even created, during the process and are left, often in a more concentrated form, in the ash.
• It is expensive to both install and run the incinerator. Disposing of the ash residue is even more expensive as it needs to be treated as a hazardous substance. All over the world incinerators run at a loss.
• In order to remain operational, incinerators require a steady flow of waste. There is therefore no incentive for anyone to reduce waste.
• Invariably, incinerators are placed in areas where poor people live, as rich people are more able to mobilize against proposed incinerators in their areas. This is so unfair and what I can confidently call an environmental injustice!
• Incinerators make people sick - exposure to dioxin has been shown to cause immune system depression, birth defects, low testosterone, sterility, increased glucose leading to diabetes and cancer mortality in workers and community residents.
• Incineration does not create jobs - provides few employment opportunities in relation to the large capital investment needed.
• The research has demonstrated that both older and modern incinerators can contribute to the contamination of local soil and vegetation with dioxins and heavy metals. In European countries cow’s milk from farms located in the vicinity of incinerators has been found with elevated levels of dioxin, in some cows above regulatory limits.
• Wasting energy - this technology requires a great deal
of energy to operate and some facilities have consumed more energy to operate than could be produced if waste were converted to energy.

• In India, the pollution Control Authority required hospitals who wish to install incineration to remove PVC prior to burning and to upgrade the hospital waste incinerators with the kind of expensive and advanced air pollution control equipment currently being used on modern municipal incinerators.

• But challenges that were faced by Germany and Holland deduced the following facts:
  - It is not enough to have the pollution control equipment. Professionally trained personnel to operate it are critically important
  - To monitor the incinerator continuously for dioxins or any toxic emissions is very expensive and time consuming.

In May 2001 our government signed the United Nations Stockholm convention on Persistent Organic Pollutants (POPs) which seeks to eliminate certain pollutants, including those which are formed during waste incineration processes.

The Stockholm convention names incineration processes as one of the processes which leads to the formation of new POPs. It also indicates that there is a need to investigate and promote safer non-combustion processes for decontaminating waste.

What are the alternatives?
Because of our commitment to optimum health, we encourage the use of safer, non-incineration technologies. Currently there are a number of alternatives to incineration, the one which we feel to be most appropriate being the autoclave.

Autoclaving uses steam to render the waste harmless. This technology is commonly used in hospitals for cultures, sharps, materials contaminated with blood, and software (gauzes, bandages, drapes). Autoclaves require minimum exposure time and temperature to achieve proper disinfection. When using this technology waste must be totally segregated because if chemicals are present they can contaminate the air. Offensive odours can be generated but are minimised by proper air handling equipment.

How does an autoclave work?
This is a typical operational cycle showing how sterility is achieved when using an autoclave machine.
• Waste is collected – Bin lined with special plastic liners
• Pre heating – Steam is introduced into the outside jacket of the autoclave
• Waste loading – Containers are loaded into the autoclave. Periodically chemical or biological indicators are placed in the middle of the waste load to monitor disinfection
• Air evacuation – Air is removed through gravity displacement or pre-vacuuming
• Steam treatment – Is introduced into the chamber until the required temperature is reached
• Steam discharge – Steam get vented from the chamber through the condenser to reduce the pressure and temperature
• Unloading – Additional time is provided to allow the waste to cool down
• Mechanical treatment – Waste is fed into the shredder prior to disposal in a sanitary landfill

It is a proven fact that if the no-burn technologies are used the right way, they are safer and emit fewer pollutants when compared to incineration. It is up to each institution to determine options which best meet their needs while minimising the impacts on the environment, enhancing occupational safety and demonstrating a commitment to the public.
The due date for the Department of Environmental Affairs and Tourism (DEAT) to publish the National framework on Air Quality Management (the NF) is 11 September 2007.

Within the Air Quality Act 39 of 2004 there is a section that requires the Minister of Environmental Affairs and Tourism to establish a national framework to achieve the objectives of the Act. This includes, amongst other things, the setting of norms and standards, systems and procedures for air quality monitoring, attaining compliance with ambient air quality standards, managing air quality information and the establishment of standards for ambient air quality as well as point, non-point and mobile source emissions.

groundWork facilitated a process of getting the views and opinions of civil society in South Africa on this framework. These organisations met on the 1st and 2nd of August 2007 to interrogate the Air Quality Act: National Framework and to develop a joint response.

Has DEAT Delivered?
While the meeting welcomed the fact that the DEAT has started the process towards the NF as required, there was general disappointment at the fact that DEAT has far from completed the process, and have developed what civil society terms a poorly consulted first generation National Framework which does not nearly fulfill their duties as set out in Chapter 2 of the National Environmental Management: Air Quality Act (AQA). This failure to deliver as per requirement is a reality that has affected DEAT for some time.

In November 2000, the then Minister Valli Moosa promised that there would be ambient air standards by 2001. He and DEAT failed to deliver on this. Seven years later we still do not have standards and this NF process, which promised standards by September 2007, has failed civil society once again.

Concerns from civil society
In our workshop the following two statements were made which critically reflected how civil society views the management of air quality in general, and in particular this process:

“The NF must close gaps on flaws in the air quality management process,” and

“We have not had this before, therefore we must accept it.”

The latter comment demonstrates a desperate need for solutions to our air quality challenges. It was, however, felt that crisis should not lead us to accepting a framework which is not in the interests of ordinary South Africans, that we need DEAT to deliver on the promises it has made, and that the NF must ensure that we strengthen air quality management rather than weaken it.

Section 24 of the South African Constitution states: “Everyone has the right to an environment that is not harmful to their health or well-being”.

Health has therefore been a serious issue which civil society has continually called on DEAT to consider in the delivery of a good air quality management system. The original AQ Bill was actually vetoed by the Portfolio Committee on Environment and Tourism in February 2004 because of its lack of focus on health; now DEAT is repeating this mistake in the NF. Health is only mentioned twice in the framework and once in relation to dust ‘not posing a health problem’. This latter reference is scientifically incorrect because particulates do, in fact, have a number of negative effects on health.

Information accessibility
It was expressed as a concern that companies are actively using the National Key Points Act and Promotion of Access to Information Act to withhold information. Government should therefore undertake a legal review of what information may or may not
be withheld from the public. This should be finalised within the second generation National Framework.

**Non-compliance**
There is no explicit description of non-compliance in the NF. For example, in Durban the Engen Refinery was allowed, as part of the licence it had negotiated with eThekwini municipality, 35 exceedences of SO2 a maximum of 10 minutes. The refinery, however, exceeded the conditions of this permit on many more occasions, without consequences.

What is problematic with this framework is that there is nothing in the NF that guides the municipality on what penalties it should impose on Engen. The NF should clearly guide the local and provincial regulators on what penalties to impose when non-compliance occurs, otherwise we will never move towards the objective of achieving health-based ambient air quality standards.

Once the NF is put into operation many (if not most) industries in priority areas will collectively be in non-compliance to the air quality standards. The challenge, however, will be to ensure that compliance is effective at the emission level in order to ensure collective compliance to the air quality standards.

**Domestic fuel burning within the framework**
The NF does not effectively inform us how the Minister adopts a certain strategy such as the Basa Njengo Magogo (Basa). The Basa is a top-down method of lighting a fire aimed at reducing air pollution (smoke) from domestic coal fires by at least 40% which the DEAT is attempting to impose upon communities. There is much data to support that the Basa methodology is a failure in terms of outreach and practical implementation. In such instances the DoH/DEAT/DME should provide a measure of the success or failure of that strategy.

DEAT asserts that “the highest levels of air pollution at ground level are found in low-income urban residential areas, due, largely, to the use of coal and wood stoves for cooking and heating”. This is unqualified and attempts to shift the blame from Industry to communities. While it is recognised that communities do use fossil fuel we do not believe that this source of emissions is responsible for the highest levels of air pollution in communities that are heavily industrialised.

There is no explanation for choosing the Basa strategy to reduce indoor/ambient air pollution in low income urban settings. Further strategy analysis needs to be undertaken in this regard to meaningfully address this issue. Any strategy proposed must include a method to measure the success or failure of that strategy.

**Standard setting process**
It was the opinion of the meeting that where there is reason to believe that additional standards are needed then the burden of proof must be on the polluter to show that they are not emitting a dangerous pollutant – and where it is found that they are, then they must be subject to an ambient air quality standard regardless of justifiable cost.

For example, around SAMANCOR there needs to be a standard for manganese and surrounding Oil refineries there needs to be a standard for Volatile Organic Compounds.

**Location and siting of AQ monitoring stations**
Community people, particularly in the Vaal Triangle and south Durban, expressed concern that the location of sampling sites for ambient air quality monitoring is not participative. As members of the community they know exactly where the smells and AQ are worst as they experience this on a daily basis but the Framework is quiet about community participation in the siting of ambient air quality monitors. The meeting stressed that civil society must be involved in this process otherwise it will lead to suspicion and mistrust, as has already occurred in the South Durban Basin.

**Way Forward**
This present document was developed without meaningful consultation and participation except for the three regional workshops. It was a consultant driven process. It was a strong suggestion that, for the second generation National Framework, a stakeholder committee needs to be set up urgently to steer/guide/make formal input to the finalisation of the NF as per chapter 2 of the AQA.

We look forward to DEAT incorporating the concerns of civil society and an indication from them that they realise that this first generation NF fails to deliver what the AQA calls for. We look forward to assisting DEAT in delivering a functional NF within the next twelve months.

The full submission made to DEAT can be found at: http://www.groundwork.org.za/NationalFrameworkAQcomments.pdf.
On Friday, the 3rd of August, we all flew into OR Tambo International Airport, had some coffee and then huddled inside one of the fancy meeting rooms and had a full day meeting with senior management of DEAT.

The meeting was attended by all the colourful characters in the environmental and conservation NGO sector. It was indeed an experience sitting around the table with such a broad and interesting bunch of people - from the subsistence fisherman to conservationist to the environmental justice mob!

Who were missing from the room were the community people who face the fenceline environmental justice struggles everyday. DEAT agreed after debate that they would consider facilitating community access to these meetings. We each had to pay for our own transport to the meeting, including the South Durban Community Environmental Alliance, a community based organisation based out of Durban.

Now, we all know the challenges we have with DEAT and participation and clarity on the processes that they undertake, but this second NGO meeting – the first one was held in February – was a breath of fresh air.

At the outset of the meeting the environmental justice NGO sector raised the concern about process, as put forward in a letter to the DEAT a few days before. Ms Pam Yako, Director General, responded admirably and considered a call for a more in-depth meeting with the DEAT functionaries. Before the meeting went on a process was agreed upon. This was indeed a good beginning.

The importance of the meeting was that, for the first time, there was a well planned dialogue between the DEAT and various NGOs. But let us not be all ‘motherhood and apple pie’ about the gathering - having one good meeting does not mean that the challenges facing the interface between NGOs and DEAT will disappear. This is merely a stepping stone in a direction that hopefully will allow us to honestly indicate to the DEAT what our frustrations are and get them to respond in a meaningful way.

Critical issues such as upcoming policy amendments, the Air Quality Act: National Framework, the Commission on Sustainable Development and the NEAF were raised. There was no way in such a broad meeting with such a variety of different interests that we were going to get to discuss any meaningful detail. This will now be done in meetings with the relevant Deputy Director Generals (DDGs) and their staff to allow for more in depth discussion on key issues. The environmental justice sector will be meeting with Joanne Yawitch on the 13th of November.

One of the interesting discussions that was held was Greening the Budget. There is a consortium of consultants working on phase one of the programme which will be looking at how to green existing investments, for example putting ceilings into low income homes. The consultants involved are none other than Chippy Olver, the ex-Director General of DEAT, with a group of other consultants. While I seldom agreed with the ex-DG during his stint – he did not take to meeting mere civil society – I have some faith that with his knowledge he might be the correct person for the job. Phase two will have to look into DEAT’s relationships with other departments. Phase three will investigate all sectors that are dealing with environment or have some environmental responsibility. It was suggested that civil society needs to send as many comments to the Department of Finance in all forms, including ‘tips for Trevor’ for the annual budget.

All in all it was a good meeting. One has to say well done to DEAT! I am looking forward to the next one!
Laxmi N Mittal, the Chairman of Arcelor Mittal, the largest steel company in the world, has gone to his country of birth to set up two steel plants in Jharkhand and Orissa of 12 million tonnes capacity each—and an investment of approximately 18 billion dollars. Although the deal with Jharkhand has run into a hurdle over the mining lease, the politicians and bureaucrats—from Delhi to Bhubaneswar—have given him a red carpet welcome in anticipation of huge investments.

With Mittal Steel moving into India, it becomes even more important to look at the kinds of practices adopted for the firm’s rise from a small family business to the world’s largest steel company, operating 61 plants in 27 countries. Not surprisingly, the company has come under scrutiny worldwide already. The company’s success has been primarily based on buying up old state owned steel factories in places like South Africa, Trinidad, Mexico, Poland, Romania and Algeria throughout the 1980s and ‘90s at very cheap prices in nations with weak or nonexistent unions and environmental and human rights norms, reported the MSNBC in February 2007.

Mittal Steel is also known for buying political influence in acquiring steel assets in other countries. For example, former British Prime Minister Tony Blair, intervened to help Mittal steel buy a giant Romanian steel company a month after the tycoon donated 10 crores (£125,000) to the Labour Party. In an extraordinary letter, Blair told Romania’s prime minister that selling his biggest state-owned enterprise to Laxmi Mittal, would enhance the country’s chances of joining the European Union, according to an October 2002 report in the The Telegraph.
Even Indian politicians were not far behind in supporting Mittal in its acquisition of Arcelor, the second largest steel company in the world in 2006. Commerce Minister, Kamal Nath, wrote to the European Union arguing for the acquisition. The prime minister Manmohan Singh ended up taking this issue up with visiting French President, who was initially critical of this deal because of the anticipated job cuts in France and other parts of Europe.

**Orissa’s push towards steel**

Arcelor Mittal is all set to invest approximately Rs.40,000 crores (approximately US$9 billion) to build an integrated steel plant with a total annual capacity of 12 million tonnes in the iron-rich Keonjhar district, the company says on its website. According to the memorandum of understanding (MoU) signed on 21 December 2006 the plan consists of building coke ovens, steel making plant, rolling mills, and a 750 MW captive power plant.

Mittal has asked for 8,000 acres of land at the proposed location: 6,000 acres for the plant, 1,000 acres for a power plant, and 1,000 acres for a township, according to press reports. The land requirement is almost double the size of the land sought by Posco a South Korean Steel Company, which just received an environmental clearance for setting up a steel plant of similar capacity at Paradip, Orissa. Mittal Steel claims that the excess land is needed for its future expansion plans.

Orissa’s tryst with steel does not just end at these two mega steel plants. In the last two years, Orissa’s government has signed about 40 steel plant proposals in the state. A projected 44 million tonne capacity is expected to be built in Orissa, with a massive investment of about Rs.108,000 crores. Out of these, five major national and international players alone are pumping in Rs.95,400 crore to build a capacity of 32.5 million tonnes, says the state government.

**Mittal pulling strings**

Mittal Steel has sought a special economic zone (SEZ) status for its plan. If granted, it will not only result in substantial tax savings, but also would give Mittal the leeway to bypass many environmental regulations. Under the garb of corporate social responsibility, the steel company has pledged its support to the community and appointed a consultant, the New Delhi-based IL&FS EcoSmart Ltd. to do a socio-economic survey and prepare the Relief and Rehabilitation (R&R) package for the project affected people. EcoSmart provides resettlement support services for the World Bank-funded Mumbai Urban Transport Project (MUTP). However, based on the Bank’s own Inspection Panel report documenting the abysmal rehabilitation and resettlement of the project, the World Bank had withheld upcoming installments to the project. This is the track record of the company hired by Mittal for their own project’s R&R.

Meanwhile, Sanak Mishra, CEO of Mittal India operations, says that “the company would take the Orissa government’s R&R policy as a guideline for the package”. The problem lies in the very fact that the R&R policy of Orissa’s government is already marred with problems like the failure to ensure employment guarantees for the displaced. The onus is on company to employ the displaced. The policy also remains silent about the government’s role in cases where people do not want to be displaced by the industrial projects, according a Down to Earth report.

**Rusty track record**

The danger for India is that Mittal Steel has a global reputation of having no regard for environment, communities and fair labour practices in countries where it operates steel mills, such as Ireland, Mexico, Romania, Poland, South Africa, United States, etc. In South Africa, the communities are fighting against Mittal Steel’s pollution as well as intimidation against families who have refused to sell their land for their expansion plan. Even as Mittal was negotiating a deal with the Orissa government in India with a promise of environmental and social compliance, the South African government began a criminal investigation into Arcelor Mittal’s malpractice at their Vereeniging plant for continued dumping of hazardous waste at an unauthorised site, despite repeated instructions to stop.

A July 2007 investigation detailed environmental and legal contraventions, and significant pollution of surface and groundwater with phenols, iron, oil, fluoride and other hazardous substances.
In September 2006, 41 miners died in Arcelor Mittal-owned Lenin coalmines in Kazakhstan and meanwhile the workers went on strike demanding pay raises and improved safety. Workers have also alleged that Arcelor Mittal has done little to improve labour and safety conditions since taking over Kazakhstan’s largest metal factory and its associated mines, according to a report in the International Herald Tribune.

What’s more, Mittal’s flouting of environmental and labour norms is not limited to just developing countries. Even in the US, the company has provoked regulatory action and citizen protests. In August 2006, the US EPA cited Mittal Steel USA Inc. for alleged clean-air violations at the company’s steel mill in Indiana, stating that Mittal modified a coke oven battery that resulted in a significant increase in sulfur dioxide emissions, without getting a state permit. The state requires the best available technology to control the emissions.

Deja vu in Orissa?

Just weeks after the MoU between Orissa’s government and Arcelor Mittal was signed, the people of Keonjhar started protesting against the deal. Taking note of the plight of other communities evicted due to a myriad of development projects in Orissa, people are not ready to give away their land, which is often their only source of livelihood. Angry villagers from 17 villages have also demonstrated in front of the Keonjhar District Collector’s office demanding that their land should not be acquired for the Mittal steel plant. The land sought for the project is a multi-crop, fertile, and irrigated agricultural land. The voice of these people is strong, and it is likely that they will not give up their land easily, which will be a problem for both the Orissa government and Mittal.

For its part, the Orissa government has so far paid more attention to Mittal’s possible investment than its well-established record of flouting environmental and social norms. If the government tries to force Arcelor Mittal Steel on its people, it may once again face a situation like Kalinganagar. The tribal people of Orissa, who are poor and are always asked to move and give up their livelihood, will not hesitate to resist - because they are being left with no choice. It is yet to be seen whether the Orissa government has learned anything at all about its people and their will.

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An open Letter to Peter Hain

By Margaret Legum

Margaret Legum is the chair of the SA New Economics network (SANE) where this letter was originally published

Dear Peter,*

I presume on a common political history to comment on your new Ministerial decision to force lone parents into paid work. This is a global issue; and as a South African I fear its ‘tough love’ motivation will reinforce our government’s anti-welfare approach – justified, like yours, as in the interests of poor people.

I could understand the policy if we were short of workers rather than jobs. If it were war-time or a siege economy, or the aftermath of a disaster, where all hands are needed to restore or maintain an economy. But the reverse is true in virtually every country.

The long-term global reality is that full employment at anything like a decent living wage is a thing of the past the global market. Digital technology in the competitive market means that although one country may temporarily snatch jobs from others by reducing wage bills, the trend is inevitably to jobless growth as companies reduce labour costs competitively. They have to, otherwise they fail.

Growth in this dispensation sheds labour, thus perversely destroying its own market. So it cuts the jobs for government policies to force single parents into. Clearly this economy doesn’t need their labour. The same is true – even more so - in South Africa, where for the same reasons as you give, people are forced to seek jobs knowing perfectly well there aren’t any.

Meanwhile children already deprived of a second parent, usually in traumatic circumstances, must suffer their remaining parent’s preoccupation with holding down paid work as well as the existing double quota of unpaid parenting and domestic work. They must accept the care of unrelated professionals, instead of their parent, and the stress related to conflicting time demands.

Of course everyone would like to work for a living. It can be fulfilling and enjoyable. But no one wants to do miserable work for a pittance at the expense of their children; and lone parents do not deserve the implication that they are lazy and useless if they make a home for their children full-time.

Someone close to me is a single parent who would get a medal, if such were offered, for struggling to find and keep a job that enables her to care for her children. The job she has – badly paid of course - aims to rescue and relieve children who have lost their way for lack of decent parental attention. If you ask her, that battle is already lost before you force parents into paid work.

What exactly is the point of the policy? Surely not the welfare of the children. Where is the evidence that most children do better under professional care than parental? Surely not the needs of the lone parent. They are free to seek work in any case: more choose that option than can find jobs.

You say it is about ‘getting them out of poverty’. You could do that simply by raising the level of benefit. Indeed you would be doing the economy a service. With few exceptions, all consumer goods and services are in surplus – while millions do without them for lack of buying power. The world economic problem is not about production but about distribution of income.

The real reason is saving tax, isn’t it? Or at least apparently doing so. Given the intention to recruit ‘contractors’ to help people into employment, and new pre and after school facilities, how much would actually be saved? It looks like a political move to counter the Conservative Party’s even more draconian intentions to force lone parents to abandon very small children: a weird example of ‘family values’.

The logic and the ethics of the proposal suggest to me this policy is a hangover of the last Conservative era in which ‘welfarism’ became the bugbear. It ascribed all social and economic ills to the ‘dependency’ culture that followed from people’s entitlement to certain rights regardless of their income or capacity. Rather than admit that the tax implication of those policies irked richer people, it was given a phoney positive philosophic framework, and became an ideology: entrepreneurship and opportunity.

Unfortunately, we in South Africa got our liberation at the height of that ideology. Just when we needed to build human capacity by supporting people through the apartheid legacy, we were told to avoid ‘dependency’, embrace ‘opportunity’ and challenge our people to seek work, knowing there is none. It is very cruel. So I am sorry you are setting – as far as I am concerned – a further bad example in saving tax under the pretence of providing opportunity.

* Peter Hain is the new British Government’s Minister for Work and Pensions, and is originally a South African activist. His first announcement on taking office was the intention to introduce legislation to insist that lone parents get paid work when their children are over 12.
Another onslaught on South Durban

By Bobby Peek

The Durban Port Expansion is uniting disparate groups in defence of their various rights and liberties

People are arriving from all sides; on foot, by car and in taxis. A hall packed with people. There’s a general hum of voices, shuffling of chairs and signing of registers, resulting in long queues – so the registers are cancelled. There’s an expectation that something big is about to happen… This is what greeted me at Transnet’s public meeting for the expansion of the Durban Port on the 29th of July 2007 at the YAS Education Centre on the Corner of Cherry and Pine Roads, Clairwood.

Another development proposal, another frustrated part of the community.

I sat quietly in a corner as the consultant, David Shandler, of Common Ground, started a process that he knew was not going to go very far – according to his own rules. He was fully aware, and even admitted, that he was uncomfortable calling a meeting in the areas designated by the South Durban Community Environmental Alliance (SDCEA). In honest attempts to understand the ‘dynamic’ he met NGOs, including groundWork, one-on-one. To short-circuit the challenge of civil society in south Durban, the area that will be most effected by the development, Common Ground held a stakeholder meeting and developed a reference group that can give some form of guidance, but only on public participation. In reality, they have absolutely no say or veto power over the development. SDCEA and the south Durban people sanely did not attend this meeting held at the City Hall.

As consultants do these days, David Shandler started the meeting off with a detailed description of how the process will be conducted and how ‘crowd control’ will be kept. Each person would have an opportunity to ask questions in an orderly manner. The crowd listened carefully as to how the meeting was to be conducted without buying into the process - the process of been managed.

Desmond D’Sa of the SDCEA and Rishi Singh of the Clairwood Ratepayers Association both stood up and took the meeting in the direction that David Shandler feared most, a direction that was not controllable by either himself or the Transnet’s representatives.

After starting in a chaotic manner, it became clear that what the community wanted was answers to their questions rather than a presentation of how their community would be affected while they sat in compliance. The community of Clairwood did not want to hear of the plans that would certainly eat away at their area and keep them away from their livelihoods, fishing.

There is an interesting nexus of community people that came together at the meeting. There are the Clairwood homeowners whose families have been living in the area for more than 100 years - this area has not been zoned appropriately as yet, a failure.
since the apartheid days. There are the recent residents of Clairwood, who have not been afforded the opportunity of houses within Clairwood - the City wants to move them to the periphery of the urban area, where they will be forgotten. Finally, there are the Subsistence Fishermen, who are now being denied access to the Durban Bay area for security reasons.

The question that one might ask is how are these three different interest groups linked in the expansion of the bay? In south Durban all things are linked. This is because south Durban is of national economic interest to the entire country. What happens in south Durban is negotiated and agreed upon behind closed doors amongst the powers that be. To respond to this there is recognition of the collective challenge to people in south Durban. The SDCEA has for many years ensured that the issues within south Durban are linked, because only in sharing in a common struggle in south Durban will civil society overcome the power of capital to dissect south Durban, and spit out its people like unwanted discards, the majority to end up on the fringe of society, forgotten and powerless.

To resist this the CRA, the Subsistence Fishermen and SDCEA demand that certain issues be settled before the expansion of the Durban Bay can be discussed:

- Firstly, Clairwood is to be zoned appropriately;
- secondly, people who are living in informal structures are to be granted formal housing within the area;
- and finally, the fisherman are to be allowed access to the bay for their livelihood.

The meeting was over in an hour, with David Shandler having the demands of the community placed in front of him – demands which he agrees are legitimate.

Leaving the meeting I thought of all the previous onslaughts against the residents of south Durban; the Strategic Environmental Assessment calling for the relocation of people to make way for industry, the link road that was to link industry in the south to Durban, dissecting the community once again. Will this be the last of these attempts, will it succeed? I cannot say for sure whether it will succeed, but I can assure the people of South Durban that it is not the last! Possibly they will eventually win, we will lose our land, we will lose our livelihoods, we will be scattered as a community that once existed. But they will only win if we allow them to, if we are not united in our resistance and mobilisation!

Common Ground held a meeting on the Bluff the next day. It finished after ten, instead of one hour. Much more orderly, and at least the consultant can tick off a meeting!
In the Pipeline

The National Prosecuting Agency to Act against Sasol?

The 1st of September marked the third anniversary of the grim and violent manner in which ten people lost their lives and more than 300 were injured in an explosion and fire at Sasol’s Secunda plant. The Minister of Labour, Membathisi Mdladlana, said that the Ministry thinks ‘that there are certain people that could be prosecuted’. The National Prosecuting Agency has, however, done little to date. It was also the Minister who indicated after the incident three years ago that he would close Sasol if there were more deaths and incidents. Well, since then there have been more deaths in incidents and still Sasol operates! We have little hope that there will be a prosecution of any sort.

Shell still causing Hell

In Nigeria, Shell British Petroleum has taken the Nigerian Federal Government to the International Centre for Settlement of Investment Disputes (ICSID), part of the World Bank group over a dispute concerning hydrocarbon concessions.

In Canada, a large number of organisations have signed a letter to Jeroen van Veer, CE of Royal Dutch Shell, and Jorma Ollila, Chairman, protesting Shell’s plans to proceed with coalbed methane drilling in the Sacred Headwaters in British Columbia. This area is of great ecological importance as it is the headwaters for three salmon watersheds and is one of the largest intact predator-prey ecosystems left in the area.

Mittal not having too easy a time of it

Because Mittal’s Vaal plant is situated in the Vaal Triangle air shed priority area, contraventions noted at the plant by environmental management inspectors are being taken seriously. This was said by Joanne Yawitch from DEAT. One would have hoped, however, that contraventions would always be taken seriously. The contraventions include the dumping of hazardous waste, particulate emissions that cause serious pollution and the pollution of surface and groundwater with phenols, iron, oil, fluoride and other hazardous substances.

Although some effort has reportedly been made by Mittal to comply in the implementation of its environmental plan, Yawitch says there is still significant non-compliance and that the department and its provincial counterparts will be watching the company closely.

While there may be minimal consequences for polluting the air and water and seriously damaging the health of your neighbours, messing with capital carries far more serious consequences.

The competition authorities in South Africa have levied a R692 million fine on ArcelorMittal. This was in punishment for the securing of huge profits at the expense of the local economy and consumers. Mittal enjoys cost advantages through good iron ore and electricity pricing. Mittal nevertheless significantly enhanced the profits to their shareholders through a regime of abusive pricing which undermined the business prospects for steel fabricators and end users of metal products, Mittal’s local customers.

Mittal also claims to have had “extensive engagement” with the state in order to develop an acceptable pricing regime, but the competition tribunal that levied the fine found that this was essentially a sham.

It is possible that Mittal will appeal this fine, but in doing so they run the risk of it being increased to the full amount, which would be in the order of R1.2 billion. That would probably not make their shareholders too happy.
In Brief

Mining “badge of Excellence”

In an attempt to strengthen their credentials in Africa, the major mining companies in the world intend to create a mark of excellence that will be endorsed by the United Nations and the World Bank.

The intention is to create a “badge of excellence” that all governments demand before they grant companies a mining licence. While it is hoped that the mark will help the industry to fend off criticism from environmental and safety campaigners, its real aim is to help Western mining companies to break into Africa, where Chinese firms are becoming more competitive. The Chinese are offering incentives to African leaders that can’t be matched by companies in the West, but have been criticised for their lack of concern for the people and environment of the countries in which they mine.

Given that the mark is being created by the International Council on Mining and Metals (ICMM), which represents the world’s sixteen largest mining companies, one can’t help feeling that to receive the award might be a little difficult if one is NOT one of these sixteen, and somewhat easy if one IS.

Mercury Conference

Mercury pollution is a serious global environmental and human health problem which causes various adverse impacts throughout the world. In health care settings, mercury may be released from thermometers, blood pressure devices, gastrointestinal and other mercury containing medical products. Viable alternative technologies are readily available and are increasingly being used by the health care sector in countries around the world. The World Health Organization’s policy is to promote a transition to these alternatives.

The third Mercury conference will be hosted by groundWork, in conjunction with HCWH and UNEP, in Johannesburg from the 24th to the 26th of October 2007.

This conference builds on previous regional cooperative workshops organized by HCWH in association with UNEP Chemicals in 2006 promoting alternatives to mercury in the health care sector in South East Asia and Latin America. A key feature of these workshops is to raise awareness of the inherent environmental, community and occupational health dangers of mercury and provide delegates with appropriate information, and to develop a strategy to reduce and ultimately phase out mercury use in the health sector.

This conference is aimed at SADC and South African senior health and environmental delegates involved in health care provision, procurement, waste management and policy making.

The conference will focus on various themes including what the mercury pollution problem is, current emission sources, and participation of the health care sector in exploring available alternatives; the role of nurses and dentists to phase out mercury in the health care sector; safe disposal and safe storage for mercury in wastes; SADC and International case studies of successful phase out of mercury in health care; global and regional initiatives to phase-out mercury and a workshop on alternatives to incineration of health care waste.

And more Shell Hell...

The Brazilian Ministry of labour and ACPO (Association to combat POPS) are proposing a public civil action suit against Shell Brazil and BASF, because of these companies having produced poisons which have resulted in environmental disaster affecting a large number of people in the region. Since 1944, when environmental hearings forced Shell into negotiations with the Ministry of Public Affairs, Shell has repeatedly been cited for violations. Shell and BASF are being held responsible for contamination with lead, mercury, xylene and benzene of an aquifer which supplies water to over two million people.
The Fifth Tri-Continental Film Festival is being held during September and October, with screenings in Johannesburg, Cape Town, Durban and Pretoria. This year’s selection is very impressive and there are certainly a great many films which will make fascinating watching. Please visit their web site (www.3continentsfestival.co.za) for schedules, bookings and pre-views. A full outline of all the films being shown is also available at www.groundwork.org.za.

When the Cinema Nouveau screenings come to a close, the festival goes out to all nine provinces in South Africa via their extensive Outreach Programme. These screenings are critical to their vision of bringing films that matter to diverse audiences – universities, technikons and schools, community based organisations, NGOs, trade unions, and independant cinemas and theatres. They do this through a network of organisations, civil society groups, friends and supporters of the festival, people who recognise the power of film not just to document and entertain, but to inspire.

If you are interested in hosting an outreach screening, please contact the festival office at:

TRI Continental Film Festival
Uhuru Productions
27 Palmer Road
Muizenberg 7945
Cape Town, South Africa

Telephone +27 21 788 5462
e-mail: zivia@uhuruproductions.co.za

Join the groundWorkers Union

groundWork seeks to bring about environmental justice in a system based upon principles of fairness and solidarity. If you want to show solidarity with groundWork’s objectives, you can now join the groundWorkers’ Union. The dues are R50.00 a year and this year you will receive this great t-shirt and a black cap with the groundWorkers’ Union badge, plus an extra badge to sew onto whatever you want!

To sign up now, download a form from our webpage at www.groundwork.org.za or call us on 033-342-5662 and we will get one to you.