

26 August 2020

To: National Director of Public Prosecutions
Adv Shamila Batohi
Per E-mail: (sbatohi@npa.gov.za)

Dear Sirs

THE STATE V AURORA EMPOWERMENT SYSTEMS (PTY) LTD & OTHERS
YOUR REF: 9/2/15/4-03/2013
OUR REF: WE/AUR01/002

1. The above-mentioned matter bears reference.
2. As you may be aware, the matter referred to above relates to a criminal investigation into contraventions of the National Water Act, 1998 by the Aurora Mine in Springs during 2010. Despite numerous compliance notices issued by the then Department of Water and Environmental Affairs, the mine continued to pump untreated acid mine water into its surrounding river system.
3. In 2011 the Minister of Environmental Affairs, in response to a question, stated inter alia: “...*the investigation into the transgressions by the mine (referring to the Aurora mine) has been completed by the investigating officer of the South Africa Police (SAPS).*”
4. It has been approximately nine years since the above-mentioned statement was made.
5. We believe it is imperative to bring to your attention the detrimental effects the closure of this mine had on the surrounding area and the population of Springs. Said turmoil is evident in, but not limited to the following:
 - a. Approximately 5200 employees lost their jobs, families lost their homes and are residing in informal settlements.
 - b. Around April 2011, a former employee committed suicide, after ingesting ant poison. He is survived by his wife and daughter.

ORGANISATION UNDOING TAX ABUSE NPC

Reg No.: 2012/064213/08

Directors: W Duvenage (CEO), Adv. S Fick

Non-Executive Directors: F Adam (Chair), P Majazi, W Modisapodi, LP Pauwen, T Pillay Van Graan, Dr H Volmink

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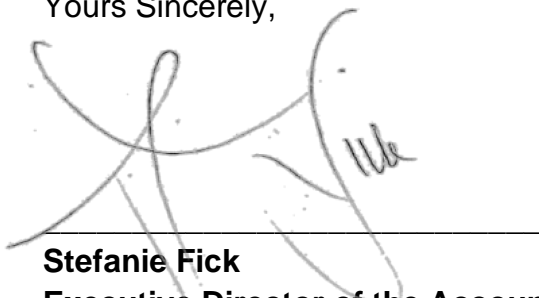
- c. In May 2011, the very next month, a former miner and his 11-year old son attempted suicide because of the family's mounting debts.
6. Charges were laid against the accused in May of 2010. However, to date, approximately ten years later no prosecutions have been made. The saga of Aurora played itself out in the glare of the media, casting South Africa in a poor light internationally and giving the impression that environmental laws can be flouted without repercussion. The public are very disheartened at the NPA's lack of interest in pursuing and finalising this matter.
7. The accused appeared for the first time in the Springs Magistrate's court on the 7 August 2019 after OUTA exerted immense pressure on the NPA by addressing numerous correspondence and letters to force the hand of the NPA to prosecute.
8. The matter was then postponed a few times on request by the accused.
9. On 26 November 2019, OUTA could not attend at the Springs Magistrates Court. However, in an article online, the trial was to proceed in June and July 2020.
10. The trial against Khulubuse Zuma, Zondwa Mandela and Thulani Ngubane would have taken place from 18-25 June and 23-29 July 2020 due to the unavailability of their legal counsel for two consecutive weeks in one month.¹
11. According to the article, the Pre-Trial was scheduled to take place on 27 February 2019, however no dates were confirmed.
12. On 27 February 2020, it had come to our attention that the matter had been removed from the roll. We then addressed a letter to Adv Erasmus requesting clarity and the reason why the matter has been delayed. The above-mentioned letter is annexed hereto marked Annexure "A".
13. Advocate Erasmus responded and advised that the State was to conduct a follow up investigation due to a serious allegation that was made by the state witness. This follow up investigation was not completed on 25/02/2020 and the Court, relying on a Directive of the Chief Justice that

¹ <http://ow.ly/QAul50xhQ6y>

Regional Courts must postpone enrolled cases after three months of enrolment for trial, found that the State was not ready for trial yet and therefore could not proceed with the pre – trial proceeding. The Regional Magistrate struck the matter off the roll.

14. It is now six month later. We have followed up with Adv Erasmus monthly and every month we are told that: *“Kindly note that the outstanding investigation herein, is still ongoing.”*
15. At this point we are deeply concerned that the accused will not be prosecuted and held accountable for the detrimental effects occasioned by themselves.
16. This has been an ongoing matter since 2011 and it is unfathomable how a prosecution of this nature can take this long.
17. We humbly request your urgent intervention in this matter, as we all know justice delayed is justice denied.
18. Kindly confirm receipt of this submission.
19. We trust you find above in order and eagerly await your response.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Stefanie Fick', is written over a horizontal line. The signature is stylized and somewhat cursive.

Stefanie Fick
Executive Director of the Accountability Division
OUTA – Organisation Undoing Tax Abuse
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