

07 February 2020

To: The Municipal Council
City of Cape Town Metropolitan Municipality

And to: Cllr Dan Plato
The Executive Mayor
City of Cape Town
Metropolitan Municipality

c/o: Speaker
Cllr Dirk Smit

Per: E-mail: Dirk.Smit4@capetown.gov.za

Per : E-mail dan.plato@capetown.gov.za

CC: The City Manager
Mr Lungelo Mbandazayo

CC: Department Head: Water and Waste
Cllr Xanthea Limberg

Per: E-mail: Lungelo.Mbandazayo@capetown.gov.za

Per : E-mail: Xanthea.Limberg@capetown.gov.za

Dear Sirs,

**LETTER OF ENGAGEMENT TO ADDRESS THE ONGOING SEWAGE POLLUTION
PROBLEM WITHIN THE DIEP RIVER AND MILNERTON LAGOON
OUR REF: L9/BD/04
YOUR REF: UNKNOWN**

1. By way of introduction, the Organisation Undoing Tax Abuse (OUTA) is a proudly South African non-profit civil action organisation, comprising of and funded by people who are passionate about improving the prosperity of our nation. We are not affiliated to any political party but mandated by ordinary citizens to act in the interest of the general public.
2. OUTA envisions a prosperous country with an organised, engaged and empowered civil society that ensures responsible use of tax revenues at all levels of Government.
3. OUTA is further geared towards the harmonious cooperation with government on various levels and seeks to assist government wherever necessary in carrying out its mandate in the interests of the citizens of South Africa.

4. Kindly take note that OUTA was approached by various sources concerned about the ongoing sewage pollution problem at the Milnerton lagoon, which is part of the Diep River estuary and forms part of the City of Cape Town-run Table Bay Nature Reserve.
5. OUTA was asked to engage with the City of Cape Town Metropolitan Municipality, and to ascertain what the City intends on doing to resolve the catastrophic environmental problem.
6. The Constitution provides that everyone has the right to an environment that is not harmful to their health or well-being; and to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that prevent pollution and ecological degradation; promote conservation; and secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.
7. Upon receipt of the request for OUTA to intervene in the matter, we have taken several independent water samples and have found the following:
 - 7.1 The results show that the water course is polluted by partially- and untreated sewage discharged by the City of Cape Town's infrastructure;
 - 7.2 According to our independently conducted sample reports dated 23/01/2020 and 03/02/2020, water pollution sources point to the Potsdam Wastewater Treatment Works (WWTW) and an identified structure believed to be a sewage lift station. These locations are mapped out in the reports and are available if needed;
 - 7.3 The WWTW sample was a diluted sample taken just downstream from the discharge point which had 11 000 E. coli per 100ml in the January 2020 sample and an alarming 34 000 E. coli per 100ml in the beginning of February 2020;
 - 7.4 The results clearly indicate that the City far exceeds the limits posed by its water use licence agreement and general legislative requirements, related to the sufficient treatment and discharging of wastewater, which is classified as a hazardous waste;
 - 7.5 A desktop study revealed a historic trend of noncompliance, according to the Department of Water and Sanitation's site where the City discharged

sewage with an E.coli count greater than 1 000 000 parts per 100ml of water;

7.6 It needs to be noted that pollution also occurs upstream from the WWTW but the February results clearly indicated a lower value of contamination.

8. According to the Water Act, the disposal of hazardous waste, whether intentionally or in a grossly negligent manner, into a watercourse, is a statutory crime, and thus the failure to prevent the further discharge of the hazardous waste, will result in a criminal offence.
9. We were made aware of the fact that various sources have been continuously engaging with the City, as far back as 2011, to find workable solutions to the problem.
10. However, to date no concrete solutions have been tabled by the City and it seems (as is apparent from our water test results above) that the problem has now become an environmental and health issue, which is not receiving the urgent attention it deserves.
11. In 2011 a study was commissioned by the City, titled "IMPROVING THE QUALITY OF THE STORMWATER DISCHARGING INTO THE DIEP RIVER." The study indicated that some of the main contributors of sewage pollution were the following:
 - 11.1 The lack of sanitation and refuse removal for backyard dwellers in Joe Slovo and Phoenix;
 - 11.2 Ageing wastewater reticulation infrastructure and pump station failures;and
 - 11.3 Sewage spills overflow, via the storm water system, into the Estuary.
12. Despite, the City being aware of some of the root causes of the pollution, as referred to in point 11 above, the City has not to date (9 years later) made any affective strides in fixing the problem. But instead insists that blame for the pollution should be placed on residents who abuse the sewage system.
13. We appreciate that the City is actively engaging with local communities through community meetings, such as the meeting held on 03 February 2020. We were

made aware that at the said meeting the City indicated that they are in the process to upgrade the Potsdam Wastewater Treatment Works, which completion of the upgrade is scheduled for 2025.

14. What is concerning to OUTA is that although alleged plans are in place to upgrade the Potsdam Wastewater Treatment Works, no interim plan to deal with polluted water flowing into the Diep River for the next 3 to 5 years, were tabled and that according to our sources the City does not deem the situation as urgent.
15. While we understand that short term solutions such as to breach the mouth when the lagoon becomes eutrophic, does head some positive results, as a long-term plan it amounts to using the river as an informal sewer and might even be seen as contravening the Coastal Management Act.
16. It is our view that The Cape Town Metropolitan Municipality has a duty towards its communities to resolve this situation as a matter of urgency and as such we call on the City to:
 - 16.1 ensure that the appropriate role players are engaged and committed,
 - 16.2 implement an audit of existing pollution control systems and contingency measures in place;
 - 16.3 constructing strategic upgrades of wastewater and storm water infrastructure;
 - 16.4 roll out improved sanitation and waste removal systems for back-yard dwellers;
 - 16.5 drive an awareness-raising campaign; and
 - 16.6 as a matter of extreme urgency, implement projects that were already identified in 2011, to resolve the extreme pollution problem;
17. We humbly submit that failure to act in resolving the pollution of the Diep River and Milnerton Lagoon, will amount to a dereliction of duty on behalf of the City, and that OUTA will have no other recourse than to take further steps against the City.

18. We wish to reiterate that OUTA is geared towards the harmonious cooperation with government and seeks to assist government wherever necessary in carrying out its mandate, in the interests of the citizens of South Africa.
19. Therefore, we kindly request an engagement with the City to discuss possible and workable solutions to resolve the urgent pollution problem.
20. Kindly take note that due to the seriousness of the situation we kindly request the City's response to our invitation for engagement, by no later than close of business on Monday, 10 February 2020.
21. Should you have any questions, please feel free to contact our Miss Andrea Korff on andrea.korff@outa.co.za.
22. We trust you find the above in order and await your response in anticipation.
23. Kindly acknowledge receipt of this letter.

Yours Sincerely,



Andrea Korff
OUTA - Legal Project Manager
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