

FACTSHEET: COURT CASE AGAINST OIL AND GAS EXPLORATION OFF KWAZULU NATAL COAST

***South Durban Community Environmental Alliance vs Minister of
Forestry, Fisheries and the Environment, Eni South Africa BV and
Sasol***

**ULWAZI NGETYALA ELISENKUNDLENI ELIMALUNGA NOKUGRUMBA
ULWANDLE KUNXWEME LWAKWA-ZULU NATAL**

***Umbutho we-South Durban Community Environmental Alliance
iqobisana noMphathiswa Wezendalo, iEni South Africa, kunye
neSasol***

Last update: June 2021

BACKGROUND AND PARTIES

The South Durban Community Environmental Alliance (SDCEA) has taken the Minister of Environment to court over the authorisation of offshore exploration drilling off the Kwa-Zulu Natal coast.

The Minister has authorised **Eni South Africa BV** (a subsidiary of Eni, an Italian-based company) and **Sasol** to explore oil and gas off the coastline.

This authorisation was issued in terms of the National Environmental Management Act, 108 of 1996.

Should it go ahead, the project will result in the drilling of up to six exploration and appraisal wells within Offshore Block ER236. This block sits off the Kwa-Zulu Natal coast between East London and St Lucia.

The wells will be drilled in two “areas of interest” within the block, but their exact location within each block is still to be determined.

A drillship will be used in the process, which will result in various planned and unplanned discharges into the ocean environment.

The project is not yet underway. If there is any indication that the project will commence, SDCEA will approach the High Court for an interdict to stop them from commencing.

SDCEA is supported by **Natural Justice** and **Green Connection**, and represented by the law firm, **Cullinan & Associates**.

The case will be heard in the **Pretoria High Court**.

Umbutho we-South Durban Community Environmental Alliance (SDCEA) umse enkundleni uMphathiswa Wezendalo malunga nesigunyaziso sokugrumba ulwandle kunxweme lwaKwa-Zulu Natal.

Umphathiswa ugunyazise i-Eni South Africa BV (inkampani ephantsi kwe-Eni, esekwe kwelama Taliyane) kunye ne-Sasol ukuba baphonononge ioyile kunye negesi kolunxweme.





Esi sigunyaziso sikhutshwe phantsi komthetho weNational Environmental Management Act, 108 ka-1996.

Ukuba ithe yaqhubela phambili, le projekthi iya kukhokelela ekombeni novavanyo ukuya kuthi ga kwisithandathu samaqula phakathi kwe-Offshore Block ER236. Eli bhloko lihleli kunxweme lwaKwa-Zulu Natal phakathi kwe-East London ne-St Lucia.

Imithombo iya kumbiwa kwiindawo ezimbini nezinomdla kuzo ezinkampani ngaphakathi kwale bhloko, kodwa indawo eyiyo ngqo kwibhloko nganye kusafuneka ichaziwe.

Kuza kusetyenziswa i-drillship kule nkqubo, neya kuthi ikhokelele ekukhutshelweni okucwangcisiweyo nokungacwangciswa kokungqonge ulwandle.

Iprojekthi ayikaqhubeki. Ukuba kukho nasiphi na isibonakaliso sokuba le projekthi iza kuqala, i-SDCEA izakuya kwiNkundla ePhakamileyo ukuze ikhuphe umyalelo wokuba bayeke ukuqala.

I-SDCEA ixhaswe yiNatural Justice kunye neGreen Connection, kwaye imelwe yinkampani yezomthetho, eCullinan & Associates.

Ityala liya kumanyelwa kwiNkundla ePhakamileyo yasePitoli.

KEY DATES

August 2019: Deputy Director General (DDG) of Mining, Minerals and Energy authorises the exploration project.

October 2019: SDCEA, as well as 46 other individuals and organisations, appeal the authorisation.

December 2020: Minister of Forestry, Fisheries and the Environment rejects all appeals.

June 2021: SDCEA files a review application in the Pretoria High Court to review both the authorisation and the rejection of the appeal.

The Minister and other parties have 3 weeks to indicate whether they will oppose the application.

The court date will be determined in due course.

IMIHLA EBALULEKILEYO

Ngo-Agasti ka-2019: USekela Mlawuli-Jikelele (i-DDG) yezeMigodi, ezeZimbiwa naMandla ugunyazisa iprojekthi yokuhlola.

Ngo-Okthobha ka-2019: I-SDCEA, kunye nabantu abayi-46 neminye imibutho, babhenela ugunyaziso.

NgoDisemba ka-2020: Umphathiswa Wezamahlathi, ezokuLoba kunye neNdalo esingqongileyo akazamkeli zonke izibhenzo.

NgoJuni ka-2021: I-SDCEA ifake isicelo sokuphononongwa kwiNkundla ePhakamileyo yasePitoli ukuze inkundla iphonononge ugunyaziso kunye nokwaliwa kwesibhenzo.

UMphathiswa namanye amaqela baneeveki ezintathu zokuchaza ukuba bayasiphikisa na esisicelo

Umhla wenkundla uya kugqitywa kungekudala.





POTENTIAL THREATS TO THE ENVIRONMENT AND PEOPLE

Potential drilling sites are located close to areas identified as “**protection worthy**”. These include several Marine Protected Areas (MPAs), Critical Biodiversity Areas (CBAs) and Ecologically and Biologically Significant Areas (EBSAs).

Potential impacts could be felt by coral reefs (including deep sea corals which are incredibly slow forming and sensitive), whale species like the humpback and southern right whales, fish species and bird species.

Drilling may also impact the “sardine run”, an important ecological process and socio-economic contributor to the east coast and its communities.

The project may also have an impact on fishing, surfing and other communities who use the ocean for recreational and livelihood opportunities.

Experts believe that in the event of a catastrophic blow out, oil will reach protected areas as well as the shoreline, causing long-lasting adverse effects for both people in coastal communities, as well as to marine organisms.

The exploration is intended by the oil companies to reach full exploitation, which will lead to even higher greenhouse gas emissions, which contribute to climate change.

IziSongelo Ezinokubakho Kubume Bendalo Nakubantu

Iindawo ezinokugrunjwa zibekwe kufutshane neendawo ezichongwe nje "ngezifanele ukhuseleko". Oku kubandakanya indawo eziliqela neziyinxalenye nolwandle, Indawo ezinezinto kuquka izilwanyana ezisemhlabeni nasemanzini, indalo kwakunye nzinto eziphilayo.

Iimpembelelo ezinokubakho zinokuvakala kwiingqaqa (kuquka neengqaqa ezinzulu zolwandle ezicotha ngokumangalisayo ukukhula, kwaye zibuthathaka), iintlobo zeminenga, zeentlanzi, kunye nezeentaka.

Ukomba kusenokuba nefuthe "ekubalekeni kwesadini", inkqubo ebalulekileyo yendalo ekwanalo negalelo kwezentlalo nezozoqosho kunxweme olusempuma noluntu lwayo.

Iprojekthi inokuba nefuthe ekulobeni, ukusefa emanzini, kunye nabanye abantu abasebenzisa ulwandle ukuzonwabisa kunye nokubeka ukutya etafileni.

Iingcali zikholelwa ukuba xa kuthe kwakho intlekele, ioyile iya kufikelela kwiindawo ezikhuselweyo nakunxweme, ibangele iziphumo ezawukuthi zihlale ixesha elide zichaphazele abo bahlala ngasenxwemeni, kunye nezilwane eziphila elwandle.

Ezinkampani ze oyile ukuba ifikelele ngokupheleleyo le projekthi, nto leyo eya kuthi ikhokelele ekukhutshweni kwegesi ezingalunganga enogalelo kutshintsho lwemozulu kwinqanaba eliphezulu kakhulu,.

THE COURT ARGUMENTS AGAINST THE AUTHORISATION OF THE PROJECT





SDCEA bases their arguments on various laws: **National Environmental Management Act; National Environmental Management: Integrated Coastal Management Act; National Environmental Management: Protected Areas Act; and National Environmental Management: Biodiversity Act.**

These laws intend to preserve and protect the coast and ocean for present and future generations.

Based on this, the State is required to preserve and protect the coastal zone and the biodiversity contained within it, which is held in trust by the State **on behalf of all South Africans, including future generations.**

SDCEA argues that the Integrated Coastal Management Act requires that the government considers the long-term impacts that oil exploration and drilling would have on **both humans and other living organisms** which depend on marine and coastal ecosystems. This is called taking an **“eco-centric” approach to decision-making.**

SDCEA argues that the Minister should have considered the climate change implications of oil and gas, including the emissions which will arise from the intended exploitation of the fossil fuels. South Africa has certain climate change commitments that require it to reduce greenhouse gas emissions.

The court case also argues that gas is not needed to supplement the national electricity grid, as renewable energy is a recognised reliable and cost-effective source of energy.

Furthermore, the impacts on the marine life, as well as coastal communities, could be hugely detrimental.

SDCEA believes that this project will not bring benefits, only risks to the public at large.

IINKUNDLA ZENKUNDLA NGOKUPHATHISANA NOKUGUNYAZISWA KWEPROJEKTHI

*I-SDCEA isekela iingxoxo zayo kwimithetho eyahlukeneyo: **UMthetho weSizwe woLawulo lokusiNgqongileyo; Ulawulo lweNdalo esiNgqongileyo: UMthetho oHlanganisiweyo woLawulo lwaManxweme; Ulawulo lokusiNgqongileyo kaZwelonke: UMthetho weeNdawo eziKhuselweyo; noLawulo lweNdalo kuZwelonke: UMthetho weNdalo.***

Le mithetho inenjongo yokugcina nokukhusela amanxweme nolwandle kwizizukulwana zangoku kunye nezizayo.

Ngokusekwe koku, uMbuso kufuneka ulondoloze kwaye ukhusele ummandla wonxweme kunye nezityalo nezilwanyana ezahlukeneyo eziqulethwe kuwo, neziphethwe nguRhulumente egameni labo bonke abemi boMzantsi Afrika, kuquka nezizukulwana ezizayo.

I-SDCEA ithi uMthetho oHlanganisiweyo woLawulo lweeNxweme udinga ukuba urhulumente athathele ingqalelo iimpembelelo zexesha elide ezinokuthi ukombiwa kwe-oyile kube nako ebantwini nakwezinye izinto eziphilayo ezixhomekeke kwindalo yaselwandle naselunxwemeni. Oku kubizwa ngokuba kukuthatha indlela e “eco-centric” yokwenza izigqibo.

I-SDCEA ithi uMphathiswa bekufanele ukuba uyithathele ingqalelo imeko yotshintsho-tshintsho lwemozulu ngenxa yeoyile negesi, kunye nezinto ezikhutshwa zezizimbiwa eziza kuvela ngenxa yoxhaphazo olucetywayo lwezibaso. UMzantsi Afrika uneembhophelelo ezithile zotshintsho-tshintsho lwemozulu olufuna ukuba kuncithiswe ukukhutshwa kwegesi engcolisayo.

Ityala lenkundla likwaxoxa ukuba irhasi ayidingeki ukuze kongezwe kwigradi yesizwe yombane, njengoko amandla ahlaziyekayo eyimithombo yamandla ethembekileyo neyonga iindleko.

Ngapha koko, iimpembelelo kubomi baselwandle, kunye noluntu oluselunxwemeni, zinokuba yingozi enkulu.

I-SDCEA ikholelwa ekubeni le projekthi ayizukuzisa zibonelelo, kuphela kodwa umngcipheko obanzi kuluntu.





WHAT WOULD BE THE IMPACT OF WINNING THE CASE

If SDCEA wins this case and the decision to grant authorisation is set aside, it will stop the project from going further, unless a new environmental authorisation is applied for. However, the new Environmental Impact Assessment will need to be more substantial than the previous one and take into account many issues, such as an eco-centric approach to the ocean, climate change impacts and impacts on areas like Marine Protected Areas.

If the judge accepts the arguments, it will influence how (and whether if at all) deep sea oil and gas exploration and production in South Africa will be conducted.

It may also influence other cases that deal with climate impacts of projects. The courts are now increasingly ruling that climate change impacts from greenhouse gas production must be considered when projects are approved.

YINTONI EYAKUBANGELA IMPUMELELO KWESI SICELO?

Ukuba i-SDCEA iyaphumelela kweli tyala kwaye isigqibo sokunikwa ugunyaziso sibekelwe bucala, iya kuyimisa inkqubela phambili yale iprojekthi, ngaphandle kokuba kufakelwe isigunyaziso sendalo esingqongileyo. Nangona kunjalo, uVavanyo lweMpembelelo yokusiNgqongileyo olutsha kungafuneka ukuba lube banzi ngakumbi kunolo lwangaphambili kwaye luthathele ingqalelo imiba emininzi, enje ngenkqubo eco-centric ekusebenzeni elwandle, iimpembelelo zotshintsho lwemozulu kunye neempembelelo kwiindawo ezinjengeMimandla eKhuselweyo yaseLwandle.

Ukuba ijaji iyazamkela iimpikiswano, iya kuba nefuthe kwindlela yokuhlola kunye nemveliso ye-oyile elwandle eMzantsi Afrika, ukuba oko kuyavumeleka kwaphela.

Inokuba nefuthe na kwamanye amatyala ajongene nefuthe ezinalo ezinye iiprojekthi kwisimo semozulu. Iinkundla ngoku zigwebha ngakumbi kumatyala wezingunyaziso zeprojekthi eziloluhlobo, zisithi ifuthe lotshintsho lwemozulu oluvela kwimveliso yegesi kufuneka liqwalaselwe xa iiprojekthi zivunyiwe.

