

Shell and BP  
South African  
Petroleum  
Refineries  
(Pty) Ltd

Co. Reg. No.  
1960/000007/07

P O Box 3179  
Durban, 4000

Refinery Road  
Prospecton

+27 31 480 1911  
+27 31 468 1913

<http://www.sapref.com>



09 January 2014

**MS SYLVIA KAMANJA**  
**ATTORNEY: CENTRE FOR ENVIRONMENTAL RIGHTS**  
**223 LOWER MAIN ROAD, OBSERVATORY, CAPETOWN, 7925**

Per e-mail: Eische Heitmann [mailto:eheitmann@cer.org.za]

**ATT: SYLVIA KAMANJA**  
**ATT:**

Dear Sir / Madam

**RE: NOTICE IN TERMS OF SECTION 53(1) OF THE PROMOTION OF ACCESS TO INFORMATION ACT 2 OF 2000 (THE ACT)**

Your notice in terms of Section 53(1) of the Promotion of Access to Information Act 2 of 2000 (the Act) refers.

SAPREF followed its internal governance and due diligence processes to properly assess the nature of the information requested in order to make an informed and fair decision on the request.

At the outset, it must be reiterated that SAPREF operates as a Crude Oil Refinery at its plant in Prospecton, and regards its business as highly specialized in nature. SAPREF is therefore duty bound to protect its confidential information since failure to do so has the potential of causing substantial harm to SAPREF's business.

After an extensive internal exercise reviewing the requested information, SAPREF responds to the request as follows:

a) Copy of SAPREF's Atmospheric Emission License

SAPREF refuses the request for access to this information. This being so since SAPREF considers the information to contain:

- Trade secrets of SAPREF; and
- Financial, commercial, scientific and / or technical information other than trade secrets, where the disclosure thereof would be likely to cause harm to the commercial or financial interests of SAPREF; and
- Disclosure of SAPREF information could put SAPREF at a disadvantage in negotiations or commercial competition;

Moreover, SAPREF does not consider the information contained in the AEL to be:

- Publicly available;
- Concerning information the disclosure of which would reveal a serious public safety or environmental risk.

**DIRECTORS:**

M Baker (*British*)  
(*Chairman*)  
R Mooldijk (*Dutch*)  
(*Managing Director*)  
N Maphanga  
B Mohale  
T Kabalin  
P Mabelane  
L J Ryerkerk (*American*)  
M Plaum (*Dutch*)

b (i) Copy of SAPREF's APPA permit

SAPREF refuses the request for access to this information. This being so since the APPA permit is no longer applicable and information contained therein is outdated and should not be disclosed.

b (ii) Pending applications for an AEL

This is not applicable as SAPREF is already in possession of an AEL and has no pending applications for an AEL (Refer to (a) above).

c) The most recent annual reports reporting on compliance with the AEL

SAPREF refuses the request for access to this information for the reasons set out on (a) above.

However to the extent that certain information relating to this request may already be in the public domain, SAPREF agrees to the release of information which is contained in SAPREF's publicly available information and reports (SD Reports).

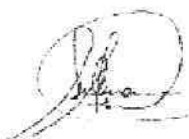
d (i) The most recent APPA permit compliance reports

SAPREF refuses the request for access to this information for the reasons set out on (b)(i) above.

However to the extent that certain information relating to this request may already be in the public domain, SAPREF agrees to the release of information which is contained in SAPREF's publicly available information and reports (SD Reports).

We trust that the above is in order.

Yours faithfully



**SULEMAN ASMAL**  
**ENVIRONMENTAL MANAGER**  
**SAPREF**



# Centre for Environmental Rights

"DDIT"

The Information Officer/Deputy Information Officer: Mary Ann Grafetsberger  
Thekwini Metropolitan Municipality

By email: [MaryAnn.Grafetsberger@durban.gov.za](mailto:MaryAnn.Grafetsberger@durban.gov.za)

Our ref: **CER-2013-TMM-0002**  
Date: 10 April 2013

Dear Ms Grafetsberger

**RE: REQUEST PURSUANT TO THE PROMOTION OF ACCESS TO INFORMATION ACT, 2000 (ACT 2 OF 2000)**

1. Please find enclosed a completed Form A request for access to information pursuant to the Promotion of Access to Information Act 2 of 2000 (PAIA).
2. In accordance with section 25 of PAIA, you are obliged to respond to this request within 30 (thirty) days of submission. A decision in this matter is due on **10 May 2013**.
3. Kindly acknowledge receipt of this request.
4. We look forward to your response.

Yours faithfully

**Centre for Environmental Rights**

PP *Sukunda Samantha*

Per:  
Robyn Hugo  
Attorney

100 L...  
 Durban, 4001  
 Tel: 031 2781 4000  
 Fax: 031 2781 4001  
 Email: [info@cer.org.za](mailto:info@cer.org.za)

**FORM A**  
**REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY**  
**(Section 18 (1) of the Promotion of Access to Information**  
**Act, 2000**  
**(Act No. 2 of 2000)**  
**[Regulation 2]**

**FOR DEPARTMENTAL USE**

Reference number: \_\_\_\_\_

**Request received**

**by:** \_\_\_\_\_

(state rank, name and surname of information officer/deputy information officer) on  
\_\_\_\_\_ (date) at \_\_\_\_\_ (place).

Request fee (if any): R \_\_\_\_\_

Deposit fee (if any): R \_\_\_\_\_

Access fee: R \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF INFORMATION  
OFFICER/DEPUTY  
INFORMATION OFFICER

**A. Particulars of public body**

The Information Officer/Deputy Information Officer: Mary Ann Grafetsberger  
eThekweni Metropolitan Municipality  
P.O Box 1014  
Durban  
South Africa  
4000

- Description of record or relevant part of the record:

1. Copies of the Atmospheric Emission Licence (AEL) for Shell and BP Petroleum Refinery (SAPREF) **and** Engen Petroleum Refinery

**alternatively**, if the AELs have not been granted:

- 1.1 a copy of the applicable Atmospheric Pollution Prevention Act, 1965 (APPA) permits, **and**
- 1.2 the pending applications for an AEL.

2. The most recent annual reports reporting on compliance with the AELs submitted to eThekweni Metropolitan Municipality for the above refineries;

**alternatively**, if there have not yet been reports on compliance in terms of the relevant AELs (or the AELs have not yet been granted):

- 2.1 the most recent APPA permit compliance reports.

- Reference number, if available: Not known

- Any further particulars of record: Not known

#### **E. Fees**

- *A request for access to a record, other than a record containing personal information about yourself, will be processed only after a request fee has been paid.*
- *You will be notified of the amount required to be paid as the request fee.*
- *The **fee payable for access** to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.*
- *If you qualify for exemption of the payment of any fee, please state the reason for exemption.*

Reason for exemption from payment of fees:

#### **F. Form of access to record**

- **G. Notice of decision regarding request for access**

You will be notified in writing whether your request has been approved/denied. If you wish to be informed thereof in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

How would you prefer to be informed of the decision regarding your request for access to the record? **By Email to [rhugo@cer.org.za](mailto:rhugo@cer.org.za) or [satukunda@cer.org.za](mailto:satukunda@cer.org.za)**

Signed at CAPE TOWN this 10<sup>th</sup> day of April 2013

PP *Satukunda*  
*Amantha*

SIGNATURE OF REQUESTER / PERSON ON WHOSE BEHALF REQUEST IS MADE

Centre for Environmental Rights

"DIDIT"

**Samantha Atukunda**

**From:** Robyn Hugo <rhugo@cer.org.za>  
**Sent:** 17 May 2013 12:30 PM  
**To:** 'MaryAnn Grafetsberger'  
**Cc:** 'Samantha Atukunda'  
**Subject:** RE: PAIA Application - Your Ref CER 2013 TMM 0002 - AEL's SAPREF and ENGEN  
**Attachments:** image001.png

Hi Mary Ann

We will then expect your response by 14 June 2013.

Thanks

*Robyn Hugo*

Attorney

Centre for Environmental Rights NPC

A non-profit company with registration number 2009/020736/08

PBO No. 930032226, NPO No. 075-863, VAT No. 4770260653

and a Law Clinic registered with the Law Society of the Cape of Good Hope

223 Lower Main Road, Observatory, 7925, Cape Town, South Africa

Tel 028 312 2746

Cell 082 389 4357

Fax 086 730 9098

[rhugo@cer.org.za](mailto:rhugo@cer.org.za)

[www.cer.org.za](http://www.cer.org.za) [www.facebook.com/CentreEnvironmentalRights](http://www.facebook.com/CentreEnvironmentalRights)



Centre for  
Environmental Rights

Advocating for Environmental Rights in South Africa

**Newsflash:** The Centre runs an Environmental Rights Clinic on the first Friday of every month. See if you, your community or your organisation qualify for a free Clinic consultation and book an appointment at <http://cer.org.za/about/accessing-cer-services/>

**From:** MaryAnn Grafetsberger [mailto:MaryAnn.Grafetsberger@durban.gov.za]  
**Sent:** 17 May 2013 12:23 PM  
**To:** Robyn Hugo (rhugo@cer.org.za)  
**Subject:** PAIA Application - Your Ref CER 2013 TMM 0002 - AEL's SAPREF and ENGEN

Hi Robyn,

Please note that we will have to extend this matter for a further 30 days as per item 2 of your request to enable Environmental Health to respond.

In the case of item 1 of your request, please note that we will have to be transfer part of the request in terms of Section 20 (1)(a)(b) to the Information Officer of SAPREF and ENGEN.

Kindly acknowledge the above.



## Samantha Atukunda

---

**From:** Robyn Hugo <rhugo@cer.org.za>  
**Sent:** 13 June 2013 03:14 PM  
**To:** satukunda@cer.org.za  
**Subject:** FW: CER - 2013 - TMM - 0002

**From:** MaryAnn Grafetsberger [mailto:MaryAnn.Grafetsberger@durban.gov.za]  
**Sent:** 13 June 2013 03:11 PM  
**To:** Robyn Hugo (rhugo@cer.org.za)  
**Subject:** CER - 2013 - TMM - 0002

Hi Robyn,

SAPREF and ENGEN AEL'S

Please note that we sent out section 47 notices to both ENGEN and SAPREF dated 04 June and requested them both to respond by the 12<sup>th</sup> of June which they have done. The Act specifies that before we can attend to your application we need to obtain approval or objection from SAPREF and ENGEN. SAPREF and ENGEN have both opted to exercise their rights in terms of Section 47 (e) of the Act and require a further 21 days in order to follow their own internal processes. This office has today acknowledged their request and asked them to provide responses by the 21<sup>st</sup> June 2013.

Thereafter we will require further consultation, depending on the response by both parties, with our Legal Advisor and the Environmental Health Department.

It is hereby recommended that to ensure due process is followed and to enable us to respond, that a further extension of time to resolve this application be given. The matter will therefore be extended to the 26<sup>th</sup> July 2013.

Kindly confirm receipt of this email and I trust that you will find the above in order.

MA Grafetsberger

For Dr. JE David

Head: City Hall Administration and Secretariat

Room 9, Ground Floor City Hall

(O) 031 3112366

(F) 031 3112171

Please read this confidentiality disclaimer:

<http://www.durban.gov.za/Pages/edisclaimer.aspx>