

THYSPUNT ALLIANCE

NUCLEAR 1 RESPONSE TO REVISED DEIR

GENERAL COMMENTS

Response compiled by H.Thorpe and submitted on behalf of the St Francis Bay Residents' Association, the St Francis Kromme Trust and the Thyspunt Alliance

1. No confidence in the EIA process

The process has shown up weaknesses in the NEMA legislation. Wherever a consultant is selected and paid by the developer, there is inevitably a conflict of interest. NEMA requires strict impartiality on the part of the EAP, who will vehemently protest at any allegation of partiality.

NEMA allows considerable discretion to the EAP on the weighting of the various impacts. Thus, an arbitrary decision as to which impact should be weighted as of high importance, and which low, is left to the EAP, in a totally non-transparent process. Similarly, the impact rating criteria are determined by the EAP. These significantly increase the risk of bias. Decision-making factors are arbitrarily disregarded, with difficult ones, such as social impact, being relegated to insignificance, or eliminated totally.

The DEA is therefore requested to scrutinize the specialist reports, and the comments passed on them by I & APs with great care.

This EIA has been characterized by extreme bias towards Eskom, with inaccurate, superficial, and misleading information being disseminated. Serious issues which could influence the ROD have been either swept aside, or played down, or quietly forgotten. Errors have been constantly repeated in each successive document. Minutes have frequently not reflected important contributions. Answers given to questions have not appeared in the minutes. Some of the "Specialists" have acted with a serious lack of professionalism, and there is no peer group monitoring to ensure that their reports are factually correct and comprehensive. Proposals for mitigation are frequently so naive as to lack all credibility. Requests for focus meetings to question specialists on the basis of their findings have been refused.

Unless there is evidence that that has changed, there is a prima facie case for a formal request to DEA to remove Arcus Gibb from this EIA, or even for prosecution of the guilty parties.

Furthermore, it is our contention that the Department of the Environment contravened its own NEMA Regulations by approving the Scoping Report in the absence of material information required for a decision. This included specific technology to be used, associated infra-structure, including road access and transmission lines, failure to investigate alternative sites, waste disposal etc. By permitting the EIA to proceed despite this, the DEA tacitly encouraged the consultants to believe that the DEA would take a soft line.

If a favourable ROD is given on the basis of the reports contained in the Revised DEIR, and of manipulative processes, such as the weighting and Impact Rating Criteria, it can only lead to an appeal, and ultimately to court action.

2. Site selection

We are talking here of placing a huge industrial plant on a piece of coastline which has been identified as a potential World Heritage site. Furthermore this will be a nuclear site, which is in a category of its own in terms of site selection. Such a decision should only be contemplated when all negative impacts have been properly addressed, and all other possibilities have been excluded

The problem goes right back to the original Site Selection Process. It was clearly stated in the Site Investigation Documents that the site selection was subject to very clear limitations. This included not going within 100 kilometres of Ciskei, for security reasons, (A potentially suitable site was identified within the 100 km zone); and limiting the investigation to seismic, geological and demographic factors only.

Furthermore, one of the recommendations of the Nuclear Siting Investigation Programme at the time was that the “small coastal resorts be left undisturbed”. This has been completely ignored by Eskom, with its plan to take the heavy-duty traffic across the bridge over the Kromme River, and right past St Francis Bay.

In the original investigation no attention was paid to associated infra-structure, environmental impacts, emergency planning, economic considerations, etc. These were left for later investigation. The site selection was therefore incomplete on two fronts, and the five selected sites were therefore only provisional. No attempt has been made

by Eskom to complete its site investigation in the light of political and other changes in the interim, and only now are the unexplored factors ebbing considered.

Despite this, Eskom has approached the EIA on the basis that it has the five sites, all of which are to be developed, and that the only question is which should be developed first.

3. The No-go option

It can be argued that South Africa has to go nuclear, and that the “no-go” option in this regard does not apply. However, this does not apply at all to specific sites, especially where they have been selected on the basis of politically determined and partial criteria. If a site is unsuitable, it is unsuitable, no matter how strong the motivation to go ahead.

This EIA has proceeded on the assumption that all five sites are suitable, and that all will be developed. This is based on untested assumptions which are now being challenged. In reality, Eskom has no nuclear sites at all. All it has is five provisional sites. The “No-go” option is clearly a possibility in relation to site selection.

4. Site alternatives

In terms of the NEMA Regulations, the applicant has to investigate alternative sites. Eskom’s argument is that it has five sites; that they are only investigating Nuclear 1, namely the first site to be developed, and that Duynefontein and Bantamsklip are therefore alternative sites.

What Eskom fails to state is that they plan to develop all three sites, so the other two are only alternatives in terms of Nuclear 1, 2 & 3? They are not ultimately alternatives at all, and certainly do not address the limitations of the site selection process in the Eastern Cape. This is a gross technical manipulation of the NEMA requirement. What should have happened as soon as the constitutional changes took place in South Africa was a full site review process, and a proper investigation of alternatives for the most suitable site in the Eastern Cape.

As the EIA has progressed, and the issues left unaddressed in the original site investigation have been investigated, it has become increasingly clear that Thyspunt is far from being a suitable site for such a purpose.

5. Viability

Here is the classic example of the devious manner in which the entire process is being conducted. Eskom has been aware for years that a question mark hung over the viability of the Thyspunt site, on the grounds of emergency planning, and of population levels within the sixteen kilometer emergency planning zones. This is a particularly sensitive issue at Thyspunt in view of the direction of the prevailing wind, the growth of population in the Greater St Francis area, and the single escape road for the entire community in the event of an emergency. This is a matter for the National Nuclear Regulator (NNR).

This being the case, it would have been appropriate to have cleared up this point before any EIA was embarked upon. As it is, Eskom has still not identified the specific PWR technology to be used, or applied for a licence for this technology. **As a result, the NNR has been completely excluded from the process to-date.**

What Eskom has stated is that it “favours” & “plans to use” Generation 111 technology. This is state-of-the art technology, which has a number of safety features built into it. However, it is still in the developmental stage, and government has stated that it is not affordable.

On the strength of the claims made for Generation 111, Eskom states that it will apply for a reduction of emergency planning zones from 16 to 3 kilometres, thus avoiding the demographic problem associated with the 16 kilometre zoning. This would be in terms of the so-called “European Utility Requirements” (EURs) (not to be confused with European Union Regulations, which do not exist). These “requirements” are a product of the European nuclear industry, in support of their own agenda. They have not been recognized by the IAEA or by any national nuclear regulator. If South Africa were to go ahead in terms of these, it would be the first country in the world to do so, and a major change in policy. This is a matter for the National Nuclear Regulator (NNR). Without a licence from the NNR, the Thyspunt site cannot be used.

Eskom and Arcus Gibb have stated publicly on several occasions that if “Generation 111” is not to be used, the entire EIA will be null and void, and will have to start from scratch. The whole process to-date has been done at risk, on the assumption that Generation 111 will be used, and that the NNR will accept the EU Requirements for regulatory purposes.

Meanwhile Eskom is forging ahead, buying up land around Thyspunt, using public money to do so, before any ROD from either the Department of the Environment or the NNR has been forthcoming. Eskom appears to have the policy that, if it spends enough money, it will be impossible to retract, and the authorities will be compelled to give approval to the site. It would be difficult to imagine a more irresponsible way of dealing with public money.

Our view is that Eskom is acting in bad faith, and that those responsible should be prosecuted for unauthorised, wasteful and fruitless expenditure, and for contravening the requirements of the Promotion of Administrative Justice Act, which requires that administration be just, reasonable and fair.

6. Fatal flaws

This concept is completely subjective, and subject to interpretation by those who have adopted a particular position. The specialists have all accepted that there are no fatal flaws in the Thyspunt site, on the basis of impact Assessment criteria devised by the EAP, in several cases on the basis of incorrect or incomplete information. How this is possible is not clear.

In the view of the Alliance, there are fatal flaws in the EIA process itself, in the viability of the site in terms of emergency planning, in the Heritage impact, in the environmental impact, in the social impact, and in the failure to address waste disposal.

Much depends on steps proposed in mitigation –whether they are realistic and whether they will be applied. In many cases the proposed steps in mitigation are little more than derisory, and will have little or no impact on the problems which have been identified .

7. Cumulative impacts

Leaving aside the failure to determine the viability of the site, through exclusion of the NNR, no attempt has been made to assess the cumulative effect of these combined flaws. The approach adopted by the EAP is to consider each impact in isolation, and to conclude that there are no fatal flaws. However, the combined impacts which have been identified cumulatively amount to massive criticism of Thyspunt as a site for any kind of industrial plant.

This includes the following:

- Effectively unmitigable destruction of a heritage site which has been identified as justifying World Heritage status;
- Major environmental impacts, such as interference with the by-pass headland dune system, which has been described by the dune specialist as follows:
The geomorphologic conservation value of the headland-bypass dunefields at Thyspunt is high, as they are the only remaining large dunefields of this type that are still active in South Africa. The headland-bypass dunefields at Cape St Francis are unique on a local, regional and probably global scale. The vegetated dunefield is a classic, almost pristine example of a suite of Holocene and Pleistocene dune ridges with a variety of origins: parabolic dunes, hairpin parabolic dunes, and sidewalls of previously mobile headland-bypass dunefields, including fairly unique examples of such sidewalls. Overall, the dunefields at Thyspunt has high interpretive value for elucidating coastal dune dynamics.

Numerous other examples can be quoted, identified by experts who are authorities in their fields. Only the less problematic of these receive detailed attention.

- The probable destruction of the chokka industry in the area, which is valued at between R500 & R700 million per annum, and employs 4000 people, as a consequence of depositing over 6 million tons of spoil on the sea bed.
- The social impact on adjacent communities, and the total change of sense of space which this will involve, in direct disregard on recommendation 2 in the NSIP that the coastal resorts should be left unaffected.
- The massive cost of associated infra-structure such as road up-grade and construction, transmission lines, pipelines under the sea bed, amounting to tens of billions of rands. Many of these appear to have been disregarded by the economic specialist in assessing the relative cost of the three sites.

8. CONCLUSION

The litany of short-comings listed above makes it clear that this EIA is little more than a charade. Eskom is relying on political support from the government on the grounds of “national interest”. Nobody denies that we need to increase our power generation capacity and reduce dependence on fossil fuels. It is also accepted that there is a need for a power station in the Eastern Cape. However, this does not justify over-riding every piece of environmental and social justice legislation that has been introduced in terms of our Constitution. We believe that the manner in which the EIA has been conducted is a travesty of the EIA process, and the Revised Report should be treated in the same way as the first report, until such time as the process is conducted comprehensively, impartially, transparently, reasonably and fairly.