

On 24 June 2018 at 20:47:36, Patrick Bond (pbond@mail.ngo.za) wrote:

(The country's leading newspaper has two fine stories about South Durban's plight in the current issue:

"Last month, police opened fire on protesters who had blocked access to the refinery to prevent trucks from entering and leaving, which has inflamed tensions and sparked several other protests... Petroleum giant Engen has gone to court to stop protests by residents of Durban's Wentworth township who want it to give them shares in the company, jobs and contracts as "reparations" for alleged damage it has caused to their community over the past 60 years. On Monday, the Durban high court will hear an application by Engen for an interim order to stop members of the South Durban Basin Community Development Trust from protesting outside its refinery in Tara Road... Wentworth residents were being treated in the same way as rural people who gained nothing from mining activity... trucks had been stopped by protesters, who had burned tyres on the perimeter of the plant..."

But in the journalistic coverage there is no mention of either

- SDCEA's historic demand to shut the two massive oil refineries as part of the area's detox - and South Africa's Just Transition to post-carbon energy, especially at a time of new oil & gas exploration off-shore Durban - or
- damage done here and everywhere by climate change.

Engen and Sapref comprise, after all, the single largest oil refining complex in Africa, with production capacity of 350 000 barrels each day. One of the local groups - the Engen Community Stakeholder Forum, more of a lapdog than watchdog - typically ignores big structural problems, asking for CSI peanuts. But the rest of South Durban has a much higher climate justice consciousness.

I'm not sure how to explain these omissions by otherwise superb journalists, including Paddy Harper, but it strikes me that our struggle would be far better connected and universalised, as well as drawing solidarity from the rest of the society and perhaps Malaysian allies, were we to foreground climate much more centrally. One example is a 2013 statement - available [here](#) - by a SDCEA activist, Lushendrie Naidu.)

Reparations row dogs petrol giant

The push by Wentworth residents for Engen to give them a stake in the company has prompted it to take them to court to halt their protests

- Mail & Guardian
- 22 Jun 2018
- Paddy Harper

Investment: Local activist Frank Alexander wants to see Engen make lasting financial, employment and infrastructure contributions to his community.

Petroleum giant Engen has gone to court to stop protests by residents of Durban's Wentworth township who want it to give them shares in the company, jobs and contracts as "reparations" for alleged damage it has caused to their community over the past 60 years.

On Monday, the Durban high court will hear an application by Engen for an interim order to stop members of the South Durban Basin Community Development Trust from protesting outside its refinery in Tara Road.

In papers, the refinery's acting general manager, Ernest Reid, said the forum, led by Frank Alexander, had refused to participate in its stakeholder engagement forum and instead had conducted protests, including burning tyres, outside the refinery.

Engen wants the protests, which Reid said were illegal as the refinery is a national key point, halted, saying Engen risked incurring "irreparable losses" from the damage caused.

Alexander said the trust was consulting its lawyers.

The protesters have been pressing Engen, which, as Mobil, opened its refinery in Tara Road in 1954, to be "transparent" about the proposed sale by majority shareholder Petronas, which controls 74% of the company.

The refinery has a capacity of 135 000 barrels of crude oil a day and supplies 1 500 service stations in Southern Africa and the Indian Ocean islands.

Wentworth residents have led several protest marches to the refinery to highlight their demands and force Engen management, and the leadership of minority shareholder Phembani, to meet them.

Last month, police opened fire on protesters who had blocked access to the refinery to prevent trucks from entering and leaving, which has inflamed tensions and sparked several other protests.

In an interview earlier in the week, Alexander told the Mail & Guardian the marches and residents' meetings were also aimed at forcing Engen

to build a training centre in Durban South, to employ local people beyond the maintenance shutdowns, and to do business with local security, transport and engineering contractors.

“Engen owes us as a community. The various owners have been making billions over the years. We want the company to give the community shares as reparations for the damage it has done in 60 years of operation. This is a multibillion-dollar concern ... In all this time there has been no attempt to include this community,” Alexander said. Wentworth residents were being treated in the same way as rural people who gained nothing from mining activity, he said. “There is a commonality between what is happening here and what is going on in the rural areas that are being mined ... They are operating literally on our doorsteps and giving us no opportunities, ignoring us. That can’t be correct.”

Alexander said that, even though Fairvale Secondary School, a technical school, was located directly across the road from Engen, there was no programme to develop or recruit local youngsters for permanent jobs.

In a memorandum handed to refinery management on June 6, residents and nongovernmental organisations made a number of demands and asked for a face-to-face meeting with Engen chief executive Yusa Hassan.

The demands included building a training centre in Wentworth, placing local young people in learnerships, employing permanent maintenance staff from the area, and extending engineering, transport and security contracts to local companies.

The memorandum questioned Engen’s commitment to residents’ environmental rights, demanding that it create a 24-hour clinic to deal with health issues allegedly stemming from the refinery’s operations. Sister Renette Roskruge of the Engen Community Stakeholder Forum, a network of local residents’ organisations and NGOs, said they had been unhappy with Engen’s levels of investment in the area, but that a recent meeting did make some progress. A further meeting to discuss more community investment was set for Thursday, she said.

“We have been very dissatisfied in the past. Last week we met with their CSI [corporate social investment] team. It was very fruitful. In the past, it [engagement with Engen] has been fruitless,” Roskruge said.

Desmond D’Sa, who chairs the South Durban Community Environmental Alliance, said Engen did employ locals as temporary workers during maintenance shutdowns.

“Beyond that, they aren’t employing local people and aren’t providing bursaries or training for the local youngsters. This fight has been going on for years,” D’Sa said.

“Engen has been interested in the bottom line and nothing more. There’s no commitment to this community. We’ve been fighting with them since 2001 to replace rotting pipelines but they don’t want to invest. Engen doesn’t want to address anything that threatens to reduce its profits,” he said.

Both Alexander and D’Sa accused Engen of using apartheid-era legislation, including the National Key Points Act, to prevent legitimate protest action by calling in the police.

In a letter to Alexander, Engen chief executive Hassan said that Engen was “fully committed to transformation” and had “extensively and exhaustively reviewed its business principles and broad-based BEE [black economic empowerment] improvement plans and strategies”. “Engen has also over the years appreciated the importance of doing good for the immediate communities of the Durban South Basin and has always endeavoured to play its part in building social cohesion by contributing to social development interventions.”

Hassan told Alexander that his organisation should join the existing stakeholder forum, set up to deal with social, economic and environmental issues, to channel its “concerns”.

Engen spokesperson Gavin Smith said Engen was a “proud long-term contributor to the upliftment of the South Durban community, as an employer, partner to local businesses, bursary sponsor and social investor”.

Smith said Engen had invested R40-million in social projects in the past five years through the forum. This included funding four maths and science schools in the vicinity of the refinery, a computer skills training centre and sports programmes that were identified by the forum.

Smith said Engen had offered learnerships for apprentices last year, and that more than 70% of its shutdown workers came from South Durban, and 25% of refinery employees were from the south of the city. He said that Engen used small contractors and had recently committed R1-million for local schools to be repaired by two small South Durban firms.

The protests had not had an impact on Engen’s refining capacity, but trucks had been stopped by protesters, who had burned tyres on the perimeter of the plant, Smith said.

Because the refinery was a designated national key point, he said that “the law requires that Engen ensure [its] security”.

Although Engen recognised the right to protest, it “reserves its rights in the face of unlawful and dangerous efforts by the protest group to disrupt the safe and responsible functioning of the Engen refinery and related services”.

<https://mg.co.za/article/2018-06-22-00-when-the-penalty-is-death>

When the penalty is death

[Paddy Harper](#) 22 Jun 2018 00:00

[Dicing with death: Lacking resources, poor children from Wentworth turn veld near the Engen refinery into a playground. \(Rogan Ward/M&G\)](#)

Wednesday morning. There's a group of five children, three boys and two girls, playing a game of football on the strip of sickly grass alongside Tara Road in the Durban township of Wentworth. Four sticks stuck in the ground have been turned into goalposts. The roadside acts as a touchline. A pathway cutting the verge in half marks the other boundary of their impromptu pitch. It's more brown and grey than green. The five youngsters seem oblivious to the Engen oil refinery across the road. The refinery, a national key point surrounded by walls and razor wire fences, is hard to miss.

The children appear equally unaware of the fleet of massive petrol tankers heading for the main entrance of the refinery. It's early in the day, but the traffic volume along Tara Road, which runs from Merebank through Wentworth to Fynnland, is already heavy.

The sky is dark grey, low, ominous with the threat of rain. It highlights the white smoke pouring from the refinery, provides a backdrop for the flames coming from its conversion plant. It's almost beautiful, in an ugly, dirty, industrial way.

The Bluff stands behind and above the refinery. The stench from the sea of tanks isn't as heavy as usual. The wind is blowing towards the ocean, carrying the stink up the Bluff and into Marine Drive. The smell is still there, but it's being wafted upwards towards Wentworth's more affluent neighbour.

Most of the stink comes from sulphur dioxide. According to the municipality, Engen accounts for almost half the sulphur dioxide pumped into the air in the area the city calls the Durban South industrial basin. About 3000 industrial businesses of various sizes operate in this part of South Durban, among them a chromium processing plant, a massive paper mill and hundreds of chemical factories.

The locals call it cancer valley, courtesy of the high levels of leukaemia and other cancers, asthma and respiratory illness that have plagued the area for the past 60 years.

[READ MORE: Cancer valley pays a high price for South Africa's oil needs](#)

Last year, according to Desmond D'Sa, chair of the South Durban Community Environmental Alliance, a single local church buried 50 people who had died of cancer. There are dozens of churches in Wentworth, Austerville, Merebank, the Bluff.

During the apartheid days, the kilometres of refinery wall acted as an unofficial border between the white Bluff and coloured Wentworth, along with a small wetland park rehabilitated by Engen to offset the environmental damage done by building the refinery. They still do. My parents lived up the hill from the refinery for nearly 30 years. They were on the wrong side of the ridge overlooking the ocean and Anstey's Beach, so they had to live with Engen's stench on days like today. Gerald, my dad, is in remission from cancer. My mom, Winnie, lives with emphysema.

The larger of the girls is patrolling the goals. She has a confidence about her, like she's enjoying herself.

One of the boys, a short, wiry child, fires a shot. She parries the ball deftly, sends it flying to her left.

The boy stops the ball before it reaches the tarmac. Moves infield and takes another shot with his left foot, the ball flying up parallel to the road. The keeper blocks the shot again, sends the ball off towards the left once more. The boy scurries after the ball. The wind whips it into Tara Road. He dives after it, oblivious of the oil tanker bearing down on him.

The group of men gathered across from the Engen gate start towards the child, shouting warnings, waving at the truck driver to stop. The other children have frozen, watching as helplessly as the rest of us. Time stops.

I look away. I don't want to see what's about to happen. He must be about six years old.

I hunch my shoulders, waiting for the impact.

There's a massive screech as the truck comes to a halt. Then silence.

I look up. Somehow the tanker has stopped before reaching the youngster. The drivers behind the tanker driver are hooting, urging him to get going. He waits for the youngster to grab the ball and dart back to the roadside before, he puts the truck in gear and turns into the refinery.

The boy takes a quick throw in, chases the ball, his brush with death seemingly forgotten.

The group of men on the side of the road look dazed, nauseous.

A passing Metro Police car slows down. The driver leans out the window. Shouts at the children. Tells them to stay off the road. Eyeballs the group of men disdainfully as he cruises past, all aials, 9mm and German shepherd.

"Where are they supposed to play when there's no fucking field," one of the men sbouts after him.

The keeper blocks another shot. Parries the ball to the left.

Engen Refinery let us down: Wentworth residents

[Daily News](#) / 6 June 2018, 12:30pm / **Latoya Newman**

A GROUP of Wentworth residents protested against what they labelled Engen Refinery's "unjust interaction and treatment" of the entire South Durban Basin (SDB) community.

They marched from Wentworth's Ogle Road grounds to Engen Refinery's main gate saying that communities like Wentworth, Merebank, Lamontville, Glebelands and others were being short-changed by Engen.

Frank Alexander, a Community Liaison Officer under the SDB Community Development Trust, said: "Of all the refineries in South Africa, Engen Refinery does not have a training centre for the youth." He said as far back as 2016, community representatives had proposed a Youth Development Multipurpose Centre to cater for skills development and assist with poverty alleviation, socio economic ills and a lack of resources to empower and develop communities across the South Durban Basin.

Alexander said there seemed to be no move towards this centre and they believed it was because Engen's response in that initial meeting was "that they can't build anything in Wentworth because crime levels are high and it will cost too much".

The document he referred the Daily News to was labelled "17th meeting of the Engen Community Stakeholder Forum" on November 22, 2016. A note regarding the response from a man, who is allegedly an Engen representative, on the centre proposal read: "Comments (were) that this project needs an in-depth feasibility study. Furthermore, is this project sustainable? It is idealistic given the diversity and current discord within the SDB community. Additionally, the high rate of crime and vandalising would be a concern. Security will cost and this could become a financial challenge."

Alexander said: "There is tons of research that has been conducted about the pollution from the refinery in relation to the high levels of cancer, leukemia and asthma cases in the community. It (the centre) is the least they can do We also want a 24-hour clinic built in the community for this very reason."

Other points included in the memorandum called for:

- A meeting with Engen's chief executive.
- An audit of senior managers and companies working with the refinery to be conducted due to alleged corruption.
- Companies which still owe money to the community for previous shut-downs to be banned from Engen.

- 60% of procurement spend to be for the community and local business.

What Engen said:

Engen recognises and sympathises with the plight of unemployed residents of South Durban, as well as those of our broader society. As a company, we have employed more than 70% of our labour requirements for refinery outages and shutdowns from people resident in the South Durban area.

Furthermore, Engen is a proud contributor to the upliftment of the South Durban community as an employer, partner to local businesses, bursary sponsor and social investor.

Our social investment in the area currently includes the following:

- *Four Engen Maths and Science Schools, (located at Ganges Secondary School, Fairvale Secondary School, the University of KwaZulu-Natal and Mangtech), which provide supplementary maths, science and English education to hundreds of underprivileged learners from Grade 10-12 annually.*
- *A computer skills training centre, which has upskilled more than 1700 local people since its inception.*
- *Regular soccer and life skills training and sports equipment donations at local high schools.*
- *Numerous ad hoc socio-economic interventions identified by the community.*

Engen also conducts learnership programmes, which are designed to respond specifically to scarce skills within the oil industry.

In 2017, we offered learnership opportunities covering, among others, apprenticeships for fitter and turners, diesel mechanics, electricians and instrument technicians.

Engen is proud of its commitment to being a caring and responsible partner of the South Durban community and we will continue to work together with the local residents in various meaningful ways.

Daily News

Cancer valley pays a high price for South Africa's oil needs

[Sipho Kings](#) 06 Jun 2014 00:00

[There are about 300 smokestacks in the South Durban area. \(Delwyn Verasamy, M&G\)](#)

Seventy-year-old Elizabeth Barnes wakes up at 2am, unable to breathe. The retired nurse, a resident of South Durban, gets up and, wheezing, draws a little air into her lungs. Her room is stuffy. She opens a creaky white door and goes into the narrow passage, looking for fresh air. The air is filled with black dust. This usually happens when the nearby refineries burn off excess gas.

Reaching for her old Nokia, she phones for an ambulance, which arrives 15 minutes later. In hospital she is put on a nebuliser, which releases a mist that works its way into her lungs and reopens them.

“That black snow is like Doom. It kills everyone,” says Barnes.

She gets worked up when she talks about that night, and similar nights during the three decades she has lived in the area. On her worst day, last year, the ambulance was called three times.

Sitting on a black faux-leather couch and dressed in a black dress with white polka dots, she gesticulates energetically as she rages about the nearby Engen refinery. She is one of 100 000 people who live in the area, where gases from industry are funnelled between two ridges that run from north to south. To the north is Durban harbour and beyond that the buildings along the beachfront and central Durban.

Cancer valley

Cancer rates are so high that everyone speaks about it as “cancer valley”. Research by the University of KwaZulu-Natal shows that leukaemia is 24 times higher here than anywhere else in the country. Half the schoolchildren in the area suffer from asthma.

The two largest industries are the oil refineries, but the presence of many other petrochemical plants means there are about 300 smokestacks in South Durban.

Barnes used to be fit. She grew up on a farm and had a 15km walk to school every day. A dozen people rent rooms in her haphazardly extended home. Two died from skin cancer last year. She feels responsible for her tenants and now has trouble sleeping, waiting for one of the tenant’s children to gasp for breath.

A white, worn asthma pump becomes a conversation prop. “This is my gun. It shoots air into my chest.”

Elizabeth Barnes suffers from chronic asthma and relies on her inhaler. She developed the disease when she moved to Jacobs. (Photos: Delwyn Verasamy)

Before 1938, South Durban was farmland but the city council rezoned it as a mixed industrial and black residential area. People were moved in to provide cheap labour. Industry boomed and now 70% of the city’s

factories are here. Oil tankers bring 80% of the country's crude oil to a mooring buoy 2km off the coast.

Refining zone

The 60-year-old Engen refinery and the 50-year-old Sapref refinery (owned by Shell and BP) process this oil into petrol, diesel and paraffin. Other industries that rely on petrochemicals, such as plastics and benzene manufacturing, have opened around them.

The city's air quality records show that over 100 different chemicals are pumped into the air. The worst are sulphur dioxide and benzene, which the World Health Organisation says causes asthma, cardiopulmonary disease and cancer.

The refineries have said the high level of illness in the area is a coincidence and none has been convicted of causing illness there. Most of the residents live in small homes and crumbling blocks of flats. In one of these, Maygen Lee Reddy, a 12-year-old in grade seven at Settler's Primary School, is one of the seemingly lucky few because her father bought an old and faded portable nebuliser. She says she had an asthma attack the night before and could not go to school. She misses up to 10 days a month.

Perumal Puckree helps his granddaughter Maygen Lee Reddy with her nebuliser.

The Reddys live south of the Engen refinery and north of Sapref, in the mostly Indian neighbourhood of Merebank. The area is divided by race. To the west, where Barnes lives, is the mostly coloured neighbourhood of Jacobs. To the north, on hills overlooking the ocean, is the mainly white neighbourhood of the Bluff. The closer you get to the refineries, the stronger the smell. In Merebank and Jacobs, there is an ever-present smell of rotten egg.

Quality of life

South Africa's submission in 2005 to the United Nations environment agency on air quality said the area is "overwhelmed" by petrochemical companies and that the situation has "undermined the quality of life of residents in the area". This added to the burden of disease, it said.

Other research published in the peer-reviewed African Journal of Conflict Resolution said: "[The effects of air pollution on human health] are caused by the emissions of unacceptable levels of toxins, chemical waste and a large content of sulphur dioxide, which are characteristic of industrial processes."

Sylvie Chetty, a slightly built woman in her 50s, lets as little air as possible into her flat, which is in the same block as that of the Reddys. All the windows are closed and the second-floor flat is hot and stuffy. Like all those around her, the block has seen better days.

“We moved here 25 years ago and we started having problems straight away,” she says.

The 3m-high vibracrete wall of the refinery is 400m down the tar road that runs past her home. Her husband worked as a bookkeeper and died from a heart attack five years ago. His asthma was so bad that he had to stop after each step leading to their four-room home.

‘Trusting in Jesus’

Deeply religious, like many people in the area, she says: “I am trusting in Jesus to keep my chest going.”

Curtains act as room dividers. She replaced these after they were stained black by the fallout from an explosion at the Engen plant in 2011. The company gave Chetty and her neighbours R500 each for their curtains and clothes, the only compensation they say they have ever received.

She says most people seem to have asthma and is in no doubt about who is to blame. “At Engen, they are clever. They make all the money but they don’t share it. I just want some so I can go to hospital and be cured.”

A clock emblazoned with a painting of Jesus ticks loudly on the wall. She has a doctor’s appointment, and shows us her bag of asthma medication and a piece of paper with her four monthly visits noted down.

Her neighbour, Sharon Eyer, slides back the heavy black bolt of her security gate, saying violent drug gangs are a serious problem. The room is crowded with a three-piece couch set and a cabinet covered in family pictures. She is also a widow and a black-and-white photograph of her husband in his 20s, sporting a thick beard, takes pride of place. A single bulb lights the dingy room.

Forced to quit work

The family was once middle class but her husband, a construction worker, was forced to quit because of his asthma and they slipped down the economic ladder. Now they live in a government flat. At 59, she cannot get a job and her asthma medication costs R400 a month.

“Sometimes you are so sick that you cannot breathe. How do you make it to a taxi when you are like that?”

Her 23-year-old son, a cashier, is the sole breadwinner. But he has a worsening cough and misses several days of work every month.

Both the women have grandchildren living with them, some of whom also have asthma. Little research was done on the disease until 2001, when a large-scale study by the universities of KwaZulu-Natal and Michigan found that half of the children in the area had asthma. A follow-up study in 2005 found that people in North Durban were less likely to suffer from chest problems and cancer because of the lack of

industry there. Children at South Durban schools were 40% more likely to suffer from respiratory problems than those living 10km away, it said. Research published by the Medical Research Council on chronic respiratory diseases in South Africa found that environmental conditions are drivers of problems in low- to middle-income areas. This explained the “very high respiratory symptom prevalence” in South Durban.

Chest problems

The various parts of the health department refer questions to each other, but a doctor in the community says treating chest problems takes up a large part of every day. It is also expensive, because patients require constant medication and consultations, as well as emergency treatment and hospitalisation.

People with cancer are also a disproportionate health burden, with many not having the money to access more advanced treatment such as chemotherapy, the doctor says.

The refinery fence is also visible from the office of Dale Sidle, headmaster of Merebank Secondary School. He says asthma is a chronic problem, but there is little he can do about it. By law, he cannot administer medication such as asthma pumps, so must rely on children to have their own. The problem is worst during exams, when stress triggers attacks.

“The plants are so old that they are just putting plaster on the cracks to keep them going,” he says.

Nielsen Singh joined the army as a physical education trainer and, now in his 70s, volunteers to help pupils at local schools.

He was at Settler’s Primary School when oil flung from a refinery explosion caused 100 pupils to be hospitalised. “It was awful. They were screaming and running around, rubbing their skin.”

Children suffering

A slow and patient speaker, he says it is difficult to coach the children because of the health problems. “This is one of the most polluted areas in the world and you see it in the children. They struggle to run as fast as they should at their age. Many have their pumps always there.”

Physical education trainer Nielsen Singh says the children’s development is being retarded.

Professor Patrick Bond arrives at a bar on the beachfront for an interview wearing a formal shirt, but with flip-flops and swimming trunks. A political economist at the school of development studies at the University of KwaZulu-Natal, he lives on the Bluff.

He says of the neighbouring communities: “This is environmental racism, by smell.” He says the refineries are “rust buckets” and should have been closed a long time ago. That this has not happened can be

put down to a weak government and strong corporate interests, he claims.

“People are sick and tired of being polluted on because of the colour of their skin.”

The area’s Democratic Alliance ward councillor, Aubrey Snyman, says it is hard to link specific health problems to industry. “There is no way to take the research and sue,” he says. Therefore, the onus is on the government to keep ensuring that business lowers its emissions.

Former runner

He says he grew up in the area and used to be a runner. Back then, the Engen plant was owned by Mobil and there was a layer of dirty air hanging over the valley. “Back then we would gasp for breath but we just thought we were not fit enough.”

Awareness about the impacts of industry on air quality and health only started becoming prevalent in the 1990s. His daughter of eight has asthma but, with a healthy diet and medication, he hopes she will grow out of it.

The hub of local activism is the South Durban Community Environmental Alliance, which is run out of four rooms in a house in Jacobs, crammed from floor to ceiling with folders of evidence about local pollution. A minibus is parked outside from which the alliance conducts what it calls “toxic tours” for visitors and locals.

Desmond D’Sa, a founder of the alliance, has just returned from collecting the Goldman Prize in the United States. The world’s most prestigious accolade for environmental activism, it is worth \$150 000 and was awarded for his work on pollution in South Durban.

Environmental activist Desmond D’Sa says the refineries can no longer claim that there is no link to the health problems of the communities.

He says the oil and petrochemical industry believes it is above the law and is “using our lungs as purifiers”.

“There is a R40-million daily profit from industry in this area, but we are the ones carrying the health costs.”

Air quality report

The eThekweni municipality’s air quality monitoring report from 2008 says the average levels of sulphur dioxide are within guidelines. In South Africa, refineries can emit 19 tonnes a day although in Europe the limit is two tonnes.

The report concluded that, because of the correlation between wind direction and cases of air pollution picked up by monitoring stations, industry is the major culprit. In 2007, it said 39 out of the 41 times that maximum emission levels were exceeded could be “directly attributed” to Engen, with Sapref and other petrochemical firms playing a lesser role.

But the refineries are critical to South Africa and both are national key points. Besides air quality issues, they have caused other environmental problems. Between 1995 and 2010, 12 explosions were recorded. In 2001, a million litres of petrol leached under people's homes, thanks to a rusting Sapref pipeline leaking. It says it has since improved its pipelines and checks them annually for any possible problems.

But the refineries say that the link between their activities and health problems cannot be proved and that they have significantly lowered emissions.

Gavin Smith, Engen's spokesperson, says the refinery is committed to minimising its impact. It gives R5-million a year to community projects and has spent R700-million in the past 11 years on upgrades. It complies with its emissions permits and is also "ISO14001 certified" – which means the potential impacts of its operations are identified and mitigated.

Acceptable emissions limits

He says it has not put any pressure on the government to keep operating and has worked with the state to ensure its emissions are within acceptable limits.

He says tests on Engen's own employees show "no indication of increased health issues". "We are not aware of any definitive research linking the Engen refinery to respiratory disease and cancer," he says, adding that, generally, cancer is increasing worldwide and about 250-million people have asthma.

He says the refinery has reduced its sulphur dioxide levels by over 70% in the past 13 years, and the emissions of this and other gases will be continually lowered in the coming years.

He adds that the early morning flaring is done "to combust gases safely should there be inefficiencies in the plant's manufacturing processes". Flyers are distributed to nearby homes and the flow is limited to prevent large flares.

But D'Sa says the defence used by the refineries – that there is no evidence linking them to community health problems – can no longer be used.

"The evidence is clear. This is 2014 and that argument does not work any more. We know these refineries kill people. We know it and they know it. They have blood on their hands. Our government lacks the political willpower" because, he maintains, the refineries generate huge revenues for the state.

The Mail & Guardian spoke to more than a dozen other families with asthma and cancer sufferers. Many also had relatives who died from complications arising from these diseases.

[Environmental justice organisations sue eThekweni for access to refinery licences](#)

5 May 2015 at 1:45 pm

SAPREF Refinery, south Durban (Photo: SDCEA)

FOR IMMEDIATE RELEASE

Environmental justice organisations the South Durban Community Environmental Alliance and the Vaal Environmental Justice Alliance have launched legal proceedings in the KwaZulu-Natal High Court to force eThekweni Metropolitan Municipality to release the atmospheric emission licences and compliance reports of two south Durban refineries.

Atmospheric emission licences govern the amount of pollution industries can emit into the atmosphere.

These court proceedings [1] form part of a critical larger battle to achieve public access to all industry environmental licences and compliance reports.

South Durban Community Environmental Alliance (SDCEA) [2] and Vaal Environmental Justice Alliance (VEJA) [3] are represented by attorneys at the Centre for Environmental Rights (CER) [4].

eThekweni had refused requests for these records for the Engen Petroleum Limited (Engen) refinery and the Shell and BP South African Petroleum Refineries (Pty) Ltd (Sapref) refinery in south Durban in terms of the [Promotion of Access to Information Act](#) (PAIA), arguing that they constituted commercial information of the refineries. The Municipality claimed that the records contained trade secrets; financial, commercial, scientific or technical information, which, if disclosed would be likely to cause harm to the financial or commercial interests of Engen and Sapref; or that the information was supplied in confidence and its

disclosure could put Engen and Sapref at a disadvantage or prejudice them in commercial competition. Internal appeals of these decisions also failed.

The environmental justice organisations argue that neither licences nor compliance reports contain trade secrets or commercially sensitive information. Nicole Löser, attorney at the CER, highlights that: *“The Air Quality Act, 2004 requires that all applications for licences be made available for public comment. It is therefore not clear on what basis the Municipality can argue that the licences themselves are confidential. In any event, we have been provided with the air emission licence for Chevron’s Cape Town refinery. It cannot be so that some refineries have secret licences, while others don’t.”*

In addition, PAIA requires the disclosure of records that would reveal evidence of a substantial contravention of the law or an imminent and serious public safety or environmental risk and where the public interest in the disclosure would outweigh any potential harm to the third party. Sapref and Engen’s refineries are significant contributors to the high levels of air pollution within the south Durban basin, and local community organisations have long fought to reduce dangerous pollution from these two refineries in the already polluted area of south Durban [5].

According to Desmond D’Sa, Coordinator of SDCEA, *“Reports have shown that the poor air quality in the south Durban basin has had a devastating impact on the health of residents, particularly children, living within the area. The Municipality should be doing everything in its power to hold the refineries accountable. Instead, it has forced us to resort to litigation to obtain basic documents”.*

Bobby Peek, director of groundWork [6], adds that: *“For too long, government and other polluting industries have failed to account properly for the devastating health impacts and costs of air pollution.”*

The information concerning the atmospheric emissions of Engen and Sapref, and all emitters of harmful pollutants, as well as their compliance with their licences, is vital for the exercise and protection of the Constitutional right to an environment that is not harmful to our health or wellbeing. Municipalities, as licensing authorities for air polluters, have an essential role to play in ensuring that this right is respected and protected for all South Africans, and in promoting the Constitutional objective of an open society.

Samson Mokoena, Coordinator of VEJA – the community organisation who successfully compelled disclosure of environmental records by ArcelorMittal South Africa in the Supreme Court of Appeal in November 2014 [7] – says: *“We have a Constitutional right to know what industries’ impacts are on health and the environment. Polluting companies can no longer try to hide this kind of information.”*

Phezu Nthetha, Right2Know [8] KZN Provincial Coordinator, says “*Only through information can we begin to hold corporate polluters accountable. It is the right of any community to know about how clean the air is that they breathe.*”

If the Municipality seeks to oppose this litigation, it must do so by 14 May 2015.

Issued by: Centre for Environmental Rights, groundWork (Friends of the Earth South Africa), South Durban Community Environmental Alliance, Vaal Environmental Justice Alliance, Right2Know Campaign

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Footnotes

[1] The Notice of Motion and Founding affidavit can be downloaded at: http://cer.org.za/wp-content/uploads/2015/04/SIGNED-NOM-FA-SDCEA-VEJA_ETHEKWINI.pdf

[2] The South Durban Community Environmental Alliance (SDCEA) is a non-profit organisation which aims to, inter alia, service the common interests of participating civil society organisations, provide a common structure through which different sectors of civil society can explore, strengthen and promote matters of common interest justice or relating to

environmental justice and sustainable development and create a culture of environmental justice and sustainability – www.sdcea.co.za.

[3] The Vaal Environmental Justice Alliance (VEJA) is a voluntary association of non-governmental and community-based organisations that advocates for a culture of transparency, environmental awareness and sustainable development and a healthy, safe and sustainable environment in accordance with the Constitutionally-enshrined right to an environment that is not harmful to health or well-being” – <http://vaalenvironmentalnews.blogspot.com>

[4] The Centre for Environmental Rights (CER) is a non-profit company and law clinic based in Cape Town, South Africa. The Centre was established in October 2009 by eight civil society organisations (CSOs) in South Africa’s environmental and environmental justice sector to provide legal and related support to environmental CSOs and communities. Its mission is to advance the realisation of environmental rights as guaranteed in the South African Constitution by providing support and legal representation to civil society organisations and communities who wish to protect their environmental rights, and by engaging in legal research, advocacy and litigation to achieve strategic change – www.cer.org.za.

[5] See groundWork report

at: <http://www.groundwork.org.za/factsheets/Oil%20Refineries.pdf>

[6] groundWork is an environmental justice organisation working with community people from around South Africa, and increasingly Southern Africa, on environmental justice and human rights issues focusing on Coal, Climate and Energy Justice, Waste and Environmental Health. groundWork is the South African member of Friends of the Earth International – www.groundwork.org.za.

[7] See press release <http://cer.org.za/news/victory-for-the-vaal-communities-as-the-supreme-court-of-appeal-orders-arcelormittal-to-release-environmental-records>. The court papers and relevant media coverage of Vaal Environment Justice Alliance v ArcelorMittal SA can be accessed and downloaded under case 4

at: <http://cer.org.za/programmes/transparency/litigation>.

[8] Right2Know (<http://www.r2k.org.za>) is a coalition of many civil society organisations, mobilising around four campaigns: Stop Secrecy (ongoing mobilisation and advocacy against secrecy in law and practice – including the Secrecy Bill, and lingering apartheid secrecy laws such as the National Key Points Act), InfoAccessNow! (Supporting communities and groups in our coalition to access existing information that is critical to their broader struggles for social justice), Media Freedom for All (Promoting a free and diverse media sector by monitoring and responding to legislative developments, educating and organising activist organisations on the ground on these issues, and

advocating for more support for community media organisations), and Justice for Whistleblowers (Linking whistleblowers to appropriate partner organisations for legal support and advocacy). Right2Know operates through four provincial working groups — in the Eastern Cape, Gauteng, KwaZulu-Natal and the Western Cape — as well as an elected national committee made up of representatives from key civil society organisations, community groups and social movements from across our provincial support bases.