

Confederation of Namibian Fishing Associations

Media Statement – Thursday 7 July 2016

Environmental Assessment of the Namibian Marine Phosphates Sandpiper Phosphate Project

Bulk marine phosphate mining, if it goes ahead in Namibian waters will be a world first, with all the risks associated with moving into the unknown. It is proposed to mine in areas alongside Namibia's internationally recognized world class fishing industry, and also threatens the unique and environmentally sensitive Benguela Marine Ecosystem.

The Confederation of Namibian Fishing Associations (CNFA) is not opposed to development and the introduction of phosphate mining in Namibia, as long as it is not at the expense and to the detriment of an existing renewable resource that provides employment to more Namibians than the phosphate mining industry will ever do.

NMP have also suggested that they will provide for Namibia's fertiliser needs, improving local food security. Agronomy and agriculture experts in Namibia have confirmed that although phosphate is necessary for any crop production in the form of phosphorous, there is a much higher requirement for nitrogen. The fact is that the reason why Namibia has a problem with food security is because it is a dryland country with extremely varying weather patterns. One can apply all the fertilizer in the world but without adequately spaced rain, the crop will give low yields. The Namibian fishing industry also helps meet our country's food security needs, the Namibian Fish Consumption Promotion Trust in particular distributing large quantities of cheap but nutritious horse mackerel countrywide. If our fish resources are environmentally negatively impacted, so will our food security.

Without proper independent and transparent environmental research by internationally recognised environmental scientists with adequate and sufficient knowledge and experience of the Benguela Marine Ecosystem, the potential environmental risks of the proposed Namibian Marine Phosphates Sandpiper Project, as well as others that may follow, cannot be highlighted enough. This is why we are emphasising the absolute necessity for a research imposed Strategic Environmental Assessment (SEA) on the expected cumulative impacts from marine phosphate mining. This SEA needs to be carried out in order to understand the environmental cumulative and long-term implications before any decision is taken on whether or not to go ahead with mining.

This press release is in response to justifications made by Namibian Marine Phosphates, (NMP), in their press release of 17 June, that mining can go ahead now.

NMP make sweeping statements that the scale of the disturbances is significantly less than that caused by marine diamond mining and bottom trawling by the fishing industry on an annual basis. They plan to dig up 5 million tonnes of sea bottom annually, and if approved, they open the scary cumulative impacts door for a list of other companies who are already waiting in line to do the same.

The fishing industry does disturb the sea bottom when trawling. However, technology related to the trawling equipment is in place to minimise this, and limit bycatch of other species on the sea bottom. The South African hake trawling sector has been operating for 120 years without any significant adverse environmental effects. Fishing does not take out all the bottom substrate and environment regulating organisms on the sea bottom, which marine phosphate mining will do.

We are also concerned that whilst there is regulatory control on capture fishing (such as clear restrictions and control on fishing areas, catch sizes, depths and times, together with effective national capacity and policing) there are currently no such regulations in place for marine phosphate mining or any form of deep sea mining (deep sea is classified as anything deeper than 200 metres). The need is obvious for any country – marine phosphate mining regulations and monitoring control must be in place before mining is considered.

NMP say they will not mine within the 200 metre trawl prohibition zone, in place to protect fish spawning and recruitment. What they don't say is that they will mine very close to it, and the mining sediment plume comprising approximately 500,000 tonnes of sediment annually could drift over the breeding grounds and have a suffocating impact.

The mining company says their Sandpiper project has been independently reviewed by accredited scientific peers. However, these scientists cannot be considered as truly independent, because they are appointed through the NMP Environmental Impact Assessment (EIA) consultants and paid by NMP to do the job.

NMP also say they are in “full compliance with current environmental and mineral legislation”. As an example they justified the Environmental Commissioner's response in the media of 17 May where the CNFA on 16 May in the papers had been saying that due process and availability of information was not being complied with. This was because interested and affected parties in the public were not getting access to the scientific Verification Report undertaken by NMP, which NMP are lobbying should now give them environmental clearance to mine.

The Environmental Commissioner said in the media of 17 May that the Verification Report is sitting at different libraries in Windhoek for public viewing. This is not following due process. For most people this newspaper media report would be the first time that public interested and affected parties have ever heard that the report which was produced in late 2014 is available

to the public. The Verification Report has never been publicly advertised as available for review and Interested and Affected Parties (I&APs) have never been informed of the verification report. I&APs should have officially been given access to the Verification Report, including a call for written submissions on the report, specifying the closing date for submissions.

The Environmental Commissioner never mentioned that the CNFA requested the Verification Report in writing from him in May 2015, to which he never responded. Only in April 2016 did he make it available to the CNFA following a letter from the CNFA's lawyer, but he is not making available computer soft copies for international review, even though it is known that soft copies exist.

The CNFA also asked NMP in writing for computer soft copies of the Verification Report documents which in total are well over 1000 pages long, so it can be properly externally reviewed. The CNFA does not want to have to fly in international experts to do the review, when it can easily be made available in electronic form on the NMP website to all the registered parties for the EIA to which the so-called "verification" belongs. While NMP acknowledged receipt of the request, they have never responded further. If NMP is so supportive of complying with Namibian law, given that the Environmental Commissioner has said it is a public document, why, having been asked in writing, are they not supplying it to one of the most important registered parties – the fishing industry?

NMP are making it difficult for the public to review the documents by not supplying electronic soft copies. The original Sandpiper Environmental Impact Assessment Reports of 2012 are publicly available on the NMP website. Now, why don't they put the follow on Verification Reports on their website so they are properly accessible for review?

Regulation 23(2) read together with 23(3) of the Environmental Management Act EIA Regulations, expressly placing an obligation on the proponent (NMP) to make available to registered Interested and Affected Parties, a report, including amended and/or resubmitted scoping and/or assessment reports. The Verification Report undoubtedly qualifies as an amended and/or resubmitted assessment report.

Also regulation 24 of the EIA Regulations, expressly placing an obligation on the proponent to record comments of I&APs (not limited to registered I&APs) "... in reports submitted to the Environmental Commissioner in terms of ... [the EIA Regulations]" as it failed and/or neglected and/or refused to notify and allow access to I&APs to review the Verification Report. The Verification Report undoubtedly qualifies as a report submitted to the Environmental Commissioner in terms of the EIA Regulations.

The EIA legislative procedure was transparent in 2012. At the time the Environmental Commissioner handed back the EIA to NMP because it was data deficient, saying on 26 April 2012 that "...the participation of all interested and affected parties must be promoted and decisions must take

into account the interests, needs and values of interested and affected parties”.

Section 3(2)(c) read with 3(1)(a) and (c) of the Environmental Management Act, providing that all organs of state are required to (i) promote the participation of I&APs and (ii) take into consideration the interests, needs and values of the I&APs when making any decision relating to the protection of the environment.

The Verification Report research was initiated in 2013 and the actual Report produced in late 2014 by NMP to solve these 2012 EIA data gaps. However, the EIA process since 2013, through to today has been anything except transparent. The fishing industry and other public interested and affected parties have been left in the dark, only now being told that the Reports are available in Windhoek libraries: not even at coastal libraries. This is grossly insufficient for a proper review, in particular considering the magnitude of the project and the global concern about marine phosphate mining.

These documents have never officially been supplied to the public for review, nor was there ever a public meeting to discuss the results in terms of how the Verification Report satisfied the public’s concerns about data deficiency in the original 2012 EIA. Also, the public has never officially been notified about the updated NMP Environmental Management Plan, which is all about adaptive management of mining impacts – a very difficult process to monitor, particularly given the lack of Government capacity in Namibia to do this.

Without a proper environmental baseline being established through a research moratorium on marine phosphate mining ensuring proper research before a decision on whether or not to go ahead, “adaptive management” provides no confidence, as there is no national authority to enforce this and a few months’ research undertaken via the NMP Verification Report, does not even cover all seasons of a single year.

The NMP press release states that a workshop was held in 2016, with the Environmental Practitioner, Consultant team, Peer Review Panel representative, Ministry of Fisheries and Marine Resources, and Ministry of Environment to present Verification Study results and deal with final remaining issues. The results of this workshop have been kept very secret. Why this lack of transparency? The public has not had this Verification Report explained to them ever, in any way.

In May 2016 the Environmental Commissioner responded to the CNFA’s request to be allowed sufficient time to review and analyse the Verification Report by stating that access given to the CNFA’s representative to a hard copy version is sufficient and that the Environmental Commissioner will not allow the CNFA to delay the process.

Regulation 23(1) of the EIA Regulations, expressly making a registered I&AP (which the CNFA is), entitled to “... comment in writing, on all written submissions made to the Environmental Commissioner by the ... [proponent],

and to bring to the attention of the Environmental Commissioner any issues which that party, believes may be of significance to the consideration of the application”.

There is also the environmental concern of what impact the mined product will have once it leaves the mining dredger. NMP say their 2012 EIA and Environmental Management Plan is fully compliant in accordance with the Environmental Management Act 2007. Is it fully compliant? Initially in 2011 NMP also embarked on a terrestrial impacts EIA as well to address the mined sludge that is brought ashore to process, and then stopped going ahead with this. All the public received was a scoping report of April 2012. The unfinished terrestrial EIA covers the risks of taking the mining unprocessed material, which is over 4 million tonnes annually from the mining vessel to the shore for storage. When processed there is waste, some of which risks impacting the marine environment. How can NMP say their EIA is fully compliant if it doesn't address these issues? Sludge mined onto a ship at sea addresses only the initial excavation of the seabed, but transport to land and further processing must be addressed at the same time as these aspects are considerable and of importance to the coastal communities.

NMP state that they appointed a University of Namibia Independent Observer who concluded, “as a UNAM representative in this whole verification programme, I am of the conviction that NMP has thus far conducted the most comprehensive scientific studies in their MLA. These studies have addressed uncertainties that were raised by the MFMR and beyond.” Marine scientists internationally are grappling to understand the potential environmental impacts of deep sea mining. How is this person qualified to make such a statement that the NMP studies have addressed these uncertainties?

It is of utmost importance that the Environmental Commissioner adopts and insists on due process to be implemented and followed: that the decision-making process is not fast-tracked or steamrolled. The public must be informed in the proper and conventional manner, with effective access to the Verification Report documents via electronic soft copies, so that the information can be transparently and openly reviewed by all interested parties; as well by using international marine scientists who know the Benguela Current Ecosystem but are independently appointed with no links to marine mining; that the terrestrial component of the proposed project receive adequate attention; and through a research Strategic Environmental Assessment on marine phosphate mining, independent and transparent environmental scientists with adequate and sufficient knowledge and experience be appointed, given the significant degree of unknown environmental impacts, and assumptions associated with marine phosphate mining. This process also needs to address at the same time the need for focused Namibian legislation and national capacity development for monitoring of deep sea mining, with national responsibility - as occurs in the Namibian fishing industry.

