

Calcite Legacy Dump on the Highveld: Context and new knowledge

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CULISA



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Calcite Legacy dump on the Highveld, February 2018

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Who are we?

CPC CULISA (Council of Land and Informal Residence and Family Development in South Africa) was formed in response to the pollution crisis around the Calcite Legacy Dump on the Highveld, and the subsequent dissolution of the company involved and the Environmental Forum set up to mitigate this pollution. CULISA has been registered with the South African NPO regulatory body since 22 April 2016.

Two members of CULISA participated in this Changing Practice Course: Elvis H. Komane, founding member and Nthabiseng Mahlangu who joined the course later. Both live in Santa Village, a community badly affected by polluting mining activities.



Introducing our Change Project

Our change project is aimed at investigating and calling for the proper management (including the development of a rehabilitation plan and programme) of a Calcite Legacy Dump, situated opposite Vanchem Vanadium Plant at the Ferro bank Industrial. The company responsible for this legacy dump is the former Highveld Steel and Vanadium, which changed its name to Evraz Highveld, and is currently known as Highveld Industrial Park.



The change project has three subsequent phases, each with its own focus. The primary phase's focus is on research and the community educational programme; the secondary on draft policy development in managing all existing legacy dumps in South Africa; and the last focus is on remedies and sustainable solutions to the dump sites.

What are the main questions guiding our action research?

There are 5 main research questions in this project:

1. Which toxic materials are compositions of the dump; what is the white powder everywhere around the dump?
2. What type of training, study materials, content and type of awareness campaign do we need to rise up in our communities?
3. How can we stop/prevent the dump from spreading its toxins into the environment and nearest communities; what are the health impacts of the dump?
4. How can we stop the dump from causing air, water and land pollution?
5. How will affected people be compensated?

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What is the context? What has already happened?



Industrial pollution started when industry started. For years, corporate pollution was not considered a serious issue and mining and refining corporations could go about random waste disposal and negligence of the dumps. Over time, national government became aware of the huge environmental impacts and took measures to counteract it, among which the Environmental Condition Act (ECA) and the Mineral and Petroleum Resources Development Act (MPRDA). This Act regulates the chemical and mining industry by issuing licenses. All corporations need the following licenses: Operating license; Social Labour Plans (SLP); Environmental Impact Assessment (EIA); Air Emission License (AEL); Water User License (WUL); Waste Management License (WML). But even with these licenses obtained, pollution still happens and compliance is a pressing issue.

In 2007, the Department of Environmental Affairs (DEA) declared the Highveld a priority area in relation to air quality. At the time, Highveld Steel and Vanadium was one of the main polluters, which had already been sanctioned by the Green Scorpions and received formal complaints by NUMSA Mpumalanga. An Environmental Forum was set up in 2011, which consisted of a wide range of stakeholders, including the company itself, DEA, NUMSA, Department of Labour, Department of Health and various civil society organisations (CSOs). While the company produced a Dump Rework proposal with a budget of 150 million rand, the forum planned to initiate a public awareness campaign, capacity building of community monitors and team leaders, and development of a toxic health impact monitor and a dust suppression plan. However, the Dump Rework never got off the ground, as the initiating CEO left the company, as did the very active regional head of NUMSA Mpumalanga. The company did not stick to the agreed clauses in the Forum's memorandum, such as 'nothing about us without us'. When the company went into voluntary business administration on 13 April 2015, this impacted the Forum and Numsa (as most

of its members worked at Highveld Steel and Vanadium) badly. It was then decided to establish CULISA, which was assisted by AWARD's RESILIM O project in reconnecting with CSOs in Mpumalanga and Limpopo and being included in a growing Network of environmental CSOs.

From April 2017 on, CULISA approached the company to engage on how it is dealing with the calcite dump. In three meetings the following was established: the company is still in the process of selling the calcite dump; it will prioritize the (re)fencing of the facility (some 50% of the fence was removed or stolen) and repair other prevention measures for the Dump; it will install a pump for dump waste water control. On 11 September CULISA sent an Environmental Awareness Training proposal to the company, which has indicated they can provide 4 days training for 32 Community Environmental Monitors, parallel to the fencing. The company also agreed to include CULISA in their monthly stakeholder forum. The Environmental Forum has also been revived, albeit without participation of government stakeholders.

CULISA also collected water and soil from the dumps for testing at the University of Venda; they are working with the Young Water Professionals (YWP) on this.

While working on the Highveld calcite dump, CULISA realised that the current policies on management of existing and legacy dumps are not working: there are loopholes regarding compliance. Therefore, CULISA has started preparing a draft policy framework on proper management of all existing and legacy dumps in the country. This draft looks at these dumps as a national question, and invites all stakeholders to participate in further drafting this important piece of legislature to redress the current ancient ecological debt

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Building a knowledge network

For our change project several organisations have proven to be very helpful. We list them here and indicate why they are so useful to us: which information (sources) they provide, which links or access to other stakeholders they can facilitate or how they can help raise awareness for our cause or assist in putting our cause on the agenda.

Government

National Department of Environmental Affairs (DEA), Portfolio Committee

Nthabiseng Mahlangu contacted Majgen Bantabonke (Bantu) Holomisa, as member of the portfolio committee, on 18 September 2017 and spoke for 40 minutes on the phone about the legacy dumps' rehabilitation funds. The Honourable Holomisa explained that in CULISA's case, we are looking at enforcing compliance on a company that is not required by law to have a Social and Labour Plan (SLP), but should have Community Service Initiatives (CSI). Mining companies are required to develop SLPs, and are required to pay into the National Rehabilitation Fund, regulated by the DEA. Funds not spent are reversed back to the National Treasury. This is when CULISA realised there is a loophole in the legal framework for managing existing and legacy dumps, and have decided to prepare a draft policy framework on proper management of all existing and legacy dumps in South Africa. Mr Holomisa also requested that CULISA influence its networks, partners and connections to submit a statement on the calcite dump and to present it to the portfolio committee on environment and make recommendations for possible remedies for the dump. He concluded by saying: "As active citizens you guys are a mouth piece of nature and the environment."

Department of Water and Sanitation (DWS) Mpumalanga Province

The provincial Department of Water and Sanitation is an active participant in the Olifant's Catchment Management Forum, of which CULISA is also a member. In that Forum, the department shared the Draft Mine Water Policy 2017, and the closing dates for comments. The draft policy is meant to formulate the position of the department on mine water management, including Acid Mine Drainage.

The department is also bound to other policy documents relevant to our research. An important one is the National Water Act (NWA), from 1998. This Act regulates how water resources should be protected, developed, conserved, managed and controlled, and it states which measures should be taken to prevent pollution and remedy the effects of already existing pollution. The Act describes the responsibilities of the department and of land owners and land users in this.

The Mining Charter is also important for the DWS, and for our project. The Charter stipulates that all mines are expected to design and plan for the closure of mines as well. However, when a mine is declared insolvent and subsequently closes, the responsibility is inherited by the State who then has to ensure the continuous rehabilitation of derelict and ownerless mines. Technically, the mine escapes liability and the rehabilitation fund provided prior by the mine is often not sufficient for continuous

infrastructure management and rehabilitation. As a result, mine water is left unmanaged if transfer has not taken place which then typically become a State liability.

DWS also agree that policy and monitoring compliance is a serious challenge. CULISA believes that CSOs also have a role to play in policy development and programs. DWS and CULISA and other CSOs are dealing with the same challenges, so can work together in addressing them and in developing policy drafts (our second focus).

The National Treasury Budget Review (government)

In 2017 Treasury organised open data budget review events, called OpenUp. Elvis attended this event in September 2017, which he found both insightful for CULISA's work (on how budgets are a cornerstone of any initiative and how budgetary issues for governments work), and a great opportunity to network with other organisations.

It remains a challenge to address environmental concerns, especially mining dumps and refinery, with government and to get these included in the (revisions of the) budget. One possible way is to use Community Surveys to raise and back up our concerns; CULISA is still learning about that. Treasury's open data initiative includes, a.o., a website, more about this can be found under Media Sources.

NGOs/CSOs

South African Green Revolutionary Council (SAGRC; environmental NGO) SAGRA is one of the oldest environmental NGO's in South Africa, having worked in this field for over 33 years. Nthabiseng says she learned from SAGRA that the environmental struggle is not an overnight game, it takes time and dedication and new challenges keep coming up. She also learned the importance of documenting your own work and of networking to stay informed and to create power in numbers. SAGRA has now also joined the Highveld Environmental Forum and can put their experience in with the rest to help resolve the legacy issue on the dump.

Groundwork (environmental NGO) has a long track record in environmental advocacy. The NGO participated in the declaration of the Highveld as a priority area in terms of Air Quality in 2007. Groundwork's documentary on the Destruction of the Highveld is inspiring and informative. Their short film 'Life after Coal', won the South African Short Film award. It addresses how the lives of ordinary people are affected by the practices of the coalfields, in terms of poverty, unemployment, social injustice, inequalities and health. Groundwork also publishes research reports on its website, that shed light on the (long history of the) destruction of water sources by coal mines and how this affects local communities.

Through Groundwork, CULISA started participating in the Mpumalanga Water Caucus, SA Water and The Oliphant's Catchment Management Forum.

Groundwork's work can help CULISA's project, as it addresses issues that we pose in question 1 'Which toxic minerals are compositions of the dump; what is the white powder everywhere around the dump?'. It will also help respond to the other research questions.

CULISA is also planning to propose to Groundwork to work together in conducting the following in 2018:

- Toxic dump mineral composition and environmental impacts assessment study;
- Community health impact study in three communities living closer to the dump.

Legal Resources Centre (CSO) The Legal Resources Centre is one of the oldest law clinics in the country, which has been helping communities for over three decades. The LRC has agreed to support CULISA with our project, and has already been instrumental in introducing the topics of Basic Human Rights and Environmental Justice. A great resource is their practical guide for communities affected by environmental injustice. The guide provides community members with practical steps in how they can manage their cases.

Public Environmental Research Centre Elvis H. Komane connected with Celiwe Samankge of the Public Environmental Research Centre at the Open Up event, supported by National Treasury, about the opening up of the Budget. Emails and a meeting followed and a proposal on how the Research Centre could assist CULISA with our project.

Plan Act (NGO on Budget Advocacy) Elvis met with Mr. Themba Gumede of the NGO Plan Act, and Nthabiseng with Mr. Pitso Ramabu. They wanted to see how Plan Act can assist CULISA in putting the need for environmental budgets (and submitting a budget proposal for the management of legacy dumps) on the agenda of municipalities. While the national and provincial Departments of Environmental Affairs are in charge of issuing operational licenses, applications may be submitted at the local level, so there is also room to engage here.

Plan Act further advised CULISA that it is important to influence this debate at ward level in community meetings about the Local Economic Development (LED) and Integrated Development Plan (IDP), as that is the tool municipalities use for budgeting purposes. By law, municipalities are required to consider grassroots needs and priorities in the development of the IDP. They normally look at three aspects: the nature of the service needed; justification for the need; budget motivation. The municipal budget process is governed by the Municipal Finance System Act, and to keep track of what happened with the approved budget, we need to look at the Municipal Annual Report by the Auditor General.

There are other sources and events that inform the municipal budget. For CULISA it is thus important to keep track of these events and their timeframe, so we know when we can take steps in advocating our change project. Following this route (through ward, municipal and provincial level), we may even be able to take it to a national level when we try and resolve a National Question of Legacy Dumps.

This and more information can be found on www.municipalmoney.gov.za

Environmental Monitoring Group (NGO) (www.emg.org) EMG provides training courses, among which the training course of this module. CULISA learned a lot, also about how to develop trainings ourselves by doing the Changing Practice course, for instance for community environmental monitors. EMG also introduced CULISA to new research documents on climate change, which have been inspiring and helpful.

The Centre for Environmental Rights (www.cer.org.za) has been set up to realise section 24 of the South African Constitution: “Everyone has the right to an environment that is not harmful to their health or well-being, and to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that prevent pollution and ecological degradation”. And promote conservation and secure ecological sustainable development and use of natural resources while promoting justifiable economic and social development.

CULISA attended a training provided by CER on remedies and rights, which taught the organisation much about various relevant laws, their interpretation and application. The Centre further provides CULISA with legal advice for the project. CULISA believes legal compliance comes as immediate remedial solution to the current environmental challenges.

Media sources and documents

The following media sources have been very helpful to us:

The NGO **Environmental Working Group** (www.ewg.org) is based in the USA and enforces environmental compliance, including in the mining sector. EWG runs awareness campaigns on pollutant and unfriendly commercial products and basic foods. They carry out pollution case studies and make progressive recommendations, showing the power of civil society in advocating for environmental justice.

The data portal by National Treasury on promoting open budget data. At the time of writing this booklet, the portal was in the process of being renamed. The winner of the renaming competition was announced in January 2018: Vulekamali. At this stage, a website with that name was not yet live. Vulekamali aims to promote transparency and increased community involvement in government budget issues and accountability, through: open data tools; training to promote and support active citizens; helping communities and government to work together. The following organisations are involved: Africa Law communities; SAFCI – the Southern African Legal Information Institute; National Treasury; Salga; Amabhungane; The Daily Maverick; News24. While working on developing the policy framework, CULISA will definitely need the help of these organisations.

'Change in Bolivia' (article in Amandla no 5, 2 May 2017) describes Bolivia's approach to the issue of climate change. Bolivia's socialist approach to the energy sector (allowing 75% of the petrochemical production with 2 main companies) generated increased revenue for the state, which made infrastructural development and social benefits possible. And its transition to solar energy as a climate change adaptation strategy.

This article helps CULISA to understand that governance and policy issues are always key in changing a practice.

'The global environmental crises in South America' (article in Acid mine drainage by Callin Stan) is a story about the devastating consequences of gold mining in South America. It shows how unplanned circumstances can result in serious environmental crises. Highveld Steel may also not have been aware that its dump would become an anonymous killer in the Olifant's Catchment. CULISA and Highveld will have to work together as a unity in finding new ways of resolving dump pollution.

The **Whatsapp Group Olifants Limpopo Basin** focuses on all issues happening in the Olifant's Catchment which cut across municipalities, provinces and countries. It is a composition of various stakeholders, including NGOs and CSOs. The Group provides CULISA with a home of like-minded people and co-activists and it provides a wealth of immediate updates and information.

The **CULISA Facebook page (CulisaUmphakathi) and Olifant's News online media** both created a space for the organisation to give feedback to and raise awareness with the communities on issues of environmental crises on our doorstep. We can expose non-compliance, tell our stories and get more people engaged.

World Wildlife Fund (WWF) (www.wwf.org.uk) led CULISA to discover case studies conducted in relation to water cycle destruction and pollution in the Nkangala region. This showed the importance of conducting more intensified research into our project.

