

## VEJA'S FIGHT FOR THE ENVIRONMENTAL RECORDS

### 2000-2002

● The master-plan strategy document is developed by Amsa, then called Iscor. It tests the pollution levels at Amsa's different sites and sets out a 20-year "rehabilitation plan".

### MAY 2007

● Illegal dumping of hazardous waste is picked up during an inspection of the Vereeniging site, as well as air pollution from excessive dust and surface and groundwater pollution.

### SEPTEMBER 2007

● Inspectors at the Newcastle works in KwaZulu-Natal find, among other things, air emissions exceedences and illegal waste disposal sites.

### NOVEMBER 2008

● Inspections of the Vanderbijlpark site reveal a lack of waste permits and registration certificates, and environmentally damaging practices like uncontrolled emissions and poor waste management practices.

### 2007

● Amsa illegally dumps waste at its Vaal disposal site. The Department of Environmental Affairs steps in.

### DECEMBER 15, 2011

● Veja files its first Promotion of Access to Information Act (PAIA) request for the master plan and any reports about its implementation.

### JANUARY 13, 2012

● Amsa's lawyers ask for a 30-day

extension to respond to the request.

### FEBRUARY 13, 2012

● The due date passes without Amsa handing over the records. Instead Veja receives a letter in which Amsa refuses to admit the documents exist. The group files its second PAIA request for all records about the Vaal disposal site.

### MARCH 13, 2012

● Amsa's lawyers ask for another 30-day extension.

### APRIL 13, 2012

● The due date for the second PAIA request passes with no Amsa response being received.

### APRIL 18, 2012

● Amsa refuses Veja's PAIA requests. It says the group has failed to prove it needs the records to protect a right.

### OCTOBER 19, 2012

● After months of to- and fro-ing between lawyers, Veja goes to court.

### JUNE 3, 2013

● The case is presented before Acting Judge Paul Carstensen.

### SEPTEMBER 10, 2013

● Judge Carstensen rules in favour of Veja and then gives Amsa two weeks to hand over all the requested documents.

*Source: National Environmental Compliance and Enforcement Report 2011/12*

# Steel giant told to hand over records

## Vaal alliance wins fight to gain access to environmental assessments held by ArcelorMittal SA

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**I**N A VICTORY for the little guy, the Johannesburg High Court has ordered mining giant ArcelorMittal South Africa (Amsa) to hand over environmental records they've been denying a community organisation for nearly two years.

The Vaal Environmental Justice Alliance (Veja) first filed for access in December 2011. But when Amsa refused them, they took their fight to the courts.

Yesterday, Acting Judge Paul Carstensen called that refusal "invalid".

The records in question are: ● Amsa's environmental master

plan – a strategy document developed between 2000 and 2002, which detailed pollution levels at Amsa plants and laid out the plans for rehabilitating the environmental damage caused.

● Details about the Vaal disposal site in Vereeniging – where Amsa illegally dumped hazardous waste in 2007, prompting Environmental Affairs to take enforcement action against it.

Veja's lawyers argued in court in June that the documents would provide them with baseline test results, which they could compare with current results to see if Amsa was living up to its environmental commitments. They said the master plan

informed Amsa's activities, and emphasised a citizen's role in holding corporates to account.

But the Amsa team argued that the plan was irrelevant, outdated and scientifically unfounded, and that it was never used to obtain current operating licences. In fact, they argued that Amsa had never adopted the plan, and argued against Veja's right to monitor their activities. Advocate Chris Loxton SC labelled the requests a "fishing expedition" to seek out potential environmental

breaches. But Judge Carstensen tossed this argument aside.

"A community-based, civil society organisation... is entitled to monitor, protect and exercise the rights of the public at least by seeking information to enable it to assess the impact of various activities on the environment," he said in his ruling.

Private groups like Veja had "a vital collaboration" with the government in protecting environmental rights.

Judge Carstensen also disputed Amsa's arguments about

**We must encourage a watchdog role**

the master plan. Its being potentially scientifically and technically flawed, as Amsa claimed, only emphasised its importance.

"The plan was published to Amsa's shareholders," he said. "It was mentioned in Amsa's annual reports and relied upon as a primary management strategy tool. It was also submitted to state authorities."

He gave Amsa two weeks to hand over the documents.

"Like-minded individuals must be encouraged to exercise a watchdog role in the preservation and rehabilitation of our natural resources," he said.

Amsa said it would be consulting with its legal team on the appropriate course of action.

But the Centre of Environmental Rights (CER), which represented Veja in its fight, called it a "win for environmental justice and governance".

"NEMA, other environmental legislation and international law provide that civil society has a critical role to play in environmental governance, including by monitoring pollution and compliance with environmental laws," said CER attorney Robyn Hugo.

"The court has confirmed that organisations like Veja are entitled to protect and exercise the right to a healthy environment by seeking information to enable them to assess environmental impacts, and to exercise a watchdog role."