

Transnet facing legal action

By [Brian Hayward](#)

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Transnet faces being hit with at least two costly lawsuits over the controversial Port Elizabeth harbour manganese ore dump and tank farm which have been fingered as major polluters and health hazards in the area.

This was revealed as pressure on the parastatal to relocate the facilities - situated to the south of the harbour and operated by Transnet Port Terminals - to the more industry-orientated Port of Ngqura at Coega mounted this week.

Weekend Post has reliably learnt that the Green Scorpions on Sunday held a closed meeting to finalise their legal strategy and discuss how best to move forward with their lawsuit against Transnet and the land tenants, while the Nelson Mandela Bay Municipality has enlisted the services of a Durban-based environmental law firm to "take the matter further".

Next week the PE Regional Chamber of Commerce and Industry (Percci) will hold a high-profile meeting with Dr Chippy Olver, former Environmental Department director-general who now consults privately on environment issues, and the municipality to discuss Transnet's lack of compliance in dealing with the pollution.

Transnet, which has ordered a complete communication blackout over the issue, has been slammed for its lack of transparency by politicians, businesses and community leaders, who have called for the government to intervene.

Responding to a list of questions from Weekend Post, which included queries on the progress of an internal investigation into the pollution announced several weeks ago by Transnet, spokesman Ayanda Mantshongo said: "Transnet has no further comment on this matter."

Evidence that the state-owned utility was starting to crack under the threat of legal action surfaced this week.

According to BHP Billiton, the largest tenant at the ore facility, Transnet has begun talks with the company about a possible relocation to Coega.

"Transnet has not notified BHP Billiton of any concerns regarding pollution at the ore facility, nor any formal investigation into the issue.

"Transnet has, however, engaged with the company regarding its consideration of the Port of Ngqura as an alternative to Port Elizabeth," said spokesman Bronwyn Wilkinson.

Safety measures slammed

Environmental activists have slammed provisional safety measures adopted at the tank farm recently, aimed at minimising fuel seeping into the sea and groundwater.

Last week, Shell, which manages the tank farm on behalf of tenants including itself, Chevron, Engen and Total, announced it was embarking on a multimillion rand clean-up programme to prevent further pollution.

This included using deep-sea booms to contain and absorb oil from the water, using pumps to recover oil from the surface water and building a new retention wall.

But according to Wildlife and Environmental Society of SA conservation officer Morgan Griffiths, the safety measures were not enough as fuel continued to leak from the tanks.

"My real concern is when is it going to start coming out on (the adjoining) Kings Beach.

"There is a real potential that the oil will affect its (international) Blue Flag status as well as the other Blue Flag beaches further up the coastline," he said.

"It's just a matter of time. The oil pollution is coming from the tanks and is dissipating into the groundwater.

"The companies' report states the oil (pollution) isn't coming from their tanks, but where else would it come from?"

Transnet lambasted

Griffiths lambasted Transnet for keeping mum on the "very serious" issue. "I would like to see Transnet be far more open about what is going on there ... People want to know what the treatment plan will be."

A report by Olver on the relocation of the manganese facility and tank farm, commissioned by Percci and made public last year, found both facilities were "quite considerably polluted".

A follow-up report released by Percci in February and compiled by Olver, environmental management consultant Mike Cohen and human rights activist and Nelson Mandela Bay developmental studies lecturer Dr Janet Cherry, found "pollution arising from the manganese terminal ... (includes) manganese ore dust, groundwater contamination from manganese storage, and contamination of the coastal environment by manganese ore".

Of the tank farm, the report states: "The life-span of fuel storage tanks on site has been exceeded."

It also states the facilities have contravened no fewer than 12 laws governing health and welfare, including the Constitution, the National Environmental Management Act and the National Health Act.

In May, department deputy director-general Joanne Yawitch blasted Transnet in a report which stated "there are reasonable grounds to believe you have contravened the law regulating the storage of waste".

Green Scorpions head Sonnyboy Bapela said he would release details of Sunday's closed meeting during the course of next week.

Ward councillor for the area Dean Biddulph said he was in the process of handing over a petition with more than 5000 signatures to the municipality.

"They (Transnet) have stonewalled the public from the outset."

Source: *The Herald*

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