

Environmental Justice in South Africa



forestry, fisheries & the environment

Department:
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA

Presentation to the OECD Conference on Environmental
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France.

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Presentation Overview

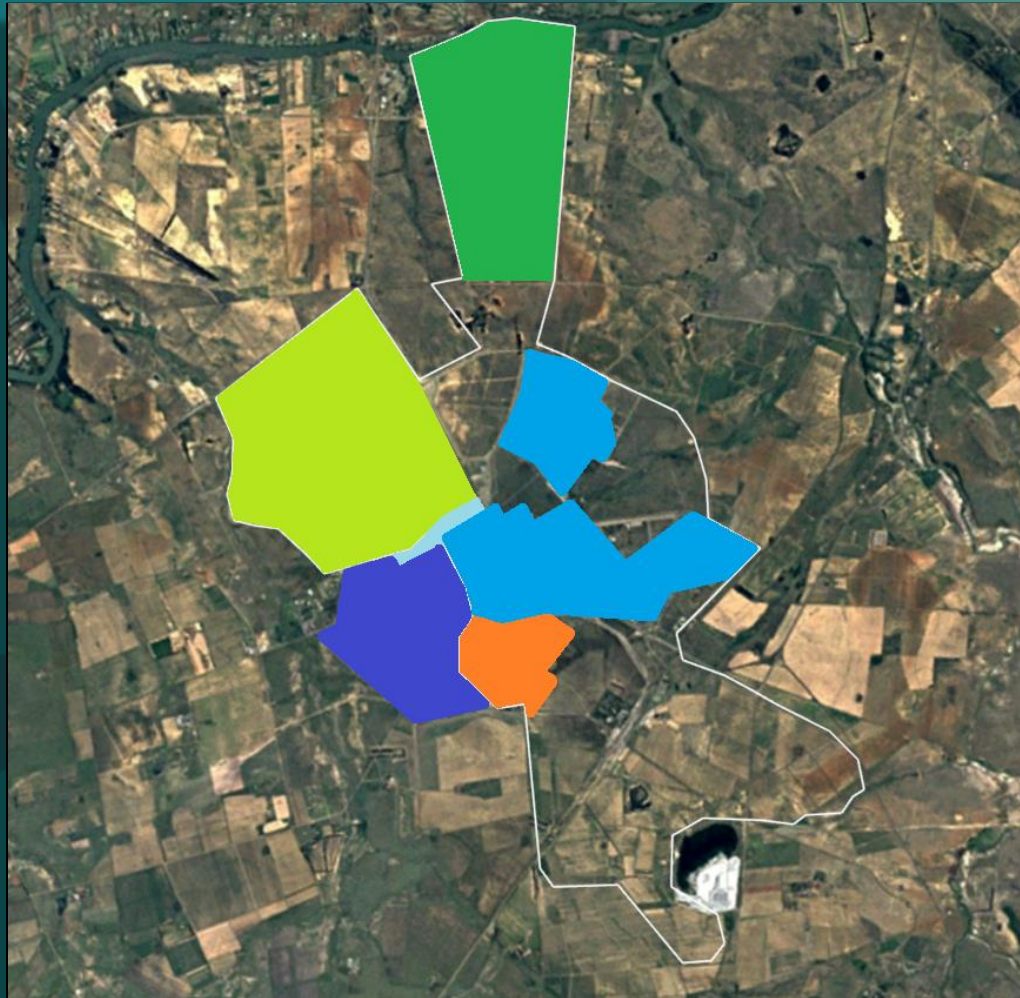
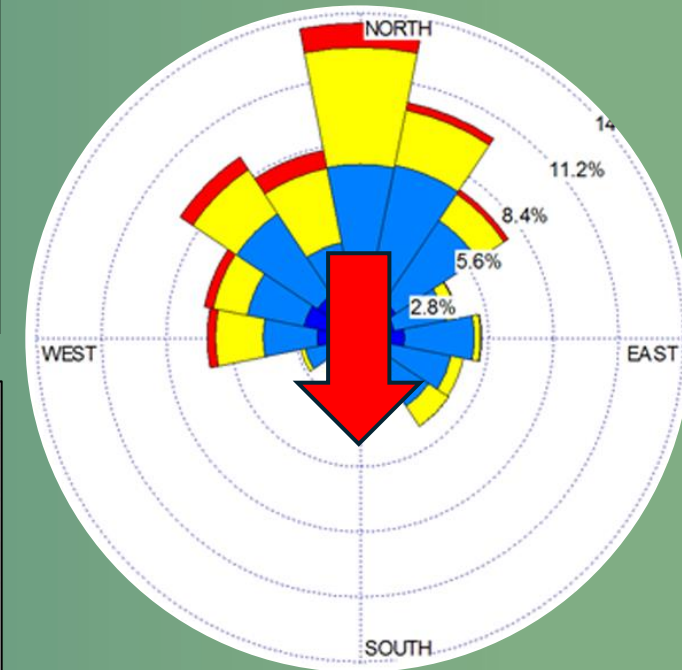
- The South African Context
- Environmental Justice Milestones
- Policy and Legislation
- Implementation and Enforcement
- Challenges
- Concluding thoughts

The South African Context - Sasolburg

- The town of Sasolburg is located just over 80km south of Johannesburg.
- Sasolburg was established in 1954 to provide housing and other facilities for Sasol employees.
- The initial installation (Sasol 1) was a pilot plant to refine oil from coal, due to South Africa's lack of petroleum reserves.
- The coal reserves of the country were and still are relatively extensive.
- The political developments of the late 1960s and early 1970s, especially the trade embargoes against the apartheid government, made the operation of the pilot plant a priority to the government of the day.

Sasolburg – a blueprint for environmental racism and environmental injustice

- Affluent white area
- Middle/working class white area
- Commercial and light industrial
- Heavy petrochemical industrial
- Coal mining
- Black 'township' - Zamdela

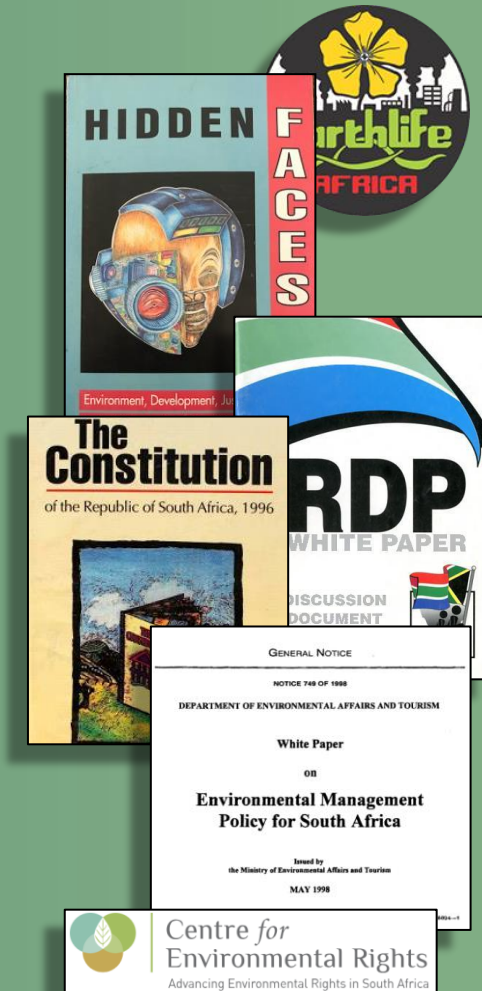


The prevailing winds in Sasolburg, especially over the winter months when the area experiences frequent temperature inversions, is largely northerly

Sasolburg in 1985

Environmental Justice Milestones

- The founding of Earthlife Africa in Johannesburg in 1988
- The 1992 Earthlife International Environment Conference and the subsequent formation of the Environmental Justice Networking Forum (EJNF)
- The first South African democratic elections in 1994 and the inclusion of environmental justice in the ruling party's Reconstruction and Development Programme (RDP)
- The 1996 South African Constitution and its right to an environment that is not harmful to health and well-being
- South Africa's 1998 National Environmental Management Policy and associated legislation
- The establishment of the Centre for Environmental Rights in 2009



Policy and Legislation – the Constitution

Environmental justice is clearly implied by S.24 of the Bill of Rights contained in South Africa's highest law, the Constitution of the Republic of South Africa (Act No. 108 of 1996), which states that –

“**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 - (i) prevent pollution and ecological degradation; (ii) promote conservation; and (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.” (own emphasis)

Policy and Legislation – Environmental Policy

The concept of environmental justice is specifically defined in the “principles” of South Africa’s National Environmental Management Policy (White Paper on Environmental Management Policy for South Africa, Notice No, 749 of 1998, Government Gazette No. 18894, 15 May 1998) as follows –

Environmental Justice

To comply with the requirements of environmental justice, government must integrate environmental considerations with social, political and economic justice and development in addressing the needs and rights of all communities, sectors and individuals.

Policy and Legislation – Environmental Legislation

The application of the policy principle is made mandatory through its inclusion in S.2 of South Africa’s National Environmental Management Act (No. 107 of 1998, NEMA) which sets out “...the principles [that] apply throughout the Republic to the actions of all organs of state that may significantly affect the environment and - ...[that] guide the interpretation, administration and implementation of this Act, and any other law concerned with the protection or management of the environment” as follows –

NEMA S.2(4)(c) Environmental justice must be pursued so that adverse environmental impacts shall not be distributed in such a manner as to unfairly discriminate against any person, particularly vulnerable and disadvantaged persons.

Implementation and Enforcement – reversing the spatial effects of apartheid

- South Africa’s tragic apartheid history of racial discrimination left a legacy of environmental injustice with, as South Africa’s National Development Plan – Vision 2030 (NDP 2030) notes - the “apartheid spatial divide continues to dominate the landscape” ensuring that many South African continue to be subjected to an unfair distribution of adverse environmental impacts.
- For example, many of South Africa’s poor, still predominantly black urban communities continue to live downwind of polluting industries and activities.
- Thus many of the NDP 2030 objectives relating to “reversing the spatial effects of apartheid” may also be regarded as environmental justice objectives too.
- From a regulatory perspective, all significant developments are subjected to environmental impact assessments (EIA) and such assessments must apply the environmental justice principle as a matter of course.

Implementation and Enforcement – public watchdogs

- Strong environmental NGOs and CBOs keep Government honest in upholding environmental justice

FOR IMMEDIATE RELEASE
18 March 2022

Today environmental justice groups celebrate a landmark judgment in the #DeadlyAir case as a victory for environmental justice in South Africa with far-reaching consequences. In the judgment, the High Court has recognised the poor air quality in South Africa's Mpumalanga Highveld region as a breach of residents' Constitutional right to an environment that is not harmful to their health and well-being.



Implementation and Enforcement – Tools

The Screening Tool

- An internationally recognised best practice use of spatial information to improve environmental impact assessment (EIA) efficiency and effectiveness.
- Using over 130 layers of spatial environmental sensitivity data, the screening tool serves to push impact management interventions up the mitigation hierarchy, whilst focussing attention on what really matters



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NATIONAL WEB-BASED ENVIRONMENTAL SCREENING TOOL

Welcome to the National Screening Tool

The National Web-based Environmental Screening Tool is a geographically based web-enabled application which allows a proponent intending to submit an application for environmental authorisation in terms of the Environmental Impact Assessment (EIA) Regulations 2014, as amended to screen their proposed site for any environmental sensitivity.

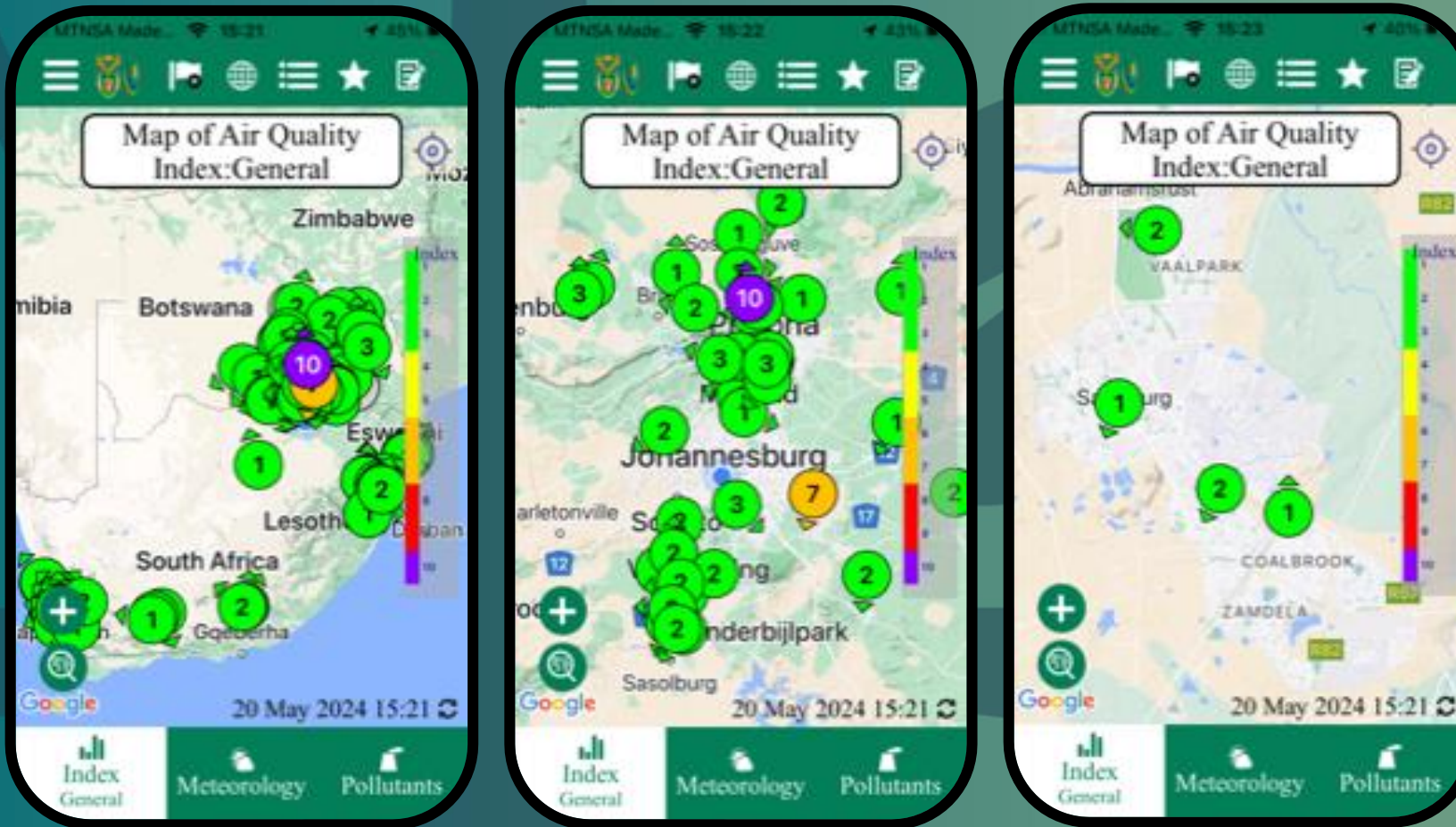
The Screening Tool also provides site specific EIA process and review information, for example, the Screening Tool may identify if an industrial development area, minimum information requirement, Environmental Management Framework or bio-regional plan applies to a specific area.

Some of these documents can then be accessed through the Screening Tool via links, for consideration during screening.

Further to this, the Screening Tool identifies related exclusions and/or specific requirements including specialist studies applicable to the proposed site and/or development, based on the national sector classifications and the environmental sensitivity of the site.

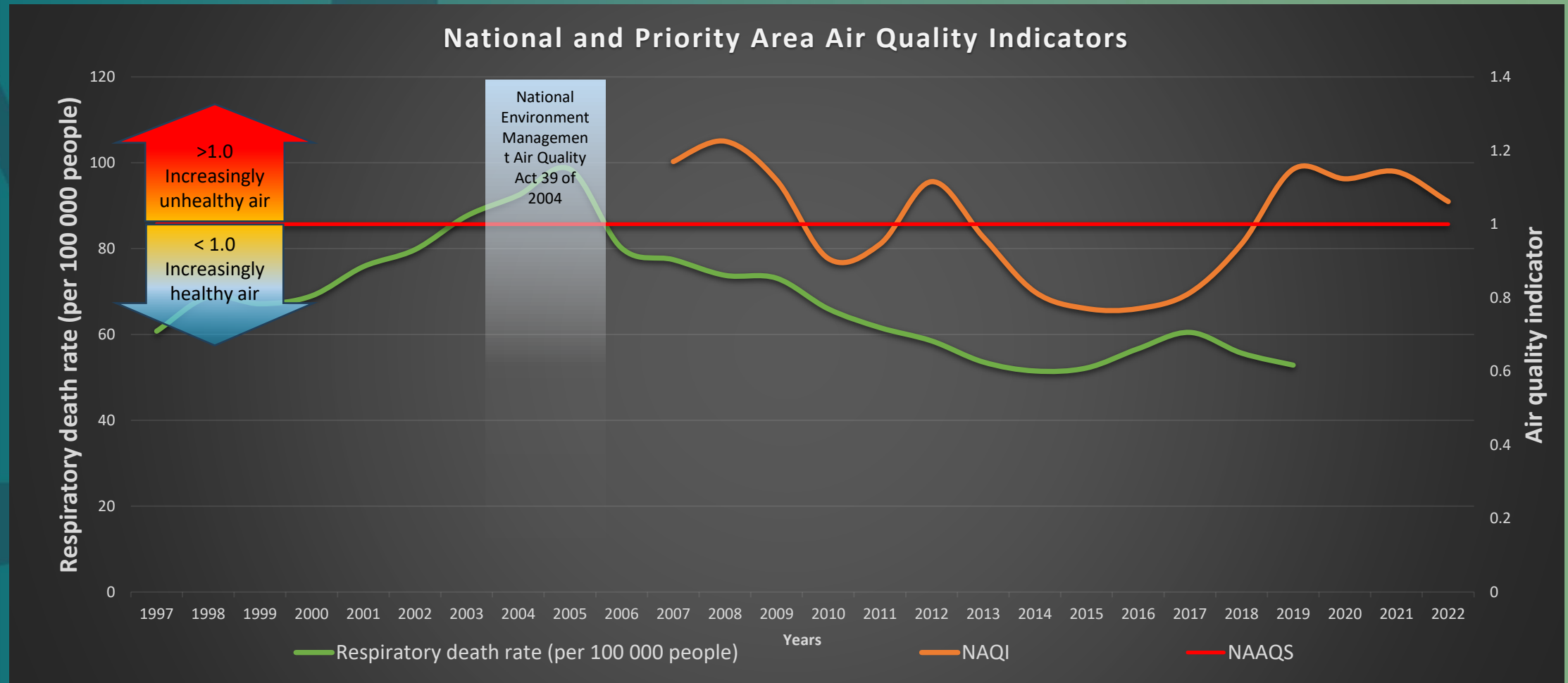


Implementation and Enforcement – Tools

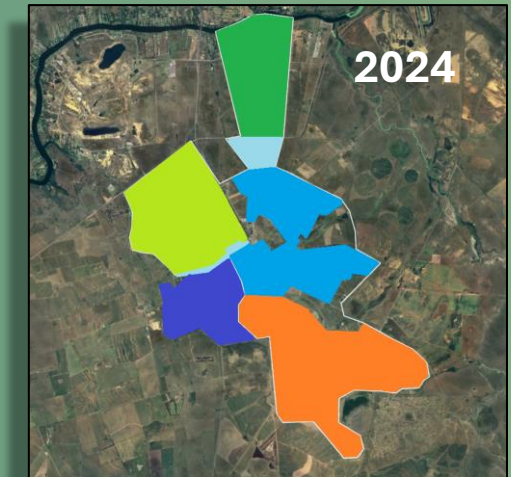
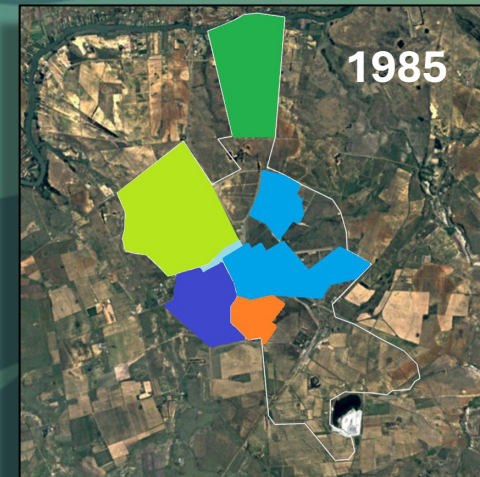


- The South African Air Quality Information System (SAAQIS)

Implementation and Enforcement - Outcomes



Challenges



- Not only has the “apartheid spatial divide continued to dominate the landscape”, but it has also sometimes been reinforced and exacerbated by urbanization.
- Progressive policies alone cannot reverse spatial environmental injustice

Concluding thoughts

- South Africa's response to climate change holds much promise for environmental justice
- Sasolburg, for example, is now producing green hydrogen and is using coal to make chemicals and plastics instead of liquid fuels
- At the risk of being trite, the South African experience demonstrates that effective environmental justice requires far more than progressive policy

Sasol: Pilot Successful, Green Hydrogen Production Starts Early 2024

SECTION: ENERGY TRANSITION · SEPTEMBER 26, 2023 · NO COMMENTS | TAGS: ENERGY, FEATURE, FEATURED



Sasol, the South African synfuels giant, expects to commence consistent production of green hydrogen in early 2024, once the 69 Megawatt Msenge Emoyeni Wind Farm, in the Eastern Cape, begins supply of renewable energy to Sasol's Sasolburg site via a wheeling arrangement.

The company says it has proven the concept, when it produced its first green hydrogen, under a pilot phase, using a 3MW solar photovoltaic facility in its factory in Sasolburg, in the country's Free State province, in June 2023.

It had used the pilot project to repurpose an operational electrolyser to use renewable electricity to split water into hydrogen and oxygen. The green hydrogen produced in Sasolburg will be used in mobility applications.

Final thought



- Today, 29 May 2024, is South Africa's 7th national democratic election day
- Will South Africa follow the concerning international trend of electing a government that will slow or renege on our climate change mitigation commitments to global efforts, whilst hardening our hearts and borders to the migrants and refugees often fleeing the impacts of global climate change – the ultimate environmental injustice

NEMA S.2(4)(c) Environmental justice must be pursued so that adverse environmental impacts shall not be distributed in such a manner as to unfairly discriminate against any person, particularly vulnerable and disadvantaged persons.

The people who contributed most to greenhouse gas emissions are often the most resilient to climate change impacts

The people who have contributed the least greenhouse gas emissions are often the most vulnerable to climate change impacts

Thank you for your
kind attention



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