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15 Feb 2011: Karoo Exploration Clarified

Confusion over details of the exploration moratorium declared over the Karoo Basin has been partly addressed, thanks to an explanation by Mthozami Xiphu, the CEO of the Petroleum Agency of SA (PASA).

He said that Shell had been the holder of a Technical Co-operation Permit (TCP) over a large part of the Karoo Basin, upon the expiry of which Shell had applied for an exploration right over the same area while relinquishing a certain percentage of the original area.

Lizel Oberholzer, a director at corporate law firm Bowman Gilfillan, says that this resulted in acreage becoming available in the Karoo Basin. The released acreage has caused a scramble for rights and permits over the Karoo Basin, with PASA receiving 10 TCP applications and five exploration right applications over the area.

Against this background, the Minister issued the moratorium with the view to engaging in a bidding round. The Mineral and Petroleum Resources Development Act 28 of 2002 provides for processing of applications on a first-come-first-served basis.

Oberholzer maintains that the sheer volume of the applications Karoo Basin permits justifies the circumvention of the first-come-first-served rule in favour of a bidding round.

"At the same time, since the moratorium only impacts on new applications, it is unclear whether the moratorium and bidding round will ultimately resolve the issue of the existing applications.

"The CEO stated that the moratorium is not as a result of the DA's call for a moratorium on hydraulic fracturing (fracking). Rather, the purpose is to ensure good governance, fair competition and equitable access to South Africa's mineral resources."

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