

RE: Political interference in water boards

I am writing to you concerning a story we intend to run about allegations of political interference in the affairs of the Amatola Water and Lepelle Northern Water. On May 2, the department announced that Amatola Water would be placed under legal administration. In the meantime, the head of Amatola has been placed on suspension while investigations are conducted.

However, these moves have been seen as an attempt to exert political control over the water boards. In two separate affidavits Mr Mdekazi and the minister have been blamed for attempting to influence the awarding of tenders to a company called Empowering Water Solutions.

Please see the questions below:

Amatola Water

- 1) An affidavit by Vuyo Zitumane, the suspended chief executive of Amatola, suggests that the minister has improperly interfered in the running of AW and, in particular, the board's authority over the awarding of tenders.

We have not been furnished with such an affidavit. We therefore cannot comment something whose veracity we cannot prove.

According to the affidavit, Zitumane came under intense pressure from the board's deputy chair, Mr Geja.

It is alleged that he unduly interfered in procurement by, inter alia, demanding the RFQs before any advert was made for tenders related to the drought programme. Zitume claims she was made to cancel an RFQ because she had not shown it to Geja first, and then had to re-advertise.

Zitumane claims that Geja appeared to be, and indeed claimed to be, issuing instructions directly from the minister (despite that the usual conduit between the entity and the minister is the chairperson, not the deputy).

What does the minister make of the allegations against the deputy chair, and the allegation that he has been acting on the minister's orders?

Again, we have not been furnished with such an affidavit. Minister knows nothing about procurement processes at Water Boards. For questions related to Mr Geja, kindly solicit replies from him.

2) Why has the minister been acting through the deputy chairperson?

We have not been furnished with the affidavit.

3) Concerning Mr Mdekazi, an advisor to the minister: it is alleged that Mdekazi is very close to the minister who has allowed him to become a law unto himself. It is even alleged that they are or have been intimate partners.

We can't respond to such allegations.

In her affidavit, Zitumane claims to possess evidence that Mdekazi has bragged about his power to appoint and dismiss board members. She claims she is a victim of harassment because she stood in the way of attempts to "advance corrupt interests of one Mr. Mphumzi Mdekazi on specific projects".

We have not been furnished with such an affidavit.

What is Mr Mdekazi's response to the claim he bragged about the ability to appoint and fire board members?

Please solicit a response from Mr Mdekazi.

4) What does the minister make of this and how would the minister respond to claims that Mr Mdekazi's attitude is indicative of someone who feels he can act with impunity?

Again, we cannot respond to contents of an affidavit that we have not received.

5) Zitumane further alleges that Geja was appointed at the behest of Mdekazi. Did Mdekazi have a say in the appointment of Geja? Did Mdekazi and Geja have a pre-existing relationship prior to the latter's appointment at Amatola? If so, please elaborate.

We have not been furnished with the affidavit. On Mr Mdekazi and Mr Geja, kindly solicit their responses. We will respond with our own affidavit once we have been served with one from Ms Zitumane

6) Zitumane claims that she met Mdekazi in August last year, after which meeting he began to tout the idea of increased funding for AW mega-projects, pushing the idea of sand abstraction – technology which EWS

apparently has patented and is the only company in the country performing such work.

According to the affidavit, Mdekazi threatened to have Zitumane removed because she would not award at least 60% of the R230mn drought budget to sand abstraction, which would be carried out by Empowering Water Solutions.

How would the minister and Mr Mdekazi respond?

The Minister cannot respond to contents of the affidavit. We have not been furnished with such an affidavit. On Mr Mdekazi, kindly solicit a response from him.

7) What is Mr Mdekazi and/or the minister's relationship to EWS and/or its owner, Mr Bomela?

Minister has no relationship with EWS.

8) In February, a new board was appointed and Zitumane was told that R230mn would be allocated to drought relief. According to the affidavit, at a meeting just 19 days after the board's appointment, Geja began loudly promoting sand abstraction even though it was not presented in detail at the meeting.

It was agreed that the technology would be piloted with the WRC and this was done at Albany Coast. However, according to Zitumane's affidavit, "no report had been received from WRC with specific recommendations so that this technology can be rolled out."

Mdekazi and Geja's promotion for sand abstraction – a method only EWS is able to perform – is detailed above. The minister has also publicly promoted this method and, from the affidavit, it would seem that there is a coordinated push in favour of sand abstraction, which is just one of numerous drought mitigation strategies and has yet to be properly piloted.

Why does there appear to be pressure emanating from the minister's office for this particular method? And how would the minister respond to claims that this has to do with ensuring EWS secures lucrative contracts?

No pressure was ever exerted from Minister Sisulu's office.

9) It is claimed that only EWS is able to provide sand abstraction but our understanding is that the technology is available from other service providers and therefore a competitive tender would be entirely feasible. Please respond.

The administrators will be better placed to respond once investigations are concluded.

10) Zitumane claims that in November EWS sent Amatola Water an email with a report, indicating that EWS was commissioned by the Minister to test various sites, at Whittlesea (Mr. Mdekazi's home) and other sites within Chris Hani District and certain sites at Amathole District Municipality that were not earmarked as priority drought areas.

Zitumane states that "I was shocked when I received an invoice for testing, long before the funding was available. I made it clear that there was no instruction, nor a process of appointing EWS to test sites and therefore no payment would be forthcoming from AW."

She says that ultimately the appointment of EWS was made by the ministry, that EWS was imposed on AW, and that EWS was ultimately paid from the R230n budget.

How would the ministry respond to the above and why was the ministry involved in appointing EWS when this, presumably, would be a function of Amatola?

These are again as you suggest, contents of an affidavit – which we have not been furnished with. We therefore cannot respond.

11) We understand from the affidavit that the minister herself was involved in tender processes in ways that could be construed as improper.

On 23 March the Minister's office wrote to confirm if Amatola Water had received the drought funding and how it had been used and requested a detailed report. This information, according to the affidavit, was supplied.

Another letter came on 25 March, this time asking very specifically: "Has Amatola Water utilized a three (3) quote system? And, "which companies did Amatola Water appoint?"

Zitumane had decided instead of a 3 quote system to use an open tender process.

Zitumane states that she received an email from the board chair “summarizing discussions and directives from the minister”. She says that the SCM policies were criticised (even though they are replicas of National Treasury Regulations) and she was informed of an instruction to halt procurement processes and awarding of tenders, which she took to be improper interference.

Zitumane also claims that she was informed by ministry officials “that there is unhappiness about the procurement plan and report as it reveals that I have not allocated 60% of the funding towards sand abstraction and the Minister is intending withdrawing AW mandate.”

Again, it is hard to avoid the conclusion that the minister was both overstepping her boundaries of authority and working in the interests of a particular service provider.

How would the minister respond? And why did the minister insist on seeing the list of service providers and why was the minister opposed to an open, competitive bid?

We again cannot comment on the content of affidavit. However, Minister does not get involved in procurement matters.

12) In her affidavit, Zitumane says that Mr Bomela complained at the “stringent requirements” that AW imposed, for example the insistence on first rolling out a pilot project and the use of an independent geo-hydrologist to do a 48-hour yield testing.

Zitumane suggests Bomela had a direct line to the minister and went over the heads of AW officials in complaining to the minister. Zitumane claims Bomela “had the audacity to write a letter to the Minister on 21 February 2020 complaining about the stringent requirements and threatening to pull out, on projects that he was not yet appointed for.”

Did the minister take issue with the sense of entitlement of Mr Bomela? Was this expressed to him? And if not, is this not another indication of the minister's proximity to matters of tenders that could be seen as highly improper?

We cannot comment on the content of the affidavit. But again, Ministers don't get involved in procurement processes.

13) The minister cannot plausibly claim to be unaware of what was happening at AW as her office was in correspondence with AW officials, indeed took a keen interest in the drought relief measures, and was aware of emails such as the one from Mr Bomela referred to above.

Yet, despite what appear to have been quite obvious and alarming signs of at least one board member, a close advisor, and a service provider attempting to improperly influence decision-making at AW, the minister decided to instead go after the executive who pushed back against this and who now claims to be the victim of harassment.

The minister appointed her chosen service provider (Orca/Len Koner) to investigate Zitumane while she is on suspension.

How would the minister respond, and why did the minister appoint the service provider and not the AW board?

The Minister is entitled by law the Minister in terms of the Water Services Act, which allows for the creation of the Water Boards, the Minister is entitled to inspect, investigate and supervise the operations and affairs of a Water Board

14) Zitumane links Mdekazi's "desperation" for money and attempts to influence the sand abstraction contracts to his debt issues. She says Mdekazi confided in her that he was in debt after he led minister Sisulu's campaign for ANC president in the runup to the ANC's Nasrec elective conference. How would Mr Mdekazi respond to this?

Please solicit a response from Mr Mdekazi.

15) How would the minister respond to the above point?

The Minister cannot respond to contents of an affidavit that she has not been furnished with.

16) The above adds to claims that Mr Mdekazi is a political fixer for the minister. Both he and Mr Bomela are regarded as conduits of influence for

ANC secretary general Ace Magashule, which suggests that the promotion of sand abstraction technology is aligned to the minister's political positioning and part political consideration. How would the minister respond?

Minister cannot respond to such claims and allegations. She's currently ceased with what is expected of her as Minister, especially at this time when she and her colleagues are responding to the fight against COVID-19.

Lepelle Northern Water

17) The allegations contained in Zitumane's affidavit are strikingly similar to those contained in an affidavit by the chief executive of Lepelle Northern Water, Phineas Legodi. Again, Mr Mdekazi plays a central role.

Legodi says that he met Mdekazi and Bomela in August, at which meeting Bomela touted his sand abstraction technology.

In September, Legodi received a letter from the ministry to the chair of the board, which directed LNW to use the sand abstraction technology.

Legodi says he then learnt from ministerial advisors that plans were afoot to remove him because he was seen to be delaying the appointment of EWS.

Does the minister and/or Mr Mdekazi dispute the above? If so, please clarify.

Minister cannot comment on contents of an affidavit she has not been furnished with. Please solicit a response from Mr Mdekazi as far as the same question is related to him.

18) Legodi claims that the drought was being used opportunistically, as an excuse to flout procurement regulations. How would the minister respond?

Minister cannot respond to the contents of the affidavit.

19) The board wrote to the minister saying that LNW lacked the funding to carry out the directive, which contradicted what some Treasury and departmental officials claimed. An investigation was instituted by the ministry, again to be carried out by Orca, which Legodi claims has "historical ties" with the ministry (while LNW is expected to foot the bill, which could incur irregular expenditure).

Thereafter letters from the ministry and Orca revealed that the minister had authorised lifestyle audits. This claims Legodi, is a major departure from, and has nothing to do, with the investigation's initial mandate.

Legodi maintains this is being done to either punish him, or intimidate him, for not appointing EWS.

The minister's response?

She's not going to respond to the content of the affidavit.

19) Is the letter firing NRRTT legitimate and was Nkwinti indeed hired as Advisor on 03 March?

The NRRTT has not been fired.

20) Could you please ask Mr Mdekazi what is his relationship with a certain Mr Mathebule from Treasury?

Please solicit a response from Mr Mdekazi.

21) I see that EWS invoiced the ministry directly. Why was this so? Shouldn't the implementing agencies - in this case the water boards - oversee all water projects in their areas of authority?

This was for a media event on the launch of water technology. It was done by the Ministry.