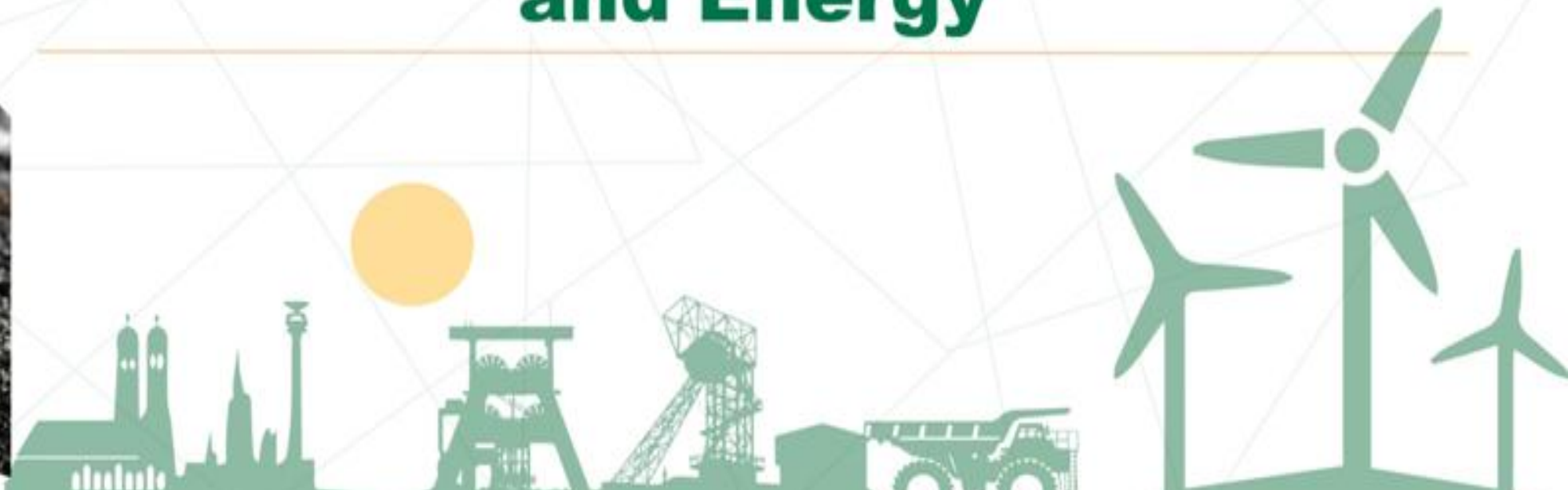




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PRESENTATION TO THE PORTFOLIO COMMITTEE ON MINERAL RESOURCES & ENERGY

CONSEQUENCE MANAGEMENT PROCESSES WITHIN DMRE & ITS ENTITIES

31 AUGUST 2021



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OUTLINE

1. Introduction
2. DMRE's Update on investigations and consequence management
 - Solar Water Heaters
 - Irregular expenditure - subsistence and travelling costs
 - Strategic Fuel Fund Forensic Investigations on Strategic Stock (implicated DMRE Official (s))
3. Overview of SOEs Forensic Investigations
 - Central Energy Fund (CEF) Group
 - National (NECSA) Group
 - Mine Health and Safety Council (MHSC)
 - National Energy Regulator of South Africa (NERSA)
 - South African Diamond & Precious Metals Regulator (SADPMR)
 - MINTEK
 - National Nuclear Regulator (NNR)
 - Council for Geoscience (CGS)



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INTRODUCTION AND OVERVIEW

- In the period under review, the Department did not conduct any forensic investigations in the identified three regional offices (Mpumalanga, Limpopo and North-West).
- Progress update in respect of the following investigations undertaken in the department will be provided:
 - Solar Water Heater project;
 - Irregular expenditure incurred on subsistence and travelling costs; and
 - DMRE's officials implicated in the Strategic Fuel Fund's investigation.
- Update on SOEs forensic investigations will be provided as well.
- The department can assure the committee that the department and its SOEs have policies, procedures, systems and governance structures in place to ensure that officials who have been implicated in any wrongdoing face consequences.
- Our internal controls and guidelines are continuously reviewed and strengthened to ensure accountability.



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DMRE'S INVESTIGATIONS AND CONSEQUENCE MANAGEMENT

Solar Water Heaters

- Following Cabinet's decision to refer the investigation on the delay in the implementation of the Solar Water Heaters Programme to National Treasury, a service provider was appointed in March 2021.
- This investigation is at an advance stage and is ongoing.
- It is envisaged that this investigation will be finalised at the end of October 2021.



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DMRE'S INVESTIGATIONS AND CONSEQUENCE MANAGEMENT

Matter relating to irregular expenditure

- Following an anonymous letter alleging that Mr Madubane obtained his Mining Inspector Certificate in an improper manner, the Director General instructed that an investigation be conducted by the Audit Services.
- The Audit Services found that the manner in which Mr Madubane obtained his Mine manager's certificate of competency was irregular and his certificate was withdrawn.
- Further consequent management was to re-deploy Mr Madubane to the position of Rock Engineer within the Mine Health and Safety Inspectorate at the Head Office.
- He was dissatisfied with the outcome and took the matter to the High Court, where it was held that the decision taken by the Minister suffered from certain procedural defects in that Mr Madubane was not allowed an opportunity to respond to the Audit Services report.



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DMRE'S INVESTIGATIONS AND CONSEQUENCE MANAGEMENT

Matter relating to irregular expenditure

- Further advice on how to proceed with the matter was sought from the State Attorney.
- The State Attorney duly considered the representations of Mr Madubane and advised that a *de novo* investigation should be commenced with.
- Internal Audit is of the view that an investigation *de novo* on a matter which had already been concluded, may pose serious challenges and lead to the same finding.



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DMRE'S INVESTIGATIONS AND CONSEQUENCE MANAGEMENT

Strategic Fuel Fund's Forensic Investigations

Related to implicated DMRE's Official (s) on the Strategic Fuel Fund's Forensic Investigations on the sale of Strategic Stocks, the Department has briefed the Office of the State Attorney to appoint a Senior Counsel.

- This matter is still on-going and the disciplinary process will be concluded no later than the end of November 2021.



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SOEs FORENSIC INVESTIGATIONS



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OVERVIEW OF SOE'S FORENSIC INVESTIGATIONS

- Out of the 11 entities reporting to the Department of Mineral Resources and Energy, only the **CEF Group, NECSA, MHSC, SADPMR and NERSA** conducted forensic investigations into allegations of fraud, corruption and maladministration.
- The rest of the entities did not institute any forensic investigations as the misconduct cases they dealt with primarily related to the flouting of internal human resources processes and requirements.
- Some of the forensic initiatives have progressed significantly with the support of expert 3rd parties
- We continue to work very closely with various **law enforcement agencies** to bring perpetrators to book.



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CEF'S FORENSIC INVESTIGATIONS

Problem Statement

Forensic investigation relates to misstatements and impairments in the annual financial misstatements, insubordination, alleged money laundering and failure to implement Solar Water Heater project.

Period: 2020 – to 2021

Purpose and scope of the Forensic Investigations

The forensic investigation is focused on:

- The alleged delay on the implementation of the National Solar Water Heater(NSWH) Project
- Failure to reinstate officials in acting positions to their substantive positions
- Failure to establish the Board Procurement and Finance Sub-Committee
- The alleged insubordination
- Payments effected on behalf of PASA by CEF Treasury into fraudulent offshore account.

Key Findings & Impact

The final report has been issued

Consequence Management Process

Consequence management process is underway

Key Outcomes

It is envisaged that the consequence management process will be finalized by **October 2021**.

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AEMFC'S FORENSIC INVESTIGATIONS

Problem Statement

Violation of procurement policy and procedure, unauthorized overseas trip and mismanagement of AEMFC strategic projects as well as abuse of power by the AEMFC Chief Executive

Period: 2019-2021

Purpose and scope of the Forensic Investigations

The Board appointed **Gobodo to** investigate all allegations in the 2nd Quarter of 2019 which related to the following:

- Violation of Procurement Policy and Procedure
- Unauthorised overseas trip
- Mismanagement of AEMFC strategic projects

Key Findings & Impact

- AEMFC CEO was found to have transgressed procurement policies and mismanagement of company resources.

Consequence Management Process

- The CEO and three executives were dismissed
- Three executives were dismissed and one senior manager resigned before disciplinary processes was instituted

Key Outcomes

- The CEO of AEMFC has been blacklisted from any future employment with the state
- The CEO approached CCMA and the matter is at the advance stage of Arbitration. The matter was heard on 6-8 July and 13-15 July 2021. The Arbitration was postponed to October 2021. The other executives that have been dismissed have also approached the CCMA and the update is as follows:
 - *Chief Audit executive Arbitration was held on 23 August 2021 and was postponed to a date to be determined by the CCMA.*
 - *ICT General Manager case was heard on 18 August 2021 and the Arbitration was postponed to a date to be determined by the CCMA and*
 - *GM Projects Arbitration hearing date is not yet allocated by the CCMA*
- AEMFC has instituted legal proceeding against Innovent in the High Court to set aside the tender which was unlawfully awarded
- Filing of an affidavit to the **"Hawks"** by the Chairman of the board, with the assistance of Werksmans Attorneys. The actions relevant to third parties (i.e., O'Neill's Insurance Broker's FSP designation number being unlawfully used by Innovent) would have to also be factored into the affidavit for Hawk's investigation and action.



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PETROSA'S FORENSIC INVESTIGATIONS

Problem Statement

Serious Allegations of mismanagement were brought to the attention of the PetroSA Board in relation to HR Function, Procurement & Contracts, Feed Stock Processes & Shutdown Processes

Period: 2019 to 2021

Purpose and scope of the Forensic Investigations

The investigation focused on:

- The process of voluntary severance packages, any contravention on the appointment of related VSP.
- Procurement and contract which focus on evergreen contracts, compliance to PFMA, PPPFA, constitution B-BBEE and foreign transactions.
- Feedstock procurement process to verify the accuracy of the pricing methodologies and other key requirements for the competitiveness of the sourcing process.
- Reasons for the extended shutdown of the refinery.

Key Findings & Impact

A final report has been issued

Consequence Management Process

The Consequence management process has been initiated

Key Outcomes

It is envisaged that the consequence management process will be completed by **October 2021**.

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Project Ikhwezi

External consults & investigations – Management & Board (1)

Scope: Project management

May 2012

KPMG Drilling

Independent assessment of Ikhwezi; review of packages and project team's actions critical to meet first gas.

- Contract award to drilling contractor, given technical & commercial considerations was appropriate
- Commercial terms and conditions, including the exclusion of damages for late delivery were appropriate given drilling contractor's commitments prior to PetroSA contract.
- Project implementation was condensed following Board request to improve capital estimates by requesting bids prior to overall approval (stated differently – the project schedule was not updated given the additional governance requirements at start of project)
- The drilling rig arrival forecast is reasonable
- **There is significant risk that first gas date of 22 June 2013 will not be met**

Scope: Governance/Risk

Mar 2011

ERM RISK review

Provide Assurances that no critical risks have been overlooked

- PetroSA risk management process adopted for the F-O development have adequately captured significant project risks.
- Improvements recommended
- No likelihood of significant breach of PetroSA risk appetite identified

Scope: Governance/Risk

Jul 2012

KPMG Governance

Review Project Governance as project moves into execution.

- Deficiencies in governance structures identified compared to best practice
- Comments on changes in Project Structure and personnel changes.

Scope: Governance/Risk

Mar 2013

DNV Risk Review

Review Project Governance as project moves into execution.

- PetroSA conducted comprehensive risk management to deliver extensive, still-relevant risk baseline
- Risk Management team's methodology, whilst qualitative provides good basis for communicating and rating capital projects' risks
- Recommendations for improvements made include moving to quantitative and probabilistic risk management practices

Scope: Forensic

Jun 2013

SNG 2

Review of contracts entered into between PetroSA and KBR.

- The fact that the tender was not awarded to KBR appears to be irregular.
- The difference between the (anticipated) KBR costs and the incurred costs with Petrofac is deemed fruitless and wasteful expenditure.

(This contract dealt with the modifications required for the F-A platform to receive gas from the development (Ikhwezi). The original selection of KBR by the project team was based on the EPCM model. This recommendation was overturned and awarded to Petrofac and became a PetroSA managed contract). Actual was >250% of budget in the end.)

Scope : Project Management

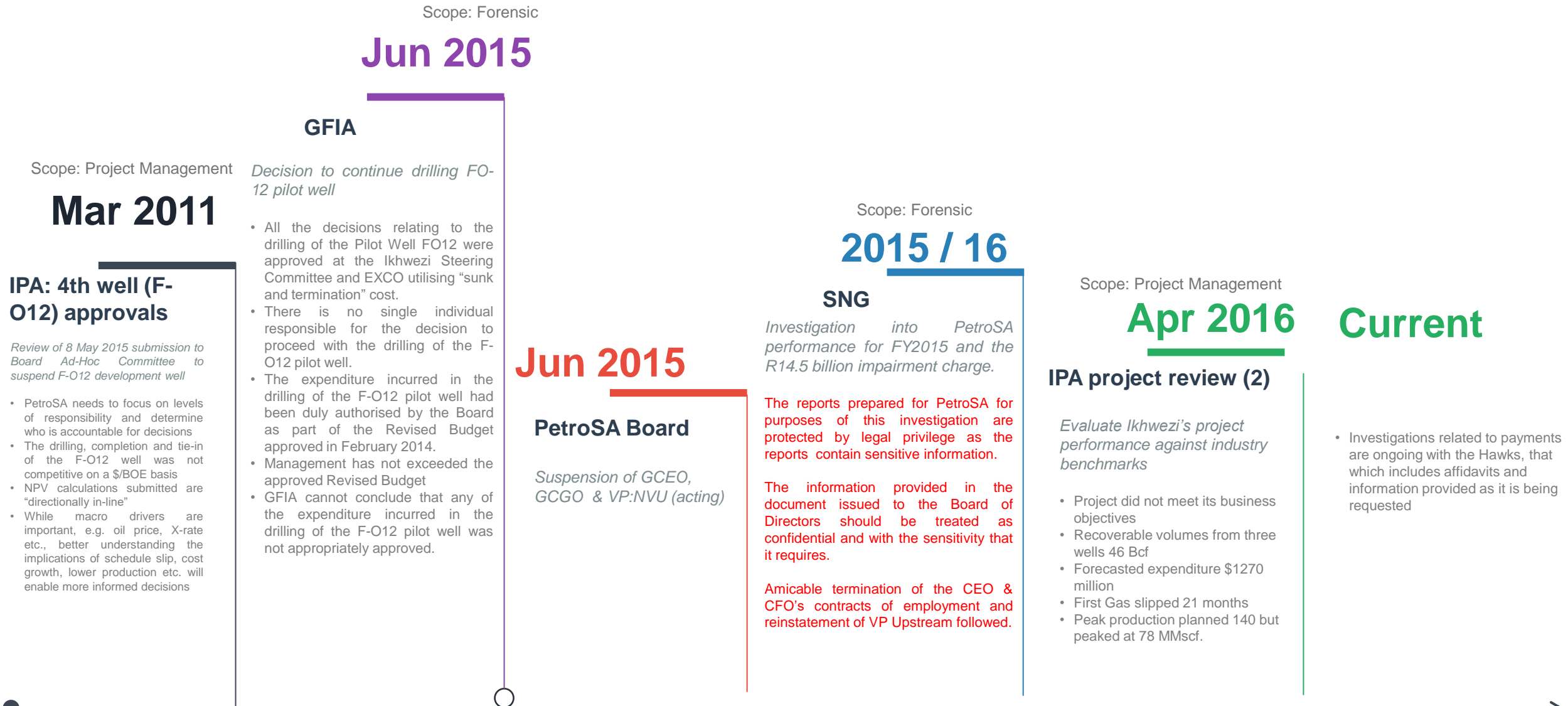
Jun 2015

IPA project review

Evaluate Ikhwezi's project performance against industry benchmarks

- Project did not meet FID business objectives
- Project was established with less than average practices
- (up-front) Reservoir performance appraisal insufficient
- Three contractual changes made post FID "by management" undermined key elements of project definition and negatively impacted schedule
- High turnover in project, executive and board level personnel resulted in loss of accountability for the business case.
- Inadequate project status reporting initially.
- Observation that inadequate attention was given to risk department's reporting to governance structures. "Seen as bearers of bad news"

External Consultations & Investigations – Management & Board (2)



SFF: FORENSIC INVESTIGATIONS

Problem Statement

Strategic Crude Oil of 10 million barrels was unlawfully sold to a number of Trading companies without the proper authorization of the SFF and CEF Boards the then Minister of Energy and concurrence of National Treasury in terms of section 54 of the PFMA, Contravention of the Constitution and the Companies Act.

Period: 2016 - 2021

Purpose and scope of the Forensic Investigations

- Contract validation
- Role of key players including management
- Financial trail
- Email correspondence

Key Findings & Impact

- Report currently with the Hawks

Consequence Management Process

- The consequence management process has commenced and is at a sensitive stage. SFF has completed the procurement process to advance the proceedings to ensure that the process is fair to all parties and will report hereon as it unfolds.

Key Outcomes

- Hawks are handling the criminal case and SFF continues to render support as and when called upon
- The appeal against the High Court ruling has been lodged has been duly lodged. SFF has filed its supporting affidavit. The opposing parties are expected to file their papers in due course.

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SFF: ENVIROSHORE FORENSIC INVESTIGATION

Problem Statement

300,000 barrels for Crude oil was unlawfully loaned to Enviroshore without proper approvals from SFF, CEF Boards, Minister of DoE and National Treasury concurrence

Period: 2015 - 2021

Purpose and scope of the Forensic Investigations

The objective of the investigation:

- Allegations of irregularities in respect of the award of contracts.
- Decisions leading up and subsequent to the concluding of the SFF Ogies Storage Facility Recovery and Processing of Sludge from Mine Oil and
- Pumping Water from Bore Holes Agreement between the SFF Association ("SFF") and Enviroshore Trade and Logistics (Pty)Ltd ("Enviroshore") on 10 January 2014

Key Findings & Impact

Report currently with the Hawks

Consequence Management Process

The Attorneys have advised on the merits of pursuing consequence management against the individuals involved. The consequence management process has commenced and is at a sensitive stage. SFF has completed the procurement process to advance the proceedings to ensure that the process is fair to all parties and will report hereon as it unfolds.

Key Outcomes

- The Hawks are still investigating and SFF continues to support the investigating Officer.
- Negotiations ongoing to get the party to repay Mercuria as the 300 000 barrels are still in tank at SFF. The legal matter between SFF and Mercuria is still before the court and SFF continues to negotiate with Mercuria to arrive at an amicable solution

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SFF: LINE PETROLEUM FORENSIC INVESTIGATION

Problem Statement

SFF bought 10 million litres of diesel in Zimbabwe from IPG and sold to another company Line Petroleum in Zimbabwe with no trading license in Zimbabwe. Line Petroleum did not honour the contract and SFF has never received the 10 million litres of diesel.

Period: 2017 - 2021

Purpose and scope of the Forensic Investigations

Forensic Investigation into the circumstances surrounding the disposal of 10 million litres of diesel

Key Findings & Impact

- We are currently engaging the Hawks to get guidance regarding possible charges

Consequence Management Process

The Attorneys have advised on the merits of pursuing consequence management against the individuals involved. The consequence management process has commenced and is at a sensitive stage. SFF has completed the procurement process to advance the proceedings to ensure that the process is fair to all parties and will report hereon as it unfolds.

Key Outcomes

- Line Petroleum was taken to Court and SFF won the case
- The possibility of initiating legal proceedings against Line Petroleum in Zimbabwe is still being considered however the prospects of recovery are low.

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NECSA'S FORENSIC INVESTIGATIONS

ITEM	DESCRIPTION	OFFICIAL / SUPPLIER	CONSEQUENCE MANAGEMENT	STATUS OF THE HEARING	COMMENTS
1.	Pelchem Managing Director reported a case of fruitless and wasteful expenditure. Pelchem received a disclaimer audit opinion from the audit conducted by the office of the Auditor General for the 2019/20 financial year. The basis for the disclaimer included among others matters, an irregular expenditure which has accumulated in expenditure over years, non-adherence to National Treasury Guidelines/Regulations, the internal procurement and finance policies and lack of consequence against the officials who made and permitted irregular expenditure, and fruitless and wasteful expenditure.	Pelchem Manageme nt	To be determined at the conclusion of investigation	Investigation expected to be finalised by 31 September 2021	The total cost of fruitless and wasteful expenditure to be quantified at the end of the investigation



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NECSA'S FORENSIC INVESTIGATIONS

ITEM	DESCRIPTION	OFFICIAL / SUPPLIER	CONSEQUENCE MANAGEMENT	STATUS OF THE HEARING	COMMENTS
2.	A whistle blower reported that NTP employee awarded a two year contract to a contractor without following due procurement process.	NTP Employee	To be determined at the conclusion of investigation	Investigation expected to be finalised by 31 September 2021	The total cost loss to be quantified at the end of the investigation
3.	Internal audit reported that the Supply Chain Management Procedure and Preferential Procurement Process were not followed in the appointment of service provider.	NECSA Management	To be determined at the conclusion of investigation	Investigation expected to be finalised by 31 September 2021	The contract under investigation is estimated at R27 million
4.	Internal audit reported that the Supply Chain Management Procedure and Preferential Procurement Process were not followed. The contract expired and was not extended.	NECSA Management	To be determined at the conclusion of investigation	Investigation expected to be finalised by 31 September 2021	The contract under investigation is estimated at R17,5 million .



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MINE HEALTH & SAFETY COUNCIL'S FORENSIC INVESTIGATIONS

ITEM	DESCRIPTION	OFFICIAL / SUPPLIER	CONSEQUENCE MANAGEMENT	STATUS OF THE HEARING	COMMENTS
1.	Investigation on misconduct committed during procurement of services relating to climate survey.	Former CEO	Disciplinary hearing.	Disciplinary hearing is finalized and the matter was reported to the Law enforcement.	During the disciplinary hearing the former CEO took the Council to CCMA for unlawful suspension and termination of his contract of employment. The CCMA case is pending
2.	Investigation on misconduct committed during procurement of services relating to climate survey.	PA to the former CEO	Disciplinary hearing.	Disciplinary hearing is finalized and the matter was reported to the Law enforcement.	After finalization of the hearing, the PA to the former CEO took the matter to CCMA and is still pending.
3.	Investigation into allegations that the ARC Chairperson did not disclose pending criminal charges of fraud and corruption.	Former Audit and Risk Committee (ARC) Chairperson	Matter was reported to the National Treasury, relevant Institutes and Associations, attaching the Investigation report.	Finalized	Her contract expired during the consequence management process.



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NERSA FORENSIC INVESTIGATIONS & CONSEQUENCE MANAGEMENT RELATING TO STAFF, MANAGEMENT & SUPPLIERS

ITEM	DESCRIPTION	OFFICIAL / SUPPLIER	CONSEQUENCE MANAGEMENT	STATUS OF THE HEARING	COMMENTS
1.	Investigation into allegations that the CEO conspired with employees to increase his salary. Unilateral approval of 34 REIPP generation licences in contravention of sections 8 and 9 of the NERSA Act.	Former CEO	Disciplinary hearing.	Settlement agreement at the instance of the CEO.	Termination of services effected on 27 August 2020. The CFO who was implicated was resigned prior to the conclusion of the investigation into the allegations.



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Thank you



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