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Mr Khemraj Parsram
Executive Director
Environmental Protection Agency
Ganges St., Sophia, Georgetown
kparsram@epaguyana.org
By email and hard copy

Dear Mr Parsram,

Construction and Operation of 300 MW Gas fired power plant: EIA exemption.

I write to you on behalf of Ramon Gaskin and other concerned citizens.

On 6th January 2023, the Environmental Protection Agency (the Agency) published a Notice to the Public stating that the construction and operation of the above project will not significantly affect the environment and is exempt from the requirement to conduct an environmental impact assessment ("EIA"). The project is stated in the application of 14th November 2022 to be a 300MW power plant. (Hereafter the "Gas Plant Project"). The energy for the power plant is intended to be fossil gas.

The Agency's decision to exempt the Gas Plant Project from an environmental impact assessment is unlawful being *inter alia* unauthorised/contrary to law; an excess of jurisdiction; a failure to satisfy conditions required by law; an unreasonable irregular and improper exercise of discretion; an abuse of power; conflict with the policy of the Environmental Protection Act Cap: 20:05; irrational and arbitrary.

Please immediately revoke/cancel your decision to exempt the Gas Plant Project from an EIA and inform the applicant Guyana Power and Gas Inc.

Breach of section 11(2) of the Environmental Protection Act (the "Act"): the developer has not submitted a Project Summary

1. Section 11(1) of the Act requires the "developer" of a project which may significantly affect the environment to apply for an environmental permit. The Act defines the developer as the applicant for an environmental authorisation.
2. Item 1 of the application of 14th November 2022 for the environmental authorisation for the Gas Plant Project states that the Applicant is, "Guyana Power and Gas Inc."
Thus Guyana Power and Gas Inc. is the developer.

3. Section 11(2) of the Act states that
“Where it is not clear whether a project will significantly affect the environment, the developer shall submit to the Agency a summary of the project...”
4. Section 11(2) requires Guyana Power and Gas Inc. as the developer to submit a project summary.
5. The Project Summary for the 300MW gas to power project is an unsigned and undated document which states in its introduction that,

“The Guyana Power and Light Incorporated is submitting this Project Summary to furnish the Environmental Protection Agency with all the required relevant information for the processing of the Environmental Authorisation application. The application seeks a permit for the construction and operation of a 300MW Gas-fired Power Plant within the Wales Development Zone, West Bank Demerara.”
6. Obviously the project in question is the same as the Gas Plant Project. Equally obviously Guyana Power and Light Inc. (“GPL”) is not the developer.
7. **The Agency has acted unlawfully and in breach of its duties under section 11 of the Act in relying on a project summary submitted by a person other than the developer.**
8. **The Agency’s decision to exempt the project is therefore illegal.**
9. **The Agency must revoke its decision and require the developer/applicant Guyana Power and Gas inc. to submit a new project summary which**
 - a. **complies with the requirements of the Act; and**
 - b. **is correctly dated and signed by a duly authorised officer of Guyana Power and Gas Inc.** (I suggest you require a board resolution.)
10. Guyana Power and Gas Inc. cannot simply resubmit the GPL Project Summary under its own name. First that would be a violation of the developer’s obligation to consider the requirements of the Act and take the appropriate steps to comply. Second the GPL Project summary does not meet the requirements of the Act.

Breach of section 11(1)(ii) of the Act: the Project Summary does not contain the required information.

11. The Project Summary submitted by Guyana Power and Light Inc. (the GPL Project Summary) does not meet the requirements of the Act and must be discarded.
12. Section 11(1)(ii) requires a Project Summary to provide information on the “possible effects on the environment.”

Section 2 defines the environment as

"all land, area beneath land surface, atmosphere, climate, all water, surface water, ground water, sea, seabed, marine and coastal areas, and natural resources or any combination or part thereof."

Section 2 defines natural resources as,

"the living plants, animals and organisms, ecosystems, forests, waterways, soils, and other biological factors within the natural environment, and the geologic formations, mineral deposits, renewable and non-renewable assets, and the habitat of the living plants, animals and organisms. "

13. A Project Summary should list all of the items in section 2 of the Act and show the possible effects on the each one.
14. The GPL Project Summary does not state the possible effects on the environment. For example:
 - a. The Project Summary does not state the possible effects on 'climate' or 'atmosphere'. It does not even mention them.
 - b. The Project Summary does not state the 'possible' effect on the Demerara River of dumping treated sewage into its water. [see Agency's Reason 6.]
 - c. The Project Summary states at 4.5:

"Initially, the project site will be supported with water supply from planned extended GWI service lines – from the nearest point to site. Later into the project development stage, intended to construct a minimum of two water wells and a treatment facility, which will be project specific."

The Project Summary does not state the possible effects on 'ground water' of the proposed extraction from the wells.

15. **The GPL Project Summary does not meet the requirements of section 11 of the Act and in relying upon it the Agency has acted unlawfully.**

The Agency has made a decision based on inadequate information.

16. The Agency cannot determine that the Gas Power Plant Project will not significantly affect the environment unless the Agency knows how much pollution it will generate. However the Project Summary lacks that critical information. For example:

- a. The Gas Plant Project will emit the following pollution according to Table 7 on page 21:
- Carbon dioxide
 - Methane
 - Carbon Monoxide
 - Nitrogen Oxides
 - Sulfur Dioxide
 - Particulates.

Neither Table 7 nor the rest of the Project Summary states the amount of such pollution that will be emitted.

- b. From page 25 to 28 the Project Summary states that the quantity of waste such as grey water, sewage, sediments, wastewater with oil in it, quantity of lubricants, general non-hazardous waste, are all *"To be determined."*
- c. Page 4 states that back up fuel will be known at the end of the bidding process.
- d. Page 12 says that land use i.e. sugar cane farming and cattle rearing are still to be verified.
- e. Table 3 on page 18 says that the back up fuel will be diesel fuel oil and /or propane but does not state what possible impacts that back up fuel will have on the environment.

The Agency has taken into account irrelevant material in making its decision.

17. Section 11(2) of the Act makes it clear that the Agency's power to determine whether a project will not significantly affect the environment is based only on the information on the Project Summary. It says,

"Where it is not clear whether a project will significantly affect the environment, the developer shall submit to the Agency a summary of the project which shall contain the information as required by subsection (1) and the Agency shall within a reasonable period publish in at least one daily newspaper a decision with reasons as to whether the project -

- (a) will not significantly affect the environment and therefore is exempt from the requirement for an environmental impact assessment; or*
(b) may significantly affect the environment and will require an environmental impact assessment."

18. The section does not authorise the Agency to look at other material in order to exempt the project. The Project Summary must contain all of the information that the EPA is relying on to determine that the project 'will not' affect the environment.

19. The Agency states in its published reasons that

“1. The proposed location for this project falls within the area of influence/footprint of an EPA approved Gas to Energy Project (GTE), that was subjected to a comprehensive EIA, including a Cumulative Impact Assessment (CIA). The CIA concluded that there will be no significant impact from the combined activities/projects.

2. The result of the CIA revealed that while there is potential for temporary impacts on air quality, the maximum predicted concentrations of key pollutants nitrogen dioxide (NO₂), sulphur dioxide (SO₂), particulate matter (PM_{2.5} and PM₁₀) and carbon monoxide (CO) will be within the World Health stipulated limits.”

20. There is no evidence in the Project Summary to support reasons 1. and 2. In order to exempt the Gas Plant Project from an EIA the Agency claims to have relied on information in a CIA, which does not and cannot form part of the Project Summary, is outside of the scope of section 11(2) and is therefore irrelevant.

21. The Agency has relied upon irrelevant material in reasons 1 and 2 and its decision is unlawful.

The Agency is acting contrary to the policy of the Act and its own functions.

22. The Act is predicated on the principles of public access to information and public participation. The Agency is acting contrary to the policy of the Act.

23. In relying upon material that is not in the Project Summary the Agency is putting the public at a disadvantage. Section 11(3) states that,

“Any person who may be affected by a project exempted under subsection (2) (a) may lodge an appeal with the Environmental Assessment Board.”

24. It is unlawful for the Agency to require the public to look for the CIA, to read through it and to try to work out what data the Agency is relying on. Since the Agency has relied on this material which is not in the Project Summary, members of the public cannot exercise their right to appeal without fear of being ambushed by the Agency with this other unknown material.

25. The rule of law requires public authorities to act transparently and not secretly. The Agency is in breach of this legal principle.

26. Furthermore the Agency is acting against the policy of the Act and its own function in section 4(b) to promote public participation.

Reasons 3 conflicts with the information in the Project Summary

27. Reason number 3. is that:

“As natural gas is used for power generation, the flue gas emissions will not have any particulate matter and SO₂ emissions. However in the case of back fuel use, particulate matter and SO₂ emissions will be released but to a minimal extent and well below recommended WHO guidelines.”

28. The Project Summary states that,

“The production process can result in a decreased [sic] in ambient air quality which can pose potential health risk to humans and wildlife in close proximity to the construction site.

Combustion from hydrocarbons can contribute to greenhouse gas emissions.”¹

29. It is wholly irrational and unreasonable for the Agency to conclude that the project will not have a significant impact on the environment when the Project Summary states quite clearly that there is a potential health risk and therefore the Agency’s decision is unlawful.

Reasons 4 is based on an irrelevant consideration.

30. Reason number 4. is that:

“Compared to heavy fuel oil (HFO) currently in use for power plants, natural gas has a lower carbon content as such will have a lower CO₂ emission. Natural gas does not contain any sulphur so there will be no sulphur emissions directly from burning of natural gas. NO_x emissions from burning natural gas are substantially lower than HFO. Essentially, the proposed natural gas fired power plant will have lower emissions compared to. [sic]

31. The Agency cannot exempt the Gas Power Project from an EIA on the grounds that it will have lower emissions than heavy fuel oil. A Gas Power Plant clearly has emissions. An exemption from an EIA is legal *only if* the information in the Project Summary clearly shows that the plant “will not significantly affect the environment.”

32. Section 11(2)(a) does *not* call for a comparison between different options but for a judgement based on the evidence before the Agency.

33. In basing its decision on irrelevant material in reason 4 the Agency has acted unlawfully.

¹ P35-35

Reason 5 is contradicted by the Project Summary

34. Reason number 5. is that:

“Process wastewater will be treated to local and international acceptable standards (GNBS Interim Effluent Discharge standards and/or IFC Guidelines) via a wastewater treatment plant prior to being discharged. The sanitary sewage system within the facility will collect all sanitary wastewater and treat it to applicable standards prior to discharge into the Demerara River.”

35. The Project Summary clearly states that,

“Sewage will be removed via local waste disposal provider when necessary.” [p27]

“Graywater and Black water (Sewage) will be stored in tanks onsite until removal via local waste disposal provider.” [p32].

“Waste water (Graywater) and sewage will be stored in tanks onsite until removal via local waste authorized disposal provider.” [p34].

36. Either the Agency did not read the Project Summary or decided to ignore it in order to grant an exemption.

Reason 6 is contrary to the Act.

37. Reason 6. is somewhat long and involved and unlawful on multiple grounds.

38. The Project Summary identifies impacts on people and wildlife. The Agency claims that the potential environmental impacts that will be caused by the Project have been identified, screened and assessed. This is contrary to the Act. The screening and assessment of impacts must be done in a proper EIA in accordance with section 11.

The Agency must make its decision based on the best scientific evidence.

39. In exercising its discretion whether to exempt the Gas Plant Project from an EIA, the Agency must use the most up to date science. The developer should include this up to date science in setting out the possible effects on the environment.

40. For example on atmosphere, the project summary should state something along the lines of:

“The current concentration of greenhouse gas in the atmosphere is over 415 parts per million (ppm). The safe concentration of greenhouse gas in the atmosphere is estimated to be no more than 350ppm. The project will emit [state amount] of

greenhouse gas thereby increasing the unsafe levels of greenhouse gas in the atmosphere.”

41. For climate the Project Summary should state,

“Excessive greenhouse gas concentration in the atmosphere has caused global overheating which in turn is causing the breakdown of the global climate system leading to extreme weather events such as droughts, excessive precipitation, more intense hurricanes. The greenhouse gas emitted by the project will contribute to global overheating and to the breakdown of the global climate system.”

The Agency has acted unlawfully by ignoring impact on human beings.

42. The impacts on people such as the noise pollution and air pollution identified in the Project Summary are sufficient on their own to require an independent EIA. As part of the EIA, the Act requires the developer to identify, describe and evaluate the direct and indirect effects of a proposed project on human beings.

Conclusions

43. The Agency’s decision to exempt the Gas Power Project appears to be an attempt to avoid the requirements of the Act for an independent EIA with full public participation.
44. There appears to be a culture of secrecy within the Agency which conflicts with the Act and the Agency’s functions.
45. The Agency appears to be out of date scientifically and to lack understanding of the grave existential threat to life on earth as a result of global overheating and ocean acidification caused by greenhouse gas emissions from fossil fuels. All decisions of the Agency based on inadequate or out of date science are irrational, arbitrary and unlawful.

Please confirm within 14 days that you have revoked/cancelled your decision.

Thank you for your kind attention.

Yours sincerely,

Melinda Janki

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