

Lynas says detailed EIA not required by law
The Malaysian Insider
March 24, 2012
By Clara Chooi

KUALA LUMPUR, March 24 — Lynas Corporation did not conduct a detailed Environmental Impact Assessment (DEIA) for its rare earth refinery in Kuantan, a company official confirmed, insisting it was not required by Malaysian law to do so.

But a preliminary EIA (PEIA) was conducted and approved by the Department of Environment (DoE) in 2008, Lynas Malaysia Sdn Bhd engineering services senior manager Wee Tiat Eng told The Malaysian Insider.

“Our consultant was told that all we needed to do was the PEIA,” he said when contacted yesterday.

“Don’t forget, our plant is built on a gazetted industrial estate. It is different if it was built on land not earmarked for industrial activities,” he added.

The Sydney-based mining firm, along with local authorities Atomic Energy Licensing Board (AELB) and DoE director-general is presently facing legal action taken by 10 Kuantan residents over its nearly-complete rare earths refinery in the Gebeng Industrial Park.

In the suit filed last month, the residents, all of whom live within three to 18km of the controversial plant in Gebeng near the east coast city of Kuantan, were seeking a court order to cancel the AELB’s approval of the TOL to Lynas on January 30.

The residents’s counsel had argued in court last week that Lynas’ failure to prepare the DEIA would render the entire RM700 million project fundamentally illegal.

In their affidavit affirmed on February 17, the residents argued that an EIA is mandatory under Section 34A of the Environmental Quality Act 1984 (EQA).

This, they said, is because Lynas’ bid to process rare earths mined from Australia is among the list of “prescribed activities” that requires a DEIA, according to DoE guidelines.

The DoE is the implementing agency for the EQA.

“The ‘Prescribed Activities’ requiring an EIA are set out in the EQA Order and include ‘ore processing’ and the construction of a ‘secure landfill site’ or a ‘storage facility (off site)’ for toxic or hazardous wastes.

“Lynas accept that their business activities in Malaysia would be deemed ‘Prescribed Activities’ under Section 34A of the EQA,” their affidavit said.

According to the EQA Order or Environmental Quality (Prescribed Activities)(Environmental Impact Assessment) Order 1987 available on the DoE’s website, “prescribed activities” include the ore processing, which is Lynas’ core activity.

The list can be obtained here.

The list of prescribed activities which require a DEIA include activities using radioactive materials and generating radioactive wastes, can be obtained here.

DoE's website on EIA requirements also explains the difference between the PEIA and the DEIA. The DEIA is described as "a procedure undertaken for those projects with major/significant impacts to the environment", while the PEIA is an "assessment of impacts due to those activities that are prescribed".

The residents also said that once the Lynas Advanced Materials Plant (LAMP) fires up operations, "Malaysia would effectively become a dumping ground for radioactive waste for ore mined in Australia and transported here".

"Malaysia cannot export such waste to Australia, or indeed any other country," they said.

Despite this, the residents alleged in the affidavit that no such DEIA had been prepared by Lynas for its LAMP site.

"No DEIA duly approved by the D-G was presented to the Board when the latter was considering the application by Lynas for a TOL (temporary operational license), which my solicitors advise me (and which I verily believe) is contrary to Section 34A of the EQA," the affidavit read.

Following last week's hearing in chambers, the High Court judge fixed April 4 for the next open court hearing.

Earlier this month, Lynas said it will fire up its refinery by the second quarter of the year.

The Sydney-based miner is looking to break China's 90 per cent chokehold on the supply of rare earth metals needed to manufacture high-tech products such as smartphones, energy-efficient light bulbs and hybrid cars.

Lynas expects to generate some RM8 billion annually from its operations here.

The government last week announced it would form a nine-man parliamentary select committee to look into the Lynas issue, which would hear "scientific views based on fact" from all parties.

The Malaysian Insider

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