

EXPLANATIONS

1.

Mintails Mining SA (Pty) (Mintails) commercially holds three mining rights. Mining is undertaken within these three mining right areas as follows:

- **MR132** covers the hard rock mining areas whereby open pit mining is undertaken by means of truck and shovel method. The deposits and crushed ore from the open pits are processed at the Mogale Gold 1 plant which is located within MR206. Mining is also being undertaken by means of underground mining at D Shaft.
- **MR206** covers the recovery and reclamation of the gold dumps by means of hydraulic mining methods. The Closure Mining program includes (or intended to include) the processing of surface dumps on MR206 and MR132 areas. The 350 000 tonnes per month Mogale Gold 2 gold recovery plant has been constructed adjacent to the already existing Mogale Gold 1 plant and will be commissioned to process surface tailings resources.
- **MR133** is located east of MR132 and MR206 areas. Mining of the open pits in this area is undertaken by means of truck and shovel method.

(Reference: February 2016. Mintails Mining South Africa (PTY) LTD. Closure Plan and Associated Closure Costs for Mintails Mining South Africa (PTY) LTD (GP133MR, GP132MR and GP206MR) **(APPENDIX “A”)**)

MOGALE GOLD (PTY) LIMITED is a subsidiary of MINTAILS SOUTH AFRICA (PTY) LIMITED). Mintails SA (Pty) Ltd acquired Mogale Gold from the liquidators in late 2005 and re- commissioned operations in 2006.

(Reference: APPLICATION FOR A MINING RIGHT; File number: GP 30/5/1/2/2 (207) MR. February 2009) **(APPENDIX “B”)**)

Mintails is operational within the Headwaters of the Wonderfonteinspruit and the Upper Wonderfonteinspruit, and within the Tweelopiespruit Catchment Management Area.

(Reference: February 2016. Mintails Mining South Africa (PTY) LTD. Closure Plan and Associated Closure Costs for Mintails Mining South Africa (PTY) LTD (GP133MR, GP132MR and GP206MR). **(APPENDIX “A”)**)

2.

The **Remediation Steering Committee (RSC)**¹ (**ANNEXURE “C”**) for the Wonderfonteinspruit Catchment Area was established pursuant to the findings of the following Reports:

1. **Water Research Commission Report No 1214/1/06 titled “An assessment of sources, pathways, mechanisms and risks of current and potential future pollution of water and sediments in gold-mining areas of the Wonderfonteinspruit catchment”. Coetzee, H. (compiler) 2004. (APPENDIX “D”)**

The Report found *inter alia*:

- a. The Wonderfonteinspruit has been the subject of a large number of studies. One major study on dissolved radioactivity was undertaken by the Department of Water Affairs and Forestry, and studies of radioactivity in fluvial sediments were undertaken by the CSIR and Council for Geoscience, on behalf of the Water Research Commission and the Department of Water Affairs and Forestry. The results of these studies were as follows:

Study	Broad conclusions
IWQS (1999) – Radioactivity in water	Mining activities are a major contributor to uranium and uranium series radionuclides within the catchment. Concentrations decrease downstream of the sources, indicating removal from the dissolved fraction by interaction with sediments.

¹ The objectives of the RSC in terms of the Terms of Reference will be to:

- Formulate an implementation methodology, to collectively propose remediation actions that include the use of relevant expertise that would be acceptable to their respective groupings associated technical teams while ensuring sound project management is carried out.
- In addition to methodology and human resources, the Steering Committee would also oversee the key milestones and adequacy of funding for remedial actions.
- The Steering Committee should facilitate communication on the status and findings of the overall project.

The Federation for a Sustainable Environment is a member of the RSC.

Wade et al. (2002) (WRC) – Radioactivity in sediments	Radionuclides are concentrated in sediments downstream of their sources. Sequential extractions showed that these radionuclides are distributed in multiple phases within the sediments and that they may be remobilised by environmentally plausible chemical processes.
Coetzee et al. (2002) (Council for Geoscience) – Uranium and heavy metals in sediments in a dam on the farm Blaauwbank	This study confirmed the findings of Wade et al. and used further sequential extractions to characterise the sediments in a dam downstream of mining activities in the Carletonville area.

The two latter studies recommended that remedial action was required as the current situation is unsatisfactory in the medium to long term, particularly if the fluvial sediments are allowed to dry out, thereby potentially becoming oxidised.

- b. The mean values for the Wonderfonteinpruit samples were found to significantly exceed not only natural background concentrations, but also levels of regulatory concern for cobalt, zinc, arsenic, cadmium and uranium, with uranium and cadmium exhibiting the highest risk coefficients.
 - c. A significant amount of uranium (several tons per year) is entering the Wonderfonteinpruit via point discharges (partly uncontrolled) and large-scale diffuse discharges.
 - d. Uranium is concentrated in the fluvial sediments of the river system and within the local groundwater systems, and the immobilisation of uranium in the sediments is not necessarily irreversible.
 - e. Uranium poses a hazard to water users in the catchment area due to its chemical toxicity.
2. **Report to Contract No RRD/RP01/2006 titled “Assessment of the Radiological Impact of the Mine Water Discharges to Members of the Public Living around Wonderfonteinpruit Catchment Area”**. BSA-Project-No. 0607-03 prepared on behalf of the National Nuclear . Regulator (NNR) April 09, 2007.

(APPENDIX “E)

The Report found:

- a. Significant radiation exposure can occur in the surroundings of mining legacies, due to
 - inhalation of Rn-222 daughter nuclides from radon emissions of desiccated water storage dams (e.g. Tudor Dam) and slimes dams,
 - the inhalation of contaminated dust generated by wind erosion from these objects, and
 - the contamination of agricultural crop (pasture, vegetables) by the deposition of radioactive dust particles, which can cause considerable dose contributions via ingestion.
 - b. The past and present discharges of radionuclides into the WCA as a consequence of mining activities can lead to considerable radiological impacts to the public via various exposure pathways, exceeding significantly the natural level and also the dose limit for the public of 1 mSv per annum, at numerous sites.
 - c. Regarding the utilisation of surface water bodies, the uptake of sediments churned-up during cattle watering at the banks of water bodies presents the most important radiological pathway. In addition, irrigation of pasture land is also a very relevant exposure pathway concerning the usage of surface water bodies. Depending on their classification by sediment types, "fishing" and/or irrigation of crops are the next important exposure pathways.
 - d. Regarding the exposure pathways representing the agricultural use of contaminated land, the growth of vegetables (SoVe) and the uptake of radionuclides by cattle due to contaminated pasture soil (SoPaCa, SoCa) are generally the leading exposures pathways.
3. **Department of Water Affairs and Forestry and the National Nuclear Regulator. Wonderfonteinspruit Catchment Area: Remediation Action Plan. Radioactive Contamination Specialist Task Team Report on Site Visits and Recommended Actions.** April 2009.

The Report found *inter alia*:

- a. Fifteen sites fall into Category 1 where there is no reason to delay immediate action, of which the Lancaster Dam (MP46) is the most urgent.
- b. Lancaster Dam: As the site presently exists it is suspected that acutely toxic acidic drainage is currently draining from the site through the breach in the dam into the pond and wetland immediately below the dam. Because of the lack of any flow restriction this could become an extremely serious situation following a heavy rainfall. The main pollutants are suspected of being acidic water and associated toxic metals arising from oxidation of sulphides such as iron sulphide, also known as pyrite. The stream presently passes

through the breach in the Lancaster Dam, with visible seepage of slimes from the Lancaster Dam into the stream which forms the upper Wonderfonteinspruit.

- c. Tudor Dam: The Tudor dam is located in the south eastern portion of the headwaters of the WCA. The area behind the dam is currently dry and being mined by a company called Mintails. At the time of the field visit it appeared that the re-mining had ceased. The activity concentration of uranium 238 in the soils and sediments behind the dam are high, 8000-10000 Bq/kg with radium 226 at 1700-2800 Bq/kg.
- d. Wetlands downstream of Tudor Dam: Unlike the Tudor Dam area this area is not within the Mine's authorised mining area or responsibility. However, most of the sediments will be disturbed as a result of the poor mining practices at Tudor Dam and above. During mining the Mine was responsible to contain this material and should be required to clean up the material. Uranium and radium activity concentrations were high here, at 2000 Bq/kg for uranium and 1200 Bq/kg for radium, as would be expected if they originated from the Tudor Dam. This site has contamination of radioactive material exceeding exclusion levels of 0.5 Bq/g per nuclide and will need to be remediated prior to the site being released from regulatory control.

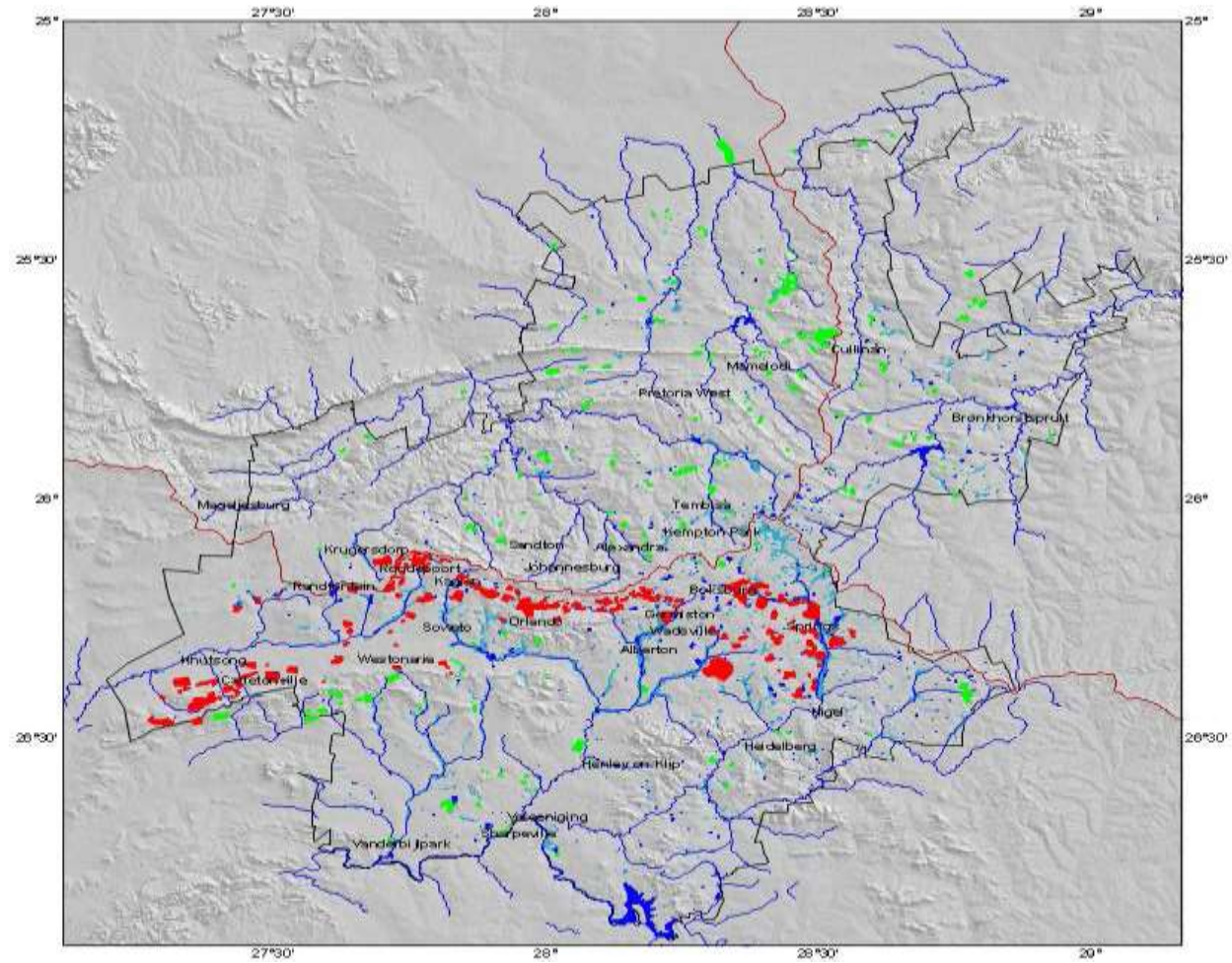
(ANNEXURE "F")

4. Gauteng Department of Agriculture and Rural Development: Feasibility Study on Reclamation of mine Residue Areas for Development Purposes: Phase II Strategy and Implementation Plan. 2011

The Study found:

Three main issues relating to Mine Residue Areas (MRAs) located in Gauteng have been identified, namely:

- 1) air-quality, with particular reference to dust pollution from MRAs (including radioactive dust);
- 2) water-flux and water-quality, with special note of the current controversy around AMD and the transport of radioactive materials associated with the exposed uranium ore; and
- 3) geotechnical safety concerns related to the dangers of ground instability and collapse above abandoned mine workings and also around open, unsealed mine shafts that present a danger to nearby settlements.



Radioactive (red), MRAs in Gauteng, on sun-shaded SRTM topography. The concentration of radioactive MRAs in the Witwatersrand headwater areas of the Vaal catchment is evident, with some overlap into the Limpopo (Crocodile West) headwaters near Krugersdorp.

(ANNEXURE “G”)

5. National Nuclear Regulator: Draft Regulations - Remediation of Existing Exposure in South Africa. 5 – 7 October 2016.

The Action propose to:

- Improve NNR regulations to be aligned with international best practice for remediation
- Establish an authorisation process
- Establish criteria for release of land remediated, other than exclusion and exemption criteria
- Develop a skills plan for training and development of newly appointed staff in the area of remediation.
- Establish contacts and cooperative agreements with other Governmental Departments

(ANNEXURE “H”)

6. National Nuclear Regulator (NNR). Remedial Criteria and Requirements. PP-0018. September 2015.

The document defines remediation in the context of the NNRA.

The document establishes criteria and requirements for remediation of radioactively contaminated land under NNR regulation as well as remediation of contaminated land not under NNR regulation.

The document does not deal with clearance of materials and other objects contaminated by radioactive material, to be removed from regulatory control.

All areas or sites or media that is exclusively chemically contaminated is also excluded from the scope of this document.

(ANNEXURE “I”)

7. National Nuclear Regulator (NNR). PLN-SARA-15-012. Plan for Remediation of Contaminated Sites. 30 September 2015.

This report provides a framework for the NNR to:

- establish regulations for contaminated areas/sites not under regulation (e.g. WCA);
- define roles and responsibilities amongst the regulator and intervening organisations;
- establish a common regulatory regime for safety of remediation actions through coordination with the other ministries;
- funding of such projects;
- and the determination of contaminated areas

(APPENDIX “J”)

8. Report by the Harvard Law School International Human Rights Clinic titled “The Cost of Gold: Environmental, Health, and Human Rights Consequences of Gold Mining in South Africa’s West and Central Rand.”

(APPENDIX “K”)

9. MINTAILS MINING SOUTH AFRICA (PTY) LTD. Closure Plan and Associated Closure Costs for Mintails Mining South Africa (Pty) Ltd Three Mining Rights Areas (GP133MR, GP132MR and GP206MR)

(APPENDIX “L”)

4.

The Federation for a Sustainable Environment (FSE) is a non-profit organisation with the Reg. No. 2007/003002/08 and NPO Number: 062986-930 039 506. The main object of the FSE, in terms of its Memorandum of Incorporation, shall be a public benefit, non-profit organisation with the main business of promoting the ecological sustainability of development and the wise use of natural resources in southern Africa.

Without derogating from the generality of the foregoing, the FSE’s main object, in terms of its Constitution, includes:

- To protect and promote environmental health and functional ecosystems for future generations
- To ensure that developments involving the consumptive or destructive use of natural resources specifically benefit local residents and parties directly affected by the development
- To inform all decision making in development, including in planning and monitoring activities, that affect local people and natural and environmental resources
- To promote sustainable and just social development as an inseparable consequence of natural resource use development projects
- To take action, including legal action, to hold decision makers accountable in situations where development may have negative social, economic or environmental impacts that affect people and the environment
- To ensure that the total cost of the use of natural resources including all externalized and long term costs of maintaining ecosystem services to local people are provided for and borne by the project
- To facilitate the remedying of existing environmental degradation
- To mobilize collaborative national and local action among likeminded entities and to raise and provide funds and legal and technical expertise to support such actions.

ACRONYMS

Bq: Becquerel. The becquerel is the SI derived unit of radioactivity. One becquerel is defined as the activity of a quantity of radioactive material in which one nucleus decays per second. The regulatory limit for radioactivity in soil is 500Bq/a

CMF: Catchment Management Forum

DEA: Department of Environmental Affairs

DMR: Department of Mineral Resources

DME: Department of Minerals and Energy

DWA: Department of Water Affairs

DWAF: Department of Water Affairs and Forestry

DWS: Department of Water and Sanitation

FSE: Federation for a Sustainable Environment

GDARD: Gauteng Department of Agriculture and Rural Development

MCLM: Mogale City Local Municipality

MPRDA: Mineral and Petroleum Resources Development Act (28 of 2002)

NEMA: National Environmental Management Act (107 of 1998)

NNRA: National Nuclear Regulator Act (47 of 1999)

NWA: National Water Act (36 of 1998)

NNR: National Nuclear Regulator

PAIA: Promotion of Access to Information Act (2 of 2000)

PEA: Public Environmental Arbiters

PPSA: Public Protector of South Africa

RSC: Remediation Steering Committee

SAHRC: South African Human Rights Commission

Sv: Sievert. The sievert is a derived unit of ionizing radiation dose in the International System of Units and is a measure of the health effect of low levels of ionizing radiation on the human body. The regulatory limit is 1 milliSievert (mSv) per annum or 250 microSieverts (μ Sv) per source.

WCA: Wonderfonteinspruit Catchment Area

WCA:RAP: Wonderfonteinspruit Catchment Area: Remediation Action Plan

WFS: Wonderfonteinspruit

WFS:CMF: Wonderfonteinspruit Catchment Management Forum


WRDM: West Rand District Municipality

	Date	Officials	Issue	Response/Action
1.	25 October 2006	DME (Regional Manager)	Directive in terms of S 39(5) of the MPRDA to update Mintails' existing EMPR, which should include a fully costed rehabilitation plan and a calculation of the environmental liability on an annual basis.	
2.	26 April 2008	DME (Minister of Minerals and Energy)	FSE's letter to the Minister of Minerals and Energy regarding <i>inter alia</i> non-compliances by Mintails and non-enforcement of non-compliances.	
3.	July 2008	Mintails/DMR	FSE's comments on Mintails' Witfontein Project. The comments included issues pertaining to: <ul style="list-style-type: none"> • Mitigation and management strategies • Rehabilitation fund • Future land use objectives • Closure and post closure issues • Progressive rehabilitation 	
5.	19 December 2008	DME (Ms Stephinah Madau, the DDG of DME, Mr Michael Oberholzer)	FSE's request for a risk-based approach in determining the financial provision by the mining company. The object is to ensure that there are sufficient funds available at any stage in the life of a mine to cover the cost of rehabilitation and closure. Sound judgment and interpretation of the intent of the MPRDA regarding the use of trust funds were urgently called for by the FSE.	
6.	3 March 2009	DME (Mr Rudzani Mabogo)	Instruction in terms of s 93(b)(i) of the MPRDA by the DME to DRD Gold's mining operations, operated by Mintails, following the drowning of 2 teenagers in a dam containing mine water in Luipaardsvlei and notification by the DWAF on the 2 nd of February 2009 and the FSE of the	

			<p>breaching of the dam wall which allowed water of poor quality to be discharged into the water course.</p> <p>DRD Gold was instructed to:</p> <ol style="list-style-type: none"> 1. The areas and any other structures which pose a safety risk to the nearby communities must be fenced off in order to control the access, 2. Visible warning signs around the dams and any other structures must be put in place, 3. The level of the water in the dams must always be controlled in order to prevent the similar incidence from recurring. 4. Water quality monitoring must be conducted and the results must be communicated with the relevant government Departments. 5. The rehabilitation of the dams (quarries) must be prioritized. 6. A detailed report furnishing information regarding- <ul style="list-style-type: none"> • the date and time of the incident; • a description of the incident; • the cause of the incident and potential pollution; • the impact or potential impact on the water resource and the relevant water users; • remedial action taken or to be taken by the mine to remedy the effects of the incident <p>must be submitted to this Department within 7 days of the receipt of this letter.</p>	
7.	8 April 2009	Mintails/DMR	FSE's comments on Mogale Gold/Mintails EIA/EMPR (GP 30/5/5/2/2 207MR)	
	15 May 2009	Mintails	FSE's request for visitation of Lancaster Dam pertaining to rehabilitation	
8.	12 July 2009	Mintails/DMR	FSE's comments on Mintails' West Wits Pit and Lancaster Dam Project	
9.	30 October 2009	DRD/Mintails/DMR	DRD Gold's Application for the Conversion of an Old Order Mining Right (ML 9/2000). An extract from the application reads:	

			<p>This revised MWP referred to surface workings, all rights to tailings and dumps on the surface of the area covered by Mining Licence 9/2000 belong to Mintails SA (Pty) Limited and/or its associates, which companies are working the dumps and accepted all liability, whether relating to environmental rehabilitation or otherwise, in respect of all surface mining and other activities. For this reason, this MWP refers to unenclosed and potential underground workings only.</p>	
11	22 December 2010	Mintails/FSE	FSE notification regarding Lancaster Dam, open cast mining operations, unrehabilitated footprints and reclamation operations.	
12	7 November 2011	DMR (Regional Director: Gauteng)	FSE's notice to DMR of uraniferous slurry spillages by Mintails and request for a response, proposed interventions or actions.	
13	13 March 2012	DMR (Mashuda Maduka, Tlaila Moleseng)	Minutes of Wonderfonteinspruit Catchment Management Forum Meeting. See sections pertaining to Mintails.	
14	11 April 2012, 21 May 2012, 9 July 2012	DMR	<p>On the 11th of April, 2012 the FSE was notified by Mr. Mabogo of DMR that Mogale Gold (Mintails) "has submitted a revised EMP, however, it was later withdrawn as it covers certain activities which the mines no longer needs or covered under other rights. The Department has been awaiting a new revised EMP and an order in terms of section 93 of the Mineral and Petroleum Resources Development Act, was issued to Mogale Gold (Mintails) was requested to resubmit the revised EMP."</p> <p>On the 21st of May, 2012, the FSE registered as an interested and affected party in the process.</p> <p>Notwithstanding the FSE's registered status as IAP, the FSE received neither a response from Mogale Gold (Mintails) nor a notification of the process.</p> <p>On the 9th of July, 2012 the FSE was credibly informed that the EMPR has already been submitted for comment to the relevant organs of state for authorisation.</p>	
15	28 March 2012	DWA	FSE's request for Water Use License Authorisation by the DWA for Mintails' operations	Response by the Regional Director of the DWA on the 28th of April 2012 stating: Mintails "... has to comply with the WUL and Directive. Thus the WUL and Directive stipulate that non-hazardous waste should only be deposited into the WWP."
16	11 June 2012	DRD Gold (Mr Henry Gouws)	DRD Gold's Response in respect to responsibility and liability of surface dumps in ownership of Mintails	

			(See also W.G. Krige's Report, dated 16 September 2002 titled " <i>Mogale City Local Municipality: Legal Copliance Audit Report with regards to Mining Related Activities.</i> ")	
17	8 July 2012	Adv. Malebe (DMR)	FSE's request for intervention regarding alleged environmental infractions by Mintails pertaining to Tudor Dam, non-compliances with its WUL, Lancaster Dam, ongoing toxic and potentially radioactive spillages and dust fallout.	Inspection by DWA and DMR on the 9 th of May 2012 letter to FSE by the DMR (Adv. Malebe), dated the 1 July 2012
18	19 July 2012	Adv. Susan Malebe (DMR)	In a letter to the FSE, Adv. Malebe of the DMR responded: <i>"The Department acknowledges receipt of your email with the subject "Respectful request for information and allegations of environmental fractions" (sic) received on the 08 July 2012. This matter is receiving the necessary attention and the outcome of the investigations will be communicated with you in due course."</i>	
19	27 July 2012	Mintails (Mr Lamprecht)	FSE's complaint to Mintails. The essence of the FSE's grievances is that Mintails is in the process to proceed with open cast mining without consultation with key stakeholders; disposal of hazardous material in the West Wits Pit; storage of water containing waste in the Lancaster Dam without an approved water use license; and the failure to assess the risk upon the groundwater as a result of the deposition of toxic and radioactive sludge into the West Wits Pit.	
20	6 September 2012	Adv. Malebe (DMR)	Notification of the FSE's EVALUATION OF AN ENVIRONMENTAL IMPACT ASSESSMENT AND ENVIRONMENTAL MANAGEMENT PROGRAMME FOR THE MINING RIGHT APPLICATION FOR GOLD IN RESPECT OF VARIOUS PORTIONS ON VARIOUS FARMS IN THE MAGISTERIAL DISTRICT OF KRUGERSDORP: MOGALE GOLD (PTY) LTD Reference: GP 30/5/1/2/3/2/1 (206) EM	
21	4 September 2012	Mintails	RECAPITULATION OF MEETING BETWEEN MINTAILS SA AND THE FEDERATION FOR A SUSTAINABLE ENVIRONMENT, WHICH WAS HELD AT THE MINTAILS HEAD OFFICES IN RANDFONTEIN ON THE 4TH OF SEPTEMBER, 2012	
22	19 September 2012	DMR	FSE's COMMENTS ON THE ENVIRONMENTAL IMPACT ASSESSMENT AND ENVIRONMENTAL MANAGEMENT PROGRAMME FOR THE MINING RIGHT APPLICATION FOR GOLD IN RESPECT OF VARIOUS PORTIONS ON VARIOUS FARMS IN THE MAGISTERIAL DISTRICT OF KRUGERSDORP: MOGALE GOLD (PTY) LTD (MR 206GP; MR132GP)	
23	1 October 2012	Mintails (Mr Eddie Milne)	Comments by FSE on the 28 th of September 2012 are discredited; Mintails alleges that it is " <i>well placed to address some of the historical legacies of the West Rand</i> " and that the FSE is a " <i>quasi-regulator</i> ".	
24	9 January 2013	Mintails	Surface blasting operations assessment Report: Princess Pit	
25	1 August 2013	Mashudu Maduka (DMR)	Site visit.	

			<p>Pursuant to the site visit, the FSE requested:</p> <ul style="list-style-type: none"> • a copy of Mintails' Water Use License (WUL) • the geochemical analysis of the tailings • copies of pre-directives • copies of close-out reports • a copy of the Rehabilitation Plan 	
26	25 August 2013	Mintails	FSE's Letter to Mr Eddie Milne of Mintails, titled "ALLEGATIONS PERTAINING TO CURRENT OPEN CAST OPERATIONS AND REQUEST FOR INFORMATION"	
27	5 September 2013	Mashudu Maduka (DMR)	<p>Request by the FSE for an investigation by the Inspector of Mines pursuant to:</p> <ul style="list-style-type: none"> • Damages as a result of Mintails' blasting operations • Complaint by Mr Dlamini pursuant to damage to his house caused by flying rock by Mintails' blasting operations 	Acknowledgement of damage by Mr Milne of Mintails (SA) Pty Ltd
28	12 - 13 September 2013	Rudzani Mabogo (DMR) Peter Kelly (DMR)	<p>Report on: Pipe failure and spillages</p> 	Acknowledgement of incident by Mr Milne of Mintails (SA) Pty Ltd.
29	28 September 2013	Mintails	MATTERS PERTAINING TO MINTAILS' CURRENT OPEN CAST AND RECLAMATION OPERATIONS	
30	30 September 2013	DMR	Complaint to DMR re spillages from Mintails' operations on portions 209 and 136 of the Farm Luipaardsvlei 246 IQ and Portions 66 and 99 of the Farm Waterval	
31	1 October 2013	DMR	<p>In loco inspection</p> <p>FSE's request for Rehabilitation Plan, issues pertaining to Tudor Dam and Lancaster Dam; pre-determined and agreed upon end land-use and specific objectives for each individual site; request to be included in Mintails' Environmental Forum.</p>	

32	7 October 2013	Mr Ishaam Abader (DEA) Mr Grant Walters (DEA) Ms Francis Craigie (DEA) Mr Werner Eiselen Mr Andre Cronje (DMR) Mr Bashan Govender (DWS)	Meeting at offices of the DDG of DEA	See the attached letter, dated the 5 th of October, 2013 Minutes of Meeting
33	9 November 2013	DMR	Letter to request inclusion of subjoined issues in Wonderfonteinspruit and Mooi River Catchment Management Forum on the 17 th of November 2013: <ul style="list-style-type: none"> • Status of Mintails' WUL • Failure to enforce spillages • Report from DMR pursuant to in loco inspection of Mintails' operations on the 1st of October 2013 	
34	22 November 2013	DWA	Authorisation of Mintails SA (Pty) Ltd: Mogale Gold's WUL for: <p>2. Water uses</p> <p>2.1 Section 21(a) of the Act: Taking of water from a water resource, subject to the conditions set out in Appendices I and II.</p> <p>2.2 Section 21(g) of the Act: Disposing of waste in a manner which may detrimentally impact on a water resource, subject to the conditions as set out in Appendices I and III.</p> <p>2.3 Section 21(i) of the Act: Altering the bed, banks, course or characteristics of a watercourse, subject to the conditions set out in Appendices I and IV.</p>	
35	22 November 2013	DMR (Mr Mabogo et al)	Request for report on inspection of Mintails' operations	
36	27 November 2013	WFS:CMF (DMR: Rudzani Mabogo, Jimmy Sekgale)	Minutes of the WFS:CMF records that the DMR was tasked to establish the ownership of Tudor Shaft and to provide the Forum with a list of ownerless and abandoned mines. (DWA reported that no water quality data were available since the DWA's laboratory contract with its service provider had expired.) DWA tasked to revive the RSC to address the remediation of the WFS.	
37	4 December 2013	Peter Kelly (DMR) Rudzani Mabogo (DMR)	FSE reported on: <ul style="list-style-type: none"> • tailings spillages • alleged non-compliance with Mintails' legally binding EMPR • massive open pit operations close to residential properties – no warning signs 	

		Mashudu Maduka (DMR)	The FSE requested an in loco inspection of alleged contraventions by Mintails' Randfontein operations.	
38	9 December 2013	DMR, DEA, DWA	Report on spillage in wetlands	
39	12 December 2013	DWA, WRDM, FSE	In loco inspection	
40	13 December 2013	Adv. Susan Malebe	Notice by the DMR to issue a directive, dated the 13 th December 2013. See also Notice by DWS to issue a directive, dated 23 rd of January 2014.	The mine was directed in terms of section 29(b) of the MPRDA to <i>“clean up all spillages of slimes long the pipe line route and dispose of it at the mine's tailing facility; extend culvert to each joint of the pipe line in order to limit incidents such as spills to the surrounding environment; collect all used pipes to the salvage yard and conduct clean-up operation on the pipe line route on regular basis and whenever there is a spill.”</i>
41	15 December 2013	Liz McCourt (DEA) Mashudu Maduka (DMR) Rudzani Mabogo (DMR) Frances Craigie (DEA) Ishaam Abader (DEA)	FSE's report on the in loco inspection, which was conducted on the 12 th of December 2013 of Mintails' operations by the FSE, the DWA, the WRDM and call for regulatory actions by the DMR, the NNR, the DWA and the DEA Urgent request for enforcement of environmental infractions.	
42	30 December 2013	DWA	REQUEST FOR THE REASONS FOR AUTHORISATION OF WATER USE LICENSE Applicant: Mintails Mining SA (Pty) Ltd. : Mogale Gold FILE NO: 27/2/2/C423/1/1	

43	5 January 2014	DMR	Letter by FSE alleging Mintails' non-compliance of its EMPR <i>inter alia</i> :
Objective/goal	Task	Timeframe	
<p>Accidental Leaks and spills - Suitable cleaning up after leaks and spills.</p> <p>(Page 150 of the EMPR)</p>	<p>Clean up all existing spillages around current mining footprints and along pipe-routes to remove current air, soil and water contamination sources.</p> <p>Construct bunds around slurry handling and transport corridors in sensitive areas to prevent the spread of contamination from future spillages and protect the safety of affected parties.</p> <p>Implement a policy of immediate (when practical) clean-up of spillages.</p> <p>Maintain routine inspection of slurry handling and transport corridors for leaks, spillages with immediate response procedures to minimise the occurrence and extent of spillages.</p> <p>Implement a preventative maintenance and replacement policy on slurry transport infrastructure to minimize the occurrence and extent of spillages.</p> <p>Special care should be taken during the mining phase to prevent surface stormwater rich in sediments and other pollutants from entering the natural drainage system.</p>	Throughout mining phase	
Spillages	<p>Clean-up of all existing spillages around current mining footprints and along pipe-routes.</p> <p>Construct bunds around slurry handling and transport corridors in sensitive areas.</p> <p>Implement a policy of immediate (when practical) clean-up of spillages.</p>	Immediately on existing spillages and ongoing on future spillages	

			<p>Maintain routine inspection of slurry handling and transport corridors for leaks/spillages with immediate response procedures.</p> <p>Implement a preventative maintenance and replacement policy on slurry transport infrastructure.</p>		
		Land use management (Page 165 of the EMPR)	Rehabilitation concurrent to deposition project.	Operational & closure phases	
		Radiation (Page 165 of the EMPR)	To determine radiation levels within communities and sensitive areas.	Construction, operational & closure phases.	
		Minimise and prevent dust and air pollution (Page 147 of the EMPR)	<p>Establish windbreaks, ridge plough and dust suppression systems to reduce dust emissions.</p> <p>Where possible, soil stockpiles shall be located in sheltered areas where they are not exposed to the erosive effects of the wind.</p> <p>Exposed soil and material stockpiles must be adequately protected against the wind.</p>	Throughout the mining phase.	
		<p>Ensure that incidents are recorded and remedial action is taken.</p> <p>Prevention of recurrence of similar incidents.</p> <p>(Page 139 of the EMPR)</p>	<p>The incidents must be handled appropriately and records must be kept of all incidents.</p> <p>Rehabilitation must commence as soon as possible after damage.</p> <p>Record all incidents should be sent to the ECO within 24 hours of the incident occurring. Photos should be taken of the incident and a comprehensive record must be taken of the incident and the corrective and preventative actions taken.</p> <p>All incidents should be investigated in association with the ECO. The cause should be highlighted and training should be provided to the workers to prevent a recurrence of similar incidents.</p>	Prior to and during mining phase.	



			<p>Prevention of erosion and sedimentation due to stockpiles.</p> <p>Preventing further loss of topsoil.</p> <p>(Page 143 of the EMPR)</p>	<p>The Contractors shall implement all appropriate soil conservation measures to prevent erosion (from wind or water) of the topsoil stockpiles e.g. temporary grassing or netting.</p>	<p>Prior to and during mining phase.</p>	
			<p>Safety – Ensure a safe working and healthy environment and to prevent worker (and members of the public) injuries.</p> <p>(Page 145 of the EMPR)</p>	<p>Erect signs and/or danger tape around the exposed excavations to warn the public of the inherent dangers.</p>		
44	7 January 2014	DMR Rudzani Mabogo, Adv. Malebe, Mashudu Maduka	<p>Letter by FSE to report on blasting and the protest by the community.</p> <p>Report by the FSE on a number of alleged infractions <i>inter alia</i>:</p> <ul style="list-style-type: none"> • Toxic and potentially radioactive spillages from Mintails’ current reclamation operations; and • impacts upon the Wonderfonteinspruit and Tweelopiespruit; • unfenced mining areas without warning signs, etc. 			


45	9 January 2014	Minister of Mineral Resources 'Ayanda.shezi@dmr.gov.za'; 'kholofelo.madisha@dmr.gov.za'; 'nsaka@parliament.gov.za'	Request for meeting with the Minister of Mineral Resources re Mintails' operations	
46	13 January 2014	Adv. Malebe, Rudzani Mabogo, Jimmy Sekgale, Mashudu Maduka (DMR) 'Tshoganyetso Mesefo' Tshoganyetso.Mesefo@dmr.gov.za 'Diphoko Modiselle' <Diphoko.Modiselle@dmr.gov.za>	Request for information in terms of the provisions of the PAIA namely: <i>"In respect of the mining rights which are held by Mintails Mining SA (Pty) Ltd. within the Mogale City-, Kagiso- and Randfontein Municipal Districts and the activities which are currently undertaken by Mintails Mining SA (Pty) Ltd. and/or any subsidiary or holding company of the aforementioned and/or any other entity associated with Mintails Mining SA (Pty) Ltd.:</i> a) <i>A copy of the rehabilitation plans.</i> b) <i>A copy of the financial provision for rehabilitation."</i>	
47	23 January 2014	DWS	Notice of Directive by DWS. An extract reads:	

		<p>The inspection has confirmed that there is a recurrence of pollution incidents due to mining operations. These pollution impacts pose an adverse impact on the water resources (Wonderfonteinspruit). The following observations are of concern:</p> <ol style="list-style-type: none"> i. Spillages of slurry and stockpiles are lying fallow along the servitude of the pipeline that conveys slurry from the CAMS dump to the Mogale Gold processing plant; ii. Discoloured reddish-brown water is found ponding around the areas affected by the spillages. iii. The pipelines conveying slurry/ related products which cross the storm water culvert at K13 road regularly experiences failure and the area is recorded as having experienced several pollution incidents (refer to monthly incident report compiled by Mintails SA (Pty) Ltd and/ or Mogale Gold); and iv. The storm water channel running parallel to Lancaster Dam is compromised due to accumulation of sediments from previous spillages and/ poor storm water management leading to sedimentation of the watercourse. <p>The Department is therefore of the opinion that the mine is not complying with the provisions of the NWA.</p> <p>In light of the above, I, Marius Keet, in my capacity as Regional Head (Acting): Gauteng of the Department of Water Affairs and duly authorised in terms of powers delegated to me by the Minister of Water and Environmental Affairs, hereby give you five (5) working days from receipt of this notice, to make a written representation to the DWA in the event that the above is incorrect.</p>	
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			<p>Failure to make such representation will result in the DWA issuing a directive in terms of Section 19(3) of the NWA which will require you to:</p> <ol style="list-style-type: none"> 1. Conduct a radioactivity survey to identify all areas with slurry spillages (historic and recent) as a result of the mine operation; 2. All mined out areas (open casts and/ or surface reclamation sites) must be remediated and rehabilitated concurrently where possible to ensure that there is minimal or no pollution impact on the water resources; 3. Submit remediation and rehabilitation plans accompanied by a method statement that is approved by an engineer and environmental officer for all areas identified in (1) and (2); 4. Develop a storm water management plan with civil designs approved by an engineer for all mining activities; 5. Develop a plan in consultation with relevant engineers to minimise pipeline failures and avoid further pollution from entering clean water systems and water resources; 6. Develop and implement a monitoring regimen within the Wonderfonteinspruit at suitable locations downstream of Lancaster Dam. The monitoring regimen must be for parameters listed in Table 1; 7. Submit the data of the monitoring programme stipulated in (6) on a monthly basis to the DWA; 8. Treat all tailings material which are as a result of spillages and mine operation to cyanide level of ≤ 0.5 mg/L and dispose into the West Wits Pit; and 9. As applicable, submit the above information within thirty (30) days of receipt of the intended Directive for approval by the DWA. 	
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			<p>Table 1: Parameters to be monitored</p> <table border="1"> <thead> <tr> <th>Variable</th> <th>Unit</th> </tr> </thead> <tbody> <tr><td>pH</td><td></td></tr> <tr><td>Electrical Conductivity (EC)</td><td>mS/m</td></tr> <tr><td>Total dissolved solids (TDS)</td><td>mg/L</td></tr> <tr><td>Suspended solids (SS)</td><td>mg/L</td></tr> <tr><td>Sulphate (as SO₄)</td><td>mg/L</td></tr> <tr><td>Total cyanide (as CN)</td><td>mg/L</td></tr> <tr><td>Calcium (as CaCO₃)</td><td>mg/L</td></tr> <tr><td>Chloride (as Cl)</td><td>mg/L</td></tr> <tr><td>Fluoride (as F)</td><td>mg/L</td></tr> <tr><td>Magnesium (as MgCO₃)</td><td>mg/L</td></tr> <tr><td>Sodium (as Na)</td><td>mg/L</td></tr> <tr><td>Aluminium (Al)</td><td>mg/L</td></tr> <tr><td>Boron (B)</td><td>mg/L</td></tr> <tr><td>Cadmium (Cd)</td><td>mg/L</td></tr> <tr><td>Copper (as Cu)</td><td>mg/L</td></tr> <tr><td>Iron (as Fe)</td><td>mg/L</td></tr> <tr><td>Lead (Pb)</td><td>mg/L</td></tr> <tr><td>Manganese (as Mn)</td><td>mg/L</td></tr> <tr><td>Nickel (Ni)</td><td>mg/L</td></tr> <tr><td>Mass Uranium (U)</td><td>µg/L</td></tr> <tr><td>Zinc (Zn)</td><td>mg/L</td></tr> </tbody> </table>	Variable	Unit	pH		Electrical Conductivity (EC)	mS/m	Total dissolved solids (TDS)	mg/L	Suspended solids (SS)	mg/L	Sulphate (as SO ₄)	mg/L	Total cyanide (as CN)	mg/L	Calcium (as CaCO ₃)	mg/L	Chloride (as Cl)	mg/L	Fluoride (as F)	mg/L	Magnesium (as MgCO ₃)	mg/L	Sodium (as Na)	mg/L	Aluminium (Al)	mg/L	Boron (B)	mg/L	Cadmium (Cd)	mg/L	Copper (as Cu)	mg/L	Iron (as Fe)	mg/L	Lead (Pb)	mg/L	Manganese (as Mn)	mg/L	Nickel (Ni)	mg/L	Mass Uranium (U)	µg/L	Zinc (Zn)	mg/L	
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48	5 February 2014	DWA, DEA (Francis Craigie, Ishaam Abader et al), DMR (Adv. Malebe, Messrs Mabogo and Sekgale, Ms Maduka), Council of Geoscience (Dr Henk Coetzee)	<p>NOTIFICATION OF THE FAILURE OF A DAM WALL AND ACID MINE WATER SPILLAGES INTO THE SOURCE OF THE WONDERFONTEINSPRUIT CATCHMENT AREA on the 1st of February, 2014. Request for an investigation and report on the matter.</p> <p>Report on the continued flows (appended) of clean rainwater into the Lancaster Dam (in contravention of GN 704) and the continued flows of contaminated water and slurry into the Wonderfonteinpruit.</p>																																													
49	6 February 2014	DMR: Section 54 Notice in terms of the Mine Health and Safety Act, 1996	<p>Meeting between DMR and Mintails re Lancaster-, Emerald, Princess and Main Reef open pits. Instructions to Mintails in written letter by F Nkuna, Acting Principal Inspector: Gauteng Region for appropriate control to protect people from open pit mining operations.</p> <p>Press statement by the DMR regarding Kagiso community protests against Mintails and meeting by the Minister of Mineral Resources with the Mayor of MCLM, and immediate appointment of technical experts to conduct an assessment.</p>																																													
50	8 February 2014	Mintails/Wonderfonteinpruit	The FSE's request to Mintails to comply with the following requirement in terms of its WUL:																																													

		Catchment Management Forum/DMR	<i>“The Licensee shall attend and actively participate in the Wonderfontein/Loopspruit catchment forum to which the Licensee must report and present all aspects of water management as contained in the conditions of this license such as compliance with the licence conditions and progress with all investigations in terms of this license or related studies...”</i>	
51	11 February 2014	Adv. Malebe, Jimmy Sekgale, Rudzani Mabogo, Mashudu Maduka (DMR)	Pursuant to Bloomsberg Report on radioactive mine dumps, request by the FSE for an investigation and intervention. 	
52	14 February 2014	DMR (Legal Services: D. Modiselle)	Granting of PAIA request for a copy of the rehabilitation plans of the financial provision for rehabilitation of GP 30/5/1/1/2/206MR but could not supply us with the rehabilitation plan and the rehabilitation funds since the DMR stated that this is still in negotiation. (Contact: Mashudu.Maduka@dmr.gov.za; rudzani.mabogo@dmr.gov.za; mmadikeledi.malebe@dmr.gov.za)	
53	18 February 2014	Adv. Malebe, Jimmy Sekgale, Rudzani Mabogo, Mashudu Maduka (DMR); Francis Craigie, Grant Walters, Ishaam Abader (DEA); DWA	Notification of toxic spillages from Mintails operations within a wetland. Request for an investigation and report. 	
54	23 March 2014	Mintails	External Audit Report by Dr Anthony Turton on Mintails' WUL (Janigraph (Pty) Ltd.)	

55	23 March 2014	DMR (Rudzani Mabogo, Mashudu Maduka, Adv. Malebe et al); Office of the Public Protector (Adv. Elsabe de Waal); DWS	N NOTIFICATION OF RECENT POLLUTION INCIDENCES BY MINTAILS SA (PTY) LTD. AND RECORDAL OF UNADDRESSED ENVIRONMENTAL INCIDENCES	
56	24 March 2014	Mintails (Dr Anthony Turton, consultant to Mintails)	<p>Site visit</p> <p>PHOTOGRAPHS TAKEN DURING THE IN LOCO SITE VISITATION OF MINTAILS' OPERATIONS WITH DR. ANTHONY TURTON (consultant to Mintails) ON THE 24TH OF MARCH 2014</p> <p>ISSUES OF CONCERN</p>  <p>North Sands Dump. Re-mining was not completed, either due to a lack of funding or due to the heterogeneity in the dump. In terms of the Council for Geoscience's Policy and Regulation for Mine Closure "Any new application to exploit mining residues should only be approved if it involves the</p>	

removal of an entire residue deposit and the rehabilitation of the remaining footprint. If this is not the case, rather than consolidating contaminated sites, the reprocessing activities result in the creation of two contaminated sites, where one previously existed.” (Reference: South Africa’s Challenges Pertaining to Mine Closure – The Concept of Regional Mining and Closure Strategies. D.M. van Tonder et al. Council for Geoscience, South Africa. ISBN 978-0-9804185-6-9.)



Frikkies Dam. Ageing pipeline infrastructure and spillages. Un-rehabilitated footprints of reclaimed tailings dams and re-mining of tailings dams which was not completed.

“The past practice of granting rights and authorization for the reprocessing of individual residue deposits may need to be reviewed insofar as it allows the selective extraction of value from portions of a site without ploughing some of that value back into the rehabilitation of the entire mining area. It must be accepted that the reprocessing of some mining residues will never be economically viable and that these will need to be transported to superdumps, if this is not too costly or rehabilitated in situ.” (Reference: South Africa’s Challenges Pertaining to Mine Closure – The Concept of Regional Mining and Closure Strategies. D.M. van Tonder et al. Council for Geoscience, South Africa. ISBN 978-0-9804185-6-9.)



Tailings spillages adjacent to a wetland, an “irreplaceable ecological site” and mortalities of amphibian species and invertebrates



Poor management and maintenance of pipeline infrastructure



Poor management and maintenance of pipeline infrastructure, and regular spillages adjacent to a wetlands.



Unremediated spillages adjacent to a wetlands



Poor maintenance and management of pipeline infrastructure.



Slurry spillages downstream of Lancaster Dam and into the Wonderfonteinspruit



Slurry spillages downstream of Lancaster Dam and into the Wonderfonteinspruit



Seepage and/or spillage of acidic mine water from the Lancaster Dam




Seepage and/or spillage of acidic mine water from the Lancaster Dam



Seepage and/or spillage of acidic mine water from the Lancaster Dam



Seepage and/or spillage of acidic mine water from the Lancaster Dam

			 <p>Headwaters of the Wonderfonteinspruit: Unlined trench on unrehabilitated footprint of a tailings dam carrying acidic water and slurry, past the Lancaster Dam Wall, into the Wonderfonteinspruit</p>	
57	27 March 2014	Mintails	Request for Closure and Rehabilitation Plan	
58	31 March 2014	DMR, DWS	<p>Notification that Mintails' open cast mining operations contribute to the recharge (and subsequent decant from) of the Western Basin Mine Void water (by increasing the number of opencast areas through which recharge occurs). (Expert opinion by Garfield Krige.)</p> <p>Notification of the legitimate concerns of affected communities regarding Mintails' operations (in some areas the open cast mining is 100 metres from their homes).</p> <p>Furthermore, Mintails' current mitigation of its ongoing toxic and potentially radioactive pipeline spillages is wholly inadequate. Mintails has merely covered over its toxic and radioactive spillages with soil and has not remediate the contaminated areas, which fall within the polluted Wonderfonteinspruit Catchment Area and wetlands of irreplaceable ecological status.</p>	



			Photographs, dated 30 March 2014. This is the condition of Malmani Rd at the point where the once dry Rietspruit crosses the road, several weeks after the heavy rains had stopped. Malmani Rd serves about 170 farm portions.	
59	25 May 2014	DMR, DWA, Office of the Public Protector (Adv. Elsabe de Waal)	<p>Criminal charges against Mintails by the FSE for non-compliances and alleged failure by the relevant organs of state to enforce the non-compliance of environmental legislation, and request for investigation by the Office of the Public Protector. An extract from the letter to the Office of the Public Protector is subjoined hereunder.</p> <p><i>“In terms of Dr. Anthony Turton’s, an advisor to Mintails SA (Pty) Ltd: Mogale Gold and an external auditor of Mintails’ Water Use License (WLU) , external audit report, the following non-compliances were recorded:</i></p> <ul style="list-style-type: none"> <i>-An Internal Audit has been completed but not yet signed off.</i> <i>· An External Audit had not been completed in the three month time-frame stipulated.</i> <i>· There is no Flow Metering for Lancaster Dam.</i> <i>· There is no current Report on the Structural Stability of West Wits Pit (WWP).</i> <i>· There is no formal Runoff Management Plan for Lancaster Dam.</i> <i>· Access Control across the entire mining rights area is weak.</i> <i>· Safety Notices across the entire mining rights area is weak.</i> <i>· The Water and Salt Balance is unlikely to be completed on time.</i> <i>· The recent heavy rains have shown that the whole issue of Lancaster Dam is not under full control.</i> <i>· There is no report entitled Backfilling of West Wits Pit on record as having been lodged with DWA and/or the WFS Forum.</i> <i>· There is no report entitled Record of Quantities of Water Used on record.</i> <i>· There is some uncertainty over the known Contamination of Groundwater.</i> <i>· The Storm Water Management Plan for both Lancaster Dam and the WWP is probably not compliant to the letter of the law. Particular attention is drawn to the stipulation that Lancaster Dam must be able to withstand a 1:100 year storm event</i> <i>· The Closure Plan inherent to MR 206 needs to be harmonized with the Integrated Water and Waste Management Plan and Rehabilitation Strategy and Implementation Plan.</i> <i>· No Alternative Water Supply has been developed.</i> <i>· The overall Management of Lancaster Dam is in need of attention, specifically insofar as its ability to capture pollution arising from an extreme event such as occurred in early 2014.</i> <i>· The Scope of Work (Investigation) is in need of attention.</i> 	

		<ul style="list-style-type: none"> · <i>The Methodology to Calculate Loads is in need of attention.</i> · <i>The Rehabilitation and Remediation Plan is in need of attention.</i> · <i>The adherence to GN 704, most notably with respect to the Tudor Dam case is in need of attention.</i> · <i>The development of Alternative Water Supplies is in need of attention.</i> · <i>The development of a comprehensive Rehabilitation Plan for WWP under the broad banner of Closure Mining that seeks inter alia to close out the mine void in perpetuity but also aligned with the Rehabilitation and Remediation Plan is in need of attention.</i> · <i>The development of a Post-closure Decommissioning and Monitoring System is in need of attention.</i> · <i>The development of a Master Plan communicated via the Stakeholder Engagement Strategy is in need of attention.</i> · <i>The appointment of a Qualified Person to oversee the management of Lancaster Dam is in need of attention.</i> · <i>The status of the Environmental Audit for Lancaster is in need of attention.</i> · <i>The Work Method Statement, Site Plans and Design Drawings for Lancaster Dam) is in need of attention.</i> · <i>The Commencement of Activities is in need of clarification.</i> · <i>The submission of Engineering Drawings for Lancaster Dam is in need of clarification.</i> · <i>The Water Quality Monitoring is in need of clarification.</i> · <i>The Biota and WESSA SASS Study need to be aligned with the Rehabilitation Plan for Lancaster Dam.</i> · <i>The Rehabilitation and Management via the Stakeholder Engagement Strategy is in need of attention.</i> · <i>The Concurrent Rehabilitation via the Stakeholder Engagement Strategy is in need of attention.</i> · <i>The absence of a Topsoil Stockpile is in need of clarification.</i> · <i>The Release of Rehabilitated via the Stakeholder Engagement Strategy is in need of attention.</i> · <i>The Photographic Record is in need of attention.</i> · <i>The Comprehensive Rehabilitation Program communicated via the Stakeholder Engagement Strategy is in need of attention.</i> · <i>The Wetland Management and Rehabilitation communicated via the Stakeholder Engagement Strategy is in need of attention.</i> · <i>The Notification of the Commencement of Licensed Activities is in need of attention.</i> · <i>The Environmental Assessment and Monitoring Program is in need of attention.</i> · <i>The Six Monthly Reports is in need of attention.</i> · <i>The appointment of a Responsible Scientist is in need of attention.</i> · <i>The procedure used to address Adverse communicated via the Stakeholder Engagement Strategy is in need of attention.</i> 	
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· *The Reporting of Pollution Incidents via the Stakeholder Engagement Strategy is in need of attention.*

In terms of the DWA’s pre-directive to Mintails (Ref. 16/2/7/C231/C040), dated the 23th of January, 2014, issued by the Regional Head (Gauteng) to Mintails SA (Pty) Ltd., the DWA confirmed that there is “recurrence of pollution incidents due to mining operations. These pollution impacts pose an adverse impact on the water resources (Wonderfonteinspruit). The following observations are of concern:

- i. *Spillages of slurry and stockpiles are lying fallow along the servitude of the pipeline that conveys slurry from the CAMS dump to the Mogale Gold processing plant;*
- ii. *Discoloured reddish-brown water is found ponding around the areas affected by the spillages.*
- iii. *The pipelines conveying slurry/related products which cross the storm water culvert at K13 road regularly experiences failure and the area is recorded as having experienced several pollution incidents (refer to monthly incident report compiled by Mintals SA (Pty) Ltd and/ or Mogale Gold); and*
- iv. *The storm water channel running parallel to Lancaster Dam is compromise due to accumulation of sediments from previous spillages and/[or] poor storm water management leading to sedimentation of the watercourse.*

“The Department is therefore of the opinion that the mine is not complying with the provisions of the NWA.”

In terms of the DMR’s pre-directive , dated the 13th of December 2013 and issued by the Regional Manager (Gauteng Region) of the DMR, Adv. Susan Malebe, to Mintails “the mine will still be directed in terms of section 29(b) of the MPRDA to:

- 1. *Clean up all spillages of slimes along the pipe line route and dispose it off at the mine’s tailing facility;*
 - 2. *Extend the culvert to each joint of the pipe line in order to limit incidents such as spills to the surrounding environment;*
 - 3. *Collect all used pipes to the salvage yard; and*
 - 4. *Conduct clean-up operation on the pipe line route on regular basis and whenever there is a spill;and*
- Aalso provide the FSE with the following information as requested during investigation: The FSE asked for any copy of comments and response report from the mine; Geotechnical analysis results from an accredited laboratory.”*

In view of the above-mentioned non-compliances recorded by Dr. Turton of Mintails' Water Use License and the failure of the DWA to enforce these non-compliances and the non-compliances with the terms and conditions of the DWA's and DMR's pre-directives and the failure by the DMR and the DWA to enforce these non-compliances, the FSE is now compelled to lay criminal charges against Mintails (Mogale Gold Pty Ltd) (REFERENCE NUMBER CAS89/6/2014) and to report this matter to the Office of the Public Protector. (REFERENCE NUMBER: 7/2 - 5844/14)



Criminal charges laid against Mintails for environmental noncompliance

Mintails

Photo: Duane Daws



By: **Natalie Greve**

26th May 2014

TEXT SIZE



		<p>JOHANNESBURG (miningweekly.com) – Environmental lobby group the Federation for a Sustainable Environment (FSE) has laid criminal charges against tailings extractor Mintails for noncompliance to its integrated water use licence (WUL) for its West Rand-based retreatment operations, saying it will also report the matter to the Office of the Public Protector for investigation.</p> <p>According to the group, a March audit by Mintails adviser and environmental risk analyst Dr Anthony Turton of the company’s WUL revealed several areas of noncompliance.</p> <p>FSE claimed in a document that these included the lack of a formal runoff plan for the Lancaster dam, uncertainty around the contamination of groundwater, the lack of a mine closure plan that was harmonised with the integrated water and waste management plan and rehabilitation strategy, the nonidentification of an alternative water supply and the lack of a comprehensive rehabilitation plan for the West Wits pit.</p> <p>Moreover, a predirective issued to Mintails by the Department of Water Affairs (DWA) on January 23 had confirmed that there was a recurrence of pollution owing to mining operations, which posed an adverse impact on local water resources.</p> <p>Identifying areas of concern, the report noted spillages of slurry and stockpiles that were lying fallow along the servitude of the pipeline that conveyed slurry from the dump to the Mogale Gold processing plant.</p> <p>The directive further noted that discoloured reddish-brown water had been found ponding around the areas affected by the spillages.</p> <p>In addition, the pipelines conveying slurry and related products across a storm water culvert “regularly experienced” failure and the area was recorded as having experienced several incidents of pollution.</p> <p>The directive stated that the stormwater channel running parallel to Lancaster dam had been compromised owing to the accumulation of sediments from previous spillages and/or poor storm water management, leading to sedimentation of the watercourse.</p>	
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			<p>“The department is, therefore, of the opinion that the mine is not complying with the provisions of the National Water Act,” it stated.</p> <p>This followed an earlier predirective issued to Mintails by the Department of Mineral Resources (DMR) on December 13, 2013, which directed the mine to “clean up all spillages of slimes along the pipeline route and dispose of it at the mine’s tailings facility”, in accordance with of Section 29(b) of the Mineral and Petroleum Resources Development Act.</p> <p>The mine was also ordered to extend the culvert to each joint of the pipeline to limit incidents, such as spills to the surrounding environment, and conduct a regular clean-up operation on the pipeline route whenever there was a spill.</p> <p>“In view of the above-mentioned noncompliances recorded by Dr Turton of Mintails’ WUL and the failure of the DWA to enforce these noncompliances within the terms and conditions of the DWA’s and DMR’s predirectives, the FSE is now compelled to lay criminal charges against Mintails and to report this matter to the Office of the Public Protector,” FSE CEO Mariette Liefferink said in a statement on Monday.</p> <p>Edited by: Tracy Hancock</p>	
60	3 June 2014	<p>DMR (Rudzani Mabogo et al), DWA, MCLM, DEA</p> <p>DEA (Grant Walter, Marie Louise Lume, Ishaam Abader, Francis Craigie); Office of the Public Protector (Adv. Elsabe de Waal)</p>	<p>Remediation Steering Committee Meeting: Remediation of the Wonderfonteinspruit Catchment Area (see attached Minutes and TOR) as it pertains to Mintails</p> <p>Criminal charges laid at the Krugersdorp Police Station against Mintails. See subjoined Affidavit. REFERENCE NUMBER CAS89/6/2014 STATION CONTACT DETAIL: 011 9511111</p> <p style="text-align: center;">STATEMENT UNDER OATH</p> <p style="text-align: center;">1</p>	

I, Mariette Liefferink, age 61 years, ID no. 5304240031089, residing at: 8 Palladio, Corner of Ryk Street and Roux Avenue, Beverley Gardens, RANDBURG, 2194, cell no. 073 231 4893, in my capacity as the Chief Executive Officer of the Federation for a Sustainable Environment, Postnet Suite 87, Rivonia, 2128, tel no. (011) 787 7965 hereby take oath and submit:

2

I am an adult with the above-mentioned details. This declaration is submitted in my capacity as Chief Executive Officer of the Federation for a Sustainable Environment (“the FSE”), a non-profit organisation with the registration number 2007/003002/08 and NPO Number 062986. The FSE is a federation of community based civil society organisations committed to the realisation of the constitutional right to an environment that is not harmful to health or well-being, and to having the environment sustainably managed and protected for future generations. Their mission is specifically focussed on addressing the adverse impacts of mining and industrial activities on the lives and livelihoods of vulnerable and disadvantaged communities who live and work near South Africa’s mines and industries.

3

The Bill of Rights in the Constitution of the Republic of South Africa (Act 108 of 1996) (“the Constitution”) affords the right *inter alia* to the right to freedom of expression, the right to assemble, to demonstrate, to picket and to present petitions, the right to the freedom of association, the right to life and the right to human dignity, the right to sufficient water, the right to information and just administrative action but more specifically, in terms of section 24, the right to an environment that is not harmful to health and well-being. This right includes the duty upon the State to protect the environment against, *inter alia*, pollution.

4

Article 34 of the Constitution determines that every person has the right to access to the Courts in order to have a dispute heard by means of a fair public hearing. Article 38 of the Constitution determines that any person may act on (a) his own behalf; (b) on behalf of a group or class of persons (d) or in the interest of the public if a right contained in the Bill of Rights (in the case under consideration – Section 24) has been infringed upon.

5

I am of the firm and deliberate opinion, in terms of the above-mentioned facts as well as in terms of article 32 of the National Environmental Management Act (No 107 of 1998) (“the NEMA”), that I am entitled to submit this complaint on behalf of the FSE. Article 32 of the NEMA determines that any

		<p>person or group of person may request the appropriate legal assistance with reference to any infraction of the said Act or with reference of any specific environmental management act, or of any other statute pertaining to the protection of the environment or the use of natural resource or on his or her own behalf, or on behalf of a class or group of persons affected or on behalf of the environment or on behalf of the public.</p> <p style="text-align: center;">6</p> <p>The National Water Act (36 of 1998) (“the NWA”) is a Specific Environment Management Act (SEMA)². This means that any authorisation sought in terms of the NWA is an Environmental Authorisation under NEMA.³</p> <p style="text-align: center;">6.1</p> <p>In terms of section 151(1) of the NWA:</p> <p>No person may, <i>inter alia</i>:-</p> <ul style="list-style-type: none"> •fail to comply with a directive issued under section 19, 20, 53 or 118; •unlawfully and intentionally or negligently commit any act or omission which pollutes or is likely to pollute a water resource; •unlawfully and intentionally or negligently commit any act or omission which detrimentally affects or is likely to affect a water resource. 	
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² “Specific environmental management Act” means-

- (a) the Environment Conservation Act, 1989 (Act No. 73 of 1989);
- (b) the National Water Act, 1998 (Act No. 36 of 1998);
- (c) the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003);
- (d) the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004); or
- (e) the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004), and includes any regulation or other subordinate legislation made in terms of any of those Acts;

[Definition of “specific environmental management Act” inserted by s. 1 of Act 8/2004 and substituted by s. 3 of Act 44/2008]

³“Environmental authorisation”, when used in Chapter 5, means the authorisation by a competent authority of a listed activity or specified activity in terms of this Act, and includes a similar authorisation contemplated in a specific environmental management Act;

[Definition of “environmental authorisation” inserted by s. 1 of Act 8/2004], [Definition of “environmental authorisation” substituted by s. 1 of Act 62/2008]

6.2

In terms Section 19 of the NWA:

- (1) “An owner of land, a person in control of land or a person who occupies or uses the land on which-
 - (a) Any activity or process is or was performed or undertaken;
 - (b) or any other situation exists,
 - (c) which causes, has caused or is likely to cause pollution of a water resource, must take all reasonable measures to prevent any such pollution from occurring, continuing or recurring.
- (2) The measures referred to in subsection (1) may include measures to-
 - (a) Cease, modify or control any act or process causing the pollution,
 - (b) Comply with any prescribed waste standard or management practice;
 - (c) Contain or prevent the movement of pollutants;
 - (d) Eliminate any source of the pollution;
 - (e) Remedy the effects of the pollution; and
 - (f) Remedy the effects of any disturbance to the bed and banks of a watercourse.”

6.3

In terms of GN 704 of 4 June 1999 (Regulations on Use of Water for Mining and Related Activities Aimed at the Protection of Water Resources):

7. “Every person in control of a mine or activity must take reasonable measures to-
 - (a) Prevent water containing waste or any substance which causes or is likely to cause pollution of a water resource from entering any water resource, either by natural flow or by seepage, and must retain or collect such substance or water containing waste for use, re-use, evaporation or for purification and disposal in terms of the Act:
 - (b) Design, modify, locate construct and maintain all water systems, including residue deposits, in any area so as to prevent the pollution of any water resource through the operation or use thereof and to restrict the possibility of damage to the riparian or in-stream habitat through erosion or sedimentation, or the disturbance of vegetation, or the alteration of flow characteristics.
 - (e) Prevent the erosion or leaching of materials from any residue deposit or stockpile from any area and contain material or substances so eroded or leached in such area by providing suitable barrier dams, evaporation dams or any other effective measures to prevent this material or substance from entering and polluting any water resources.

		<p>8. Every person in control of a mine or activity must-</p> <p>(a) cause any impoundment or dam containing any poisonous, toxic or injurious substance to be effectively fenced-off so as to restrict access thereto, and must erect warning notice boards at prominent locations so as to warn persons of the hazardous content thereof.</p> <p style="text-align: center;">6.4</p> <p>In terms of Section 28 (1) of the NEMA:</p> <p>(1) “Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment.”</p> <p style="text-align: center;">7</p> <p>I ground my complaint on the abovementioned laws and provisions and request appropriate legal assistance in the form of a criminal investigation and if necessary, prosecution. My request is a <i>bona fide</i> request and according to the facts as detailed hereunder. If no prosecution will be instituted, I respectfully request to be supplied with detailed reasons for the decision. I furthermore request to be furnished with copies of the docket, the costs of which I shall carry, in order to exercise my rights and in order for me to decide whether or not a private prosecution in terms of article 22 should be pursued.</p> <p style="text-align: center;">8</p> <p>Mintails SA (Pty) holds two Mining Licenses namely ML 12/2003 and ML 9/2000. Mintails SA (Pty) Ltd. (Mintails) acquired Mogale Gold (Pty) Ltd. in the late 2005 and recommissioned the original gold processing plant in 2006. The area where Mintails operates is collectively referred to as the Randfontein Cluster and include the reprocessing of 1L23-25, 1L13-15, 1L28, and South Sand reserves, secured from DRD GOLD (Pty) LTD. A Water Use License was issued to Mintails on the 22nd of November 2013. In terms of its consolidated Environmental Management Programme Report (EMPR): “The operations... have the potential to contribute meaningfully to the social, economic and environmental aspects of the Krugersdorp/Kagiso and Randfontein areas. From an environmental perspective, the reclamation and subsequent removal of dumps from the Randfontein Cluster will release tracts of land previously used for mining between Mogale City, Kagiso and Randfontein allowing for consolidation of the urban hub and alleviating peripheral urban sprawl into agricultural areas” (Nesbitt 2013).</p>	
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However, the reality on the ground appears to be different as this mining operation is currently in non-compliance with its legally binding EMPR and its Water Use Licence (WUL) (Malebe 2013; Turton 2014; DWA 2014). Numerous news media articles have highlighted the issues (Bega 2014, Faku 2014, Matthews 2014, Myburgh 2014, SAPA 2014a, SAPA, 2014b, Wolmarans 2014).


Tailings within the Randfontein Cluster are hydraulically reclaimed from historical tailings storage facilities and the slurry is pumped in pipeline structures to the gold treatment plant which is located a number of kilometres from the historical tailings storage facilities (Nesbitt 2013). The residue is deposited in the unlined West Wits Pit, which has holings as a result of historical mining (Van Tonder & Coetzee 2008). Partially treated AMD from the West Wits Pit is used in the reclamation operations. Pipeline spillages frequently occur along the entire pipeline route (Turton 2014). The spillages impact upon public areas, the headwaters of the Wonderfonteinspruit, a tributary of the Vaal River, which flows into the Boskop Dam, Potchefstroom's main water reservoir, and wetlands, of ecological importance (Turton 2014).

Furthermore, the now desiccated Tudor Dam (located directly in the course of the Wonderfonteinspruit as main stream draining the area) was mined by the above-mentioned mining company to recover gold from the sediments that have accumulated as a result of past mining practices considered inefficient by today's standards (Van Veelen et al. 2009). The soils and sediments at the site, after re-mining operations stopped, contain a concentration of 8 000 – 10 000 Bq/kg U²³⁸ and 1700 – 2800 Bq/kg Ra²²⁶. The regulatory limit is 500 Bq/kg (Van Veelen et al. 2009). The mine was directed by the Department of Water Affairs (DWA) to immediately remediate the Tudor dam site or alternatively fence off all licensed areas and make it off limits to the public until such time as the site is rehabilitated. This did not happen (Turton 2014). The wetlands downstream of Tudor Dam also contain high activity concentrations of U and Ra, at 2 000Bq/kg for U²³⁸ and 1200 Bq/kg for Ra²²⁶ (Van Veelen et al. 2009). The sediments of the wetlands have been disturbed as a result of the mining practices at Tudor Dam. During mining the Mine was responsible to contain this material but failed to do so (Van Veelen et al. 2009).

It was stated in the DWA's Report (April 2009) that "*the Mine is in violation of its Water Use License at the Lancaster Dam*". The Lancaster Dam is considered to be an acutely toxic acidic dam. There is visible seepage of slimes from the Lancaster Dam into the stream which forms the upper Wonderfonteinspruit (Van Veelen et al. 2009).

The supporting documentation, which I append hereto, provides prima facie evidence of the above-mentioned alleged non-compliances.

9.

			<p>I wish to notify the South African Police that there are a number of provisions, e.g. article 332 of the Criminal Procedure Act and article 34(5) of Act 107 of 1998 which makes provision for the prosecution of the company and its directors in their private capacity. In the abovementioned case I am of the firm opinion that the directors of the company are well informed of the alleged non-compliances and violations.</p> <p style="text-align: center;">9.</p> <p>I know and understand the contents of this statement.</p> <p style="text-align: center;">10.</p> <p>I don't have any objection in taking the prescribed oath.</p> <p style="text-align: center;">11.</p> <p>I consider the prescribed oath to be binding on my conscience.</p> <p style="text-align: center;"></p> <p>Deponent's Signature</p> <p>June 2014</p>	
61	10 June 2014	News media reports	<p>Mining Weekly</p> <p>Criminal charges laid against Mintails for environmental noncompliance</p> <p>Written by Natalie Greve Monday, 26 May 2014 21:20</p> <p>JOHANNESBURG (miningweekly.com) – Environmental lobby group the Federation for a Sustainable Environment (FSE) has laid criminal charges against tailings extractor Mintails for noncompliance to its integrated water use licence (WUL) for its West Rand-based retreatment operations, saying it will also report the matter to the Office of the Public Protector for investigation.</p>	

		<p>According to the group, a March audit by Mintails adviser and environmental risk analyst Dr Anthony Turton of the company’s WUL revealed several areas of non-compliances.</p> <p>FSE claimed in a document that these included the lack of a formal runoff plan for the Lancaster dam, uncertainty around the contamination of groundwater, the lack of a mine closure plan that was harmonised with the integrated water and waste management plan and rehabilitation strategy, the nonidentification of an alternative water supply and the lack of a comprehensive rehabilitation plan for the West Wits pit.</p> <p>Moreover, a predirective issued to Mintails by the Department of Water Affairs (DWA) on January 23 had confirmed that there was a recurrence of pollution owing to mining operations, which posed an adverse impact on local water resources.</p> <p>Identifying areas of concern, the report noted spillages of slurry and stockpiles that were lying fallow along the servitude of the pipeline that conveyed slurry from the dump to the Mogale Gold processing plant. The directive further noted that discoloured reddish-brown water had been found ponding around the areas affected by the spillages.</p> <p>In addition, the pipelines conveying slurry and related products across a storm water culvert “regularly experienced” failure and the area was recorded as having experienced several incidents of pollution. The directive stated that the stormwater channel running parallel to Lancaster dam had been compromised owing to the accumulation of sediments from previous spillages and/or poor storm water management, leading to sedimentation of the watercourse.</p> <p>“The department is, therefore, of the opinion that the mine is not complying with the provisions of the National Water Act,” it stated.</p> <p>This followed an earlier predirective issued to Mintails by the Department of Mineral Resources (DMR) on December 13, 2013, which directed the mine to “clean up all spillages of slimes along the pipeline route and dispose of it at the mine’s tailings facility”, in accordance with of Section 29(b) of the Mineral and Petroleum Resources Development Act.</p> <p>The mine was also ordered to extend the culvert to each joint of the pipeline to limit incidents, such as spills to</p>	
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the surrounding environment, and conduct a regular clean-up operation on the pipeline route whenever there was a spill.

“In view of the above-mentioned noncompliances recorded by Dr Turton of Mintails’ WUL and the failure of the DWA to enforce these noncompliances within the terms and conditions of the DWA’s and DMR’s predirectives, the FSE is now compelled to lay criminal charges against Mintails and to report this matter to the Office of the Public Protector,” FSE CEO Mariette Liefferink said in a statement on Monday.

Edited by: Tracy Hancock

The Citizen

National 10.6.2014 08:00 am

Gold group lambasted

Ernest Wolmarans



Environmental activist Mariette Liefferink points out an area affected by the decant of acid mine drainage, 27 March 2014, near Mintails Mogale Gold, near Krugersdorp. Picture: Michel Bega

		<p>An environmental and civil rights group has implicated a West Rand-based gold mining company in several alleged contraventions of environmental legislation.</p> <p>Federation for a Sustainable Environment (FSE) CEO Mariette Liefferink laid charges against Mintails last week after months of animated interaction regarding alleged non-compliance with, among others, the National Environmental Management Act and the National Water Act.</p> <p>Mintails mines mine dumps left in the West Rand to derive its gold output, which is then fed to its processing gold plants near Krugersdorp.</p> <p>The company then aims to rehabilitate the land, returning it for other use to the surrounding community.</p> <p>Mintails CFO Eddie Milne said at the time the company was well aware of its environmental responsibilities but that it did not have the resources to perform rehabilitation on the scale that Liefferink envisioned, given the stringent deadlines proposed.</p> <p>“We’re dealing with decades of historical issues in this area, including uncontrolled decant of acid mine drainage (AMD) prevalent from as far back as 2002. It takes significant time and significant resources,” he said.</p>	
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Pipes carrying heavy metal-laden sludge to and from the Lancaster Dam are seen 27 March 2014, in the Krugersdorp area. Spillages are common along the pipeline, managed by Mintails Mogale Gold plant, owing to ageing infrastructure. Picture: Michel Bega

In response yesterday, Milne said the company was yet to see details of the FSE’s complaints and could not comment further without having first seen the documents and seeking legal advice.

“We are, however, in full agreement with the FSE that the environment needs cleaning up and that we must remain accountable for environmental liabilities within the law,” he said.

In an affidavit submitted to the police, Liefferink claimed the company “intentionally or negligently” polluted water sources and the environment.

Partially treated AMD from the nearby Trans Caledon Tunnel Authority plant is deposited here and used by Mintails in high-pressure water canons to blast through mine dumps.

Liefferink had noted several spillages along the “entire pipeline route”.

			<p>“The spillages impact on public areas, the headwaters of the Wonderfonteinspruit, a tributary of the Vaal River ... Potchefstroom’s main water reservoir and wetlands are of ecological importance,” Liefferink wrote.</p> <p>She also claimed that the desiccated Tudor Dam, previously mined by Mintails, now contained levels of uranium and radium well above regulatory limits, and that the company was yet to honour a Department of Water Affairs directive “to immediately remediate the dam or fence off all licensed areas”.</p> <p>External auditor Dr Anthony Turton last week vehemently denied Mintails’ criminal culpability, saying internal administrative processes and incompatibility of different legislation were largely to blame for the company’s compliance issues.</p>	
62	12 June 2014	DWS, DMR (Tlaila Moleseng)	Wonderfonteinspruit Catchment Management Forum Meeting: Minutes	
63	18 June 2014	DWA; DMR (Adv. Malebe et al); DEA; NNR	<p>Notification of new spillages from Mintails’ pipeline route, that is, the pipeline transporting slurry contain toxic and potentially radioactive material, from the CAMS Dump to the gold treatment plant.</p> <p>During the tour I conducted with the Legal Resource Centre, engineers of MINTEK and DRA (please see appended photographs) on the 13th of June, 2014, we observed new spillages. It is not to be expected that the spillages will stop since the pipes are highly corroded and poorly installed and maintained.</p> <p>Furthermore, berms of crushed rock have been established on both sides of the pipeline route. We respectfully request the NNR to disclose whether or not the rock has been cleared of radioactivity. We also express concern that some of the rocks are deposited in the wetlands. It may result in acid rock drainage. The area falls within the Upper Wonderfonteinspruit Catchment Area.</p> <p>Request for the DEA, DWA, DMR and the NNR to conduct an investigation and to report on this matter.</p>	
64	25 June 2014	NNR	Concerns raised by the FSE pertaining to Mintails’ operations and response by the NNR in September 2014.	<p>Investigation Report by the NNR titled “<i>NNR Response to concerns raised by the FSE, July 2014</i>” which was submitted in September 2014.</p> <p>Of importance is the following extract from the Report:</p> <p><i>“11. Way forward</i></p>

				<p><i>Notwithstanding all of the above, the NNR has recently completed a remediation strategy for managing the remediation of sites contaminated by events of historical nature that is events that cause radiological contamination before the NNRA was in place. The NNR has also completed a document on remediation criteria and a proposed funding model.</i></p> <p><i>The NNR is in the process of updating legislation and regulations to, amongst other be aligned with international best practice.</i></p> <p><i>The NNR wants to ensure you that care will be taken that these issues will be managed effectively as a major urgency. NNR staff is dedicated to resolve these issues. The NNR is a responsible regulator and will do everything in its power to fulfil its functions and mandate to the best of its abilities.”</i></p>
65	7 July 2014	DEA, DMR, DWA, NNR, Office of the Public Protector (PPSA)	<p>Notification to the Office of the Public Protector, the news media, the DEA, the DMR, the NNR and the DWA of ongoing toxic and potentially radioactive spillages from Mintails’ pipelines.</p> <p>Notification of new spillages from Mintails’ operations and un-remediated spillages.</p> <p>Report on Mintails’ deposition of crushed rock within wetlands and once more, request for an investigation into whether the crushed rock was cleared by the NNR and an assessment regarding the impacts of the crushed rock, containing iron pyrite, on the contribution of acid rock drainage, on the Upper Wonderfonteinspruit. My previous requests were not responded to.</p> <p>Thirdly, with reference to Mintails’ significant open cast mining operations with the Randfontein/Krugersdorp area, I, on behalf of the FSE, hereby allege that Mintails SA (Pty) Ltd. failed to stockpile topsoil and to ensure that the topsoil stockpiles are clearly and permanently demarcated and located in defined no-go areas.</p> <p>Request why there is no action taken against Mintails SA (Pty) Ltd. by the relevant organs of state for its environmental non-compliances.</p>	

66	25 July 2014	Office of the Public Protector	Site visit of Mintails' operations (REFERENCE NUMBER: 7/2 - 5844/14) with Mr Mashaba Matimolane <Mashabam@pprotect.org>
67	5-6th of August 2014	Inspection of Mintails' Operations	<p>Inspection Report by the DWS.</p> <p>The Inspection Report found:</p> <ul style="list-style-type: none"> • The current EMP had to be amended • Operations of the Princess Pit and the Emerald open cast mining operations were suspended pending the revision and approval of the EMP • Mogale Gold was expected to conduct an internal and external audit within 3 months of the issuance of the WUL, which was in November 2013 • The WUL was issued without a licence number • The Lancaster Pit Opencast Operations have no notices and the fencing around the pit is inadequate (please refer to GN704 of 4 June 1999, section 8(a)) • The above ground surface pipeline which transfers slurry from CAMS dump to the Mogale Gold Metallurgical plant has experienced regular spillages and failures. There was evidence of dried up material resulting from slurry spillages on pipelines in the area classified as a wetland • The material used to construct a bund wall is waste rock emanating from open cast mining activities (please refer to GN704, section 5, section 7(a)). The paddocks built from rock dump emanating from open cast mining operations are made of porous material hence the protective measure in place is not adequate to prevent pollution • The pipeline crosses a wetland

			<ul style="list-style-type: none"> • The Lancaster Dam is being recharged by stormwater (please refer to GN704 of 4 June 1999, section 6(a);(b);(c);(d)) • The Lancaster Dam is unable to carry all the stormwater during rainfall events • There was no report on the investigation of fissures or cracks around the Walls of the West Wit Pit in place or proof thereof (Condition 2.4 of the WUL) • The surface water is not monitored on a monthly basis (Condition 3.1 of the WUL) • The time of collection of water samples is not recorded (Condition 3.3 of the WUL) • There is currently no stormwater management measures being implemented to ensure that stormwater leaving the premises, particularly Lancaster dam area is not contaminated. Implementation of stormwater management around Lancaster dam will be implemented according to “Lancaster Dam Management Plan”, dated the 14th of May 2014 (Condition 6.1) • The water balance does not include all the input and output components as per the requirements of Department BPG G2 on Water and Salt Balance (Condition 12.15 of the WUL) • The impact of the Mine’s water abstraction on the yield of the relevant boreholes are not monitored and the measures to provide alternative water supply were not put in place (Condition 12.20 of the WUL) • There was no proof of submission of the conceptual groundwater model done to investigate the source and extent of plume migration (Condition 12.22) • There was no proof of assessment and/or quantification of the ingress rate of seepages into the mining voids due to disposal of tailings into the West Wits Pit (Condition 12.26) 	
68	11 August 2014	DMR: Directive	NOTIFICATION OF COMMENCEMENT WITH REHABILITATION ACTIVITIES OF THE MINING AREA GP 30/5/1/2/3/2/1133 EM- EAST CHAMP D'OR AREA. The notification by Mintails reads:	

			<p><i>"Mintails has been issued with a directive by the Inspector of Mines to rehabilitate the East Champ d 'Or mining right area . This is being done to curtail the current illegal mining activities being undertaken within the area . The rehabilitation and mining of the area will be conducted through mining out the surface pillars and open holings which are being ex ploited by the illegal miners within the area."</i></p>	
69	17 August 2014	Office of the Public Protector	<p>Submission of summary of complaints pertaining to Mintails. The subheadings of the submission are as follows:</p> <p>Against Whom MINTAILS SA (PTY) LTD</p> <p>For What</p> <ul style="list-style-type: none"> • Failure to implement and enforce the implementation of the recommendations and findings of the <i>Remediation Action Plan of the Wonderfonteinspruit Catchment Area (WCA) (2009)</i> by the National Nuclear Regulator and the Department of Water Affairs pertaining to Tudor Dam and Lancaster Dam within the Headwaters of the Wonderfonteinspruit and the Upper Wonderfonteinspruit • Failure to take regulatory decisions on the findings and recommendations of the Water Research Commission Report No 1214/1/06 titled <i>"An assessment of sources, pathways, mechanisms and risks of current and potential future pollution of water and sediments in gold mining areas of the Wonderfonteinspruit catchment"</i>; • Failure to take regulatory decisions on the findings and recommendations NNR Report – TR-RRD-07-0006 – <i>"Radiological Impacts of the Mining Activities to the Public in the Wonderfonteinspruit Catchment Area"</i>; • Failure to take a regulatory decision on the findings of the Department of Minerals and Energy's Regional Mine Closure Strategy for the West- and East Rand goldfield (2008); • Failure to enforce Mintails SA (Pty) Ltd's non-compliance with the terms and conditions of the Water Use Licence in terms of the external audit report; • Failure to enforce Mintails SA (Pty) Ltd's non- compliance with its legally binding Environmental Impact Assessment/Environmental Management Programme (GP 30/5/1/2/3/2/1(132) EM), dated October 2009 and updated in April 2011 and approved by the Chief Director Western Regions of the Department of Mineral Resources on the 26th of June 2013; • Failure to take regulatory decisions on the findings of peer reviewed academic reports in support of the findings of the Gauteng Department of Agriculture and Rural Development-, Department of Minerals and Energy-, the Water Research Commission- and National Nuclear Regulator's Reports; 	The DWS submitted an Action Plan to the Office of the Public Protector.

			<p>Who was supposed to do what Based on what In terms of which Acts</p> <p>The DWS submitted the subjoined Action Plan to the Office of the Public Protector in response to the FSE's concerns.</p>	
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APPENDIX 1: Action plan responding to the FSE concerns
Table 1

Matter	Intervention	Progress/ timeframe
Water management at Lancaster Dam by Mintails SA	DWS to engage Mintails SA to establish storm water management and remediation plans for Lancaster Dam. An action plan to show tangible and incremental progress is required.	<ul style="list-style-type: none"> i. Ongoing engagement with Mintails SA and other stakeholders impacting the Lancaster Dam. ii. Mintails SA has implemented measures to reduce inflows into Lancaster Dam (ongoing). iii. Mintails SA has informed DWS of proposed remediation for Lancaster Dam (estimated 2 years before all reclamation around Lancaster Dam is concluded allowing for remediation to commence).
WFS water quality concerns	DWS to do analyses of water quality to obtain a comprehensive and updated scenario of water quality in the WFS	<ul style="list-style-type: none"> i. Water quality monitoring is ongoing. ii. Water users are reporting monitoring results at WFS Forum (quarterly basis). iii. DWS to expand monitoring programme/ conduct ad hoc sampling in new areas around Lancaster Dam and/ or WFS perceived to have high pollution (awaiting formalisation of fixed-term contract with accredited laboratory service provider).
Tailings spillages by Mintails SA	DWS to engage Mintails SA to establish progress and timeframes for remediating spillage-affected sites. An action plan to show tangible and incremental progress is required.	<ul style="list-style-type: none"> i. Ongoing engagement with Mintails SA to monitor remediation progress following and spillage incidents. ii. Mintails SA submits close-out reports once spillages are remediated. iii. DWS conducts inspections to verify actual progress and duly addresses any concerns with Mintails SA.
Open-cast pits – safety issues	<ul style="list-style-type: none"> i. DWS to inform Department of Mineral Resources (DMR) to intervene. ii. Community awareness must be raised. 	<ul style="list-style-type: none"> i. DWS has informed the DMR of this matter. The DMR has since intervened and there has been engagement between Mintails SA and the DMR. ii. DWS to promote community awareness through the WFS Forum (going forward from the quarter 3 and 4 WFS Forum for 2015).
Tudor Shaft informal settlement	Department to engage relevant Organs of State and political structures (Gauteng MECs) with the view to assist the Tudor Shaft community relocation to a site suitable for human habitation.	<ul style="list-style-type: none"> i. Action currently underway. Local Government (Mogale City Local Municipality) has initiated measures and is in the process of planning the relocation of the affected community to a suitable site. ii. The Department of Environmental Affairs has also initiated a study to establish risks to the affected community (study projected for finalisation by August 2015).

70	26 August 2014	CEO:Mintails	In loco inspection of Mintails' operations. See report and recordal.	
71	4 September 2014	DWA, DMR	Kromdraai Executive Forum Meeting: Comments pursuant to the Meeting. See Agenda Point 8.1 pertaining to Mintails	
72	11 September 2014	DWA, DMR (Rudzani Mabogo)	Wonderfonteinspruit Catchment Management Forum: Minutes – see sections pertaining to Mintails. FSE's request for inclusion of the following items in the next Forum Meeting: <i>d. Point 6.1.1: The FSE respectfully requests the DWS to advise, grounded upon an assessment by DWS, whether or not Mintails' extensive open cast mining operations within the West Rand Basin contributes to the ingress of water into the West Rand Basin (void) and to the increase in decant.</i> <i>e. Point 6.1.2: The FSE requests a discussion on whether or not the reporting of pollution incidents supersedes the NWA's requirement for the prevention of and the continuance and recurring incidences of pollution incidents.</i> <i>l. Point 6.3: "Nitrate showed a spike at Luipaardsvlei". The FSE request clarification whether the spike in nitrate is related to Mintails' blasting activities.</i> <i>m. Point 7.2.4: "Mintails. There were 3 pollution incidents reported associated with pipeline spillages." The FSE requests a report on how the pollution incidents by Mintails have been addressed and which measures were put in place in order to prevent spillages from reoccurring in future.</i>	
73	15 September 2014	DWA, DMR (Mashudu Maduka, Rudzani Mabogo)	Abridged recordal of the Wonderfonteinspruit / Loopspruit Forum Meeting which was held on the 11th of September 2014. An extract of the Record reads as follows: <ul style="list-style-type: none"> • <i>When spillages of toxic and potentially radioactive slurry/water occur within the Wonderfonteinspruit Catchment Area as a result of Mintails' operations, the DWS is satisfied if Mintails reports the spillages. The DWS does not deem it necessary to enforce Section 19 of the National Water Act (36 of 1998), namely that pollution must be prevented, and to enforce the contraventions or failures of Mintails to comply with its water use licence conditions.</i> • <i>The FSE's request for a report on Mintails' compliance or non-compliance of the DWS' and DMR's pre-directives was not responded to. The FSE was requested to submit a request for the status of the pre-directives to Mintails' communication officer.</i> 	

			<ul style="list-style-type: none"> • <i>The DWS failed to respond to the FSE's allegation regarding Mintails' construction of trenches within the polluted soil of the Lancaster Dam area and its failure to confine unpolluted water away from a dirty area (Section 6(a) of GN. R. 704).</i> <p><i>We respectfully request the relevant officials within the DWS and the DMR to respond. In the absence of a response, we shall infer that the abridged recordal is accurate."</i></p>	
74	19 October 2014	DEA (Sonnyboy Bapela, Ishaam Abader); DMR (Adv. Malebe, Rudzani Mabogo, Mashudu Maduka); WRDM; GDARD	Complaint on behalf of communities regarding significant dust fallout from Mintails' operations	
75	3 November 2014	DWS	<p>Inspection Report by the DWS, which found:</p> <ul style="list-style-type: none"> • Slime pipeline spillages on 29 September and 26 October 2014. These spillages occurred in the same pipeline but a different positions. • Mintails indicated that the whole section of the pipeline will be replaced from CAMS Dump to the plant. • The spillages were not cleaned up despite the slime being dry. • Slime and crushed rock waste material were stockpiled on the surface environment. • Other historic waste materials were also found to be lying for a longer period and without being cleaned and disposed into the appropriate disposal site. According to the NWA section 19(1)(b) the Mine has a responsibility to ensure that if "any situation exists which causes, has caused or is likely to cause pollution of a water resource, must take all reasonable measures to prevent any such pollution from occurring, continuing or recurring." • In line with the above, the Mine must ensure that historic and current pollution caused by the pipeline spillages is addressed. 	

			<ul style="list-style-type: none"> • In addition the Mine is also liable to prevent any further pollution caused by the abovementioned pipeline with immediate effect. • Apart from impacting on the quality of water resources, these activities pose significant health risks to the communities living in the vicinity of the site. • A close-out report must be submitted once the clean-up is completed. • DWS requires a response to this letter addressing measures taken and to be taken to remediate and prevent the pollution of the water resources that has or may occur as result of pipeline spillages. • The Mine is required to address the source of the problem and have a long term plan to ensure that the pollution does not occur again. The final report should include: <ul style="list-style-type: none"> ○ Background information ○ Description of incident and source of pollution ○ Impact on the environment and other users ○ Approximate date to address the problem ○ Actions to mitigate spillage ○ Action taken to prevent re-occurrence of incident/Risk abatement plan ○ Background information ○ Description of incident and source of pollution • Princess Opencast Mining – operations were stopped/suspended in January 2014 by DMR due to complaints (cracking of houses, vibration and noise) from the Kagiso Residential area. • Mintails was requested by the DMR to amend the approved EMP dated the 26 of June 2013 to address the complaints and other requirements in terms of the MPRDA. 	
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			<ul style="list-style-type: none"> • The two pits accumulated/collected storm water and suspected contribution of the perched aquifer to the water in the pits. • Water from the pits was once pumped and discharged into the water resource. A letter requesting to pump and discharge water was sent to DWS. • No water use license is in place for the Opencast Mining Operations • Mine dumps or stockpiling were closer to the water course which requires a water use license to mine within 1:50 year floodline or 100m from a water course • A follow up inspection will be conducted by the DWS to check if the Mine cleaned up the affected areas. • The Mine mentioned that a consultant has been appointed to conduct a Geohydrological study of the Princess Opencast mining and a water use license will be applied for all water use activities under Mining Right GP132. 	
76	5 November 2014	DMR. (Mashudu Maduka et al). In loco inspection of Mintails' operations	Recordal by the FSE of in loco inspection (9 November 2014) and Remediation Steering Committee Meeting (RSC) with comments by the Chairperson. See also Minutes of the RSC Committee Meeting.	•
77	13 November 2014	DWA, DMR (Rudzani Mabogo, Mashudu Maduka, Jimmy Sekgwale)	Photographic evidence (physical / real evidence) submitted by the FSE regarding spillages from Mintails' operations	
78	23 December 2014	DWA (Anil Singh, Marius Keet et al)	Liability issues pertaining to Mintails' pollution	
79	9 January 2015	Office of the Public Protector	The FSE's complaint pertaining to:	

		<p>The IMPLEMENTATION and ENFORCEMENT of the recommendations and findings of the Remediation Action Plan of the Wonderfonteinspruit for:</p> <ol style="list-style-type: none"> 1. Tudor Dam (not Tudor Shaft Informal Settlement) 2. Downstream of Tudor Dam 3. Lancaster Dam <p>The IMPLEMENTATION and ENFORCEMENT of the recommendations and findings of:</p> <ol style="list-style-type: none"> 1. the WRC Report 1214/1/06; 2. the NNR Report - TR-RRD-07-0006; 3. the WRDM's EMF, 4. the GDARD's Reclamation of Mine Residue Areas Report 5. The findings of the Department of Minerals and Energy's Regional Mine Closure Strategy for the West and East Rand goldfields; <p>The enforcement of Mintails' non-compliance with its WUL and its EMPR.</p>	
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80	26 February 2015	DMR (Adv. Malebe, Rudzani Mabogo, Jimmy Sekgwale, Mashudu Maduka)	<p>FSE's notification of the body of a man which was discovered in one of Mintails' unfenced open pits.</p> <p>The FSE requested an urgent investigation into this matter or if the incident had been investigated, a report on the investigation.</p> <p>Extracts from the notification reads:</p> <p><i>It should not be omitted that the open pits continue to remain a significant risk to the safety of communities. There is furthermore visible erosion, a failure to backfill the pits where mining operations have ceased (e.g. Boltonia), failure to rehabilitate areas where spillages occurred and the footprints of re-mined TSFs and sand dumps, and a failure to separate the top- and subsoil, etc. The roll-over method for the open cast pits was to be employed in terms of the EMPR, however, this is not done. We once more appeal to the relevant authorities to enforce these contraventions and the contraventions which were reported upon in previous correspondence.</i></p> <p><i>In view of the financial difficulties of the beleaguered Mintails, its continuing and recurring pollution and its significant environmental responsibilities and liabilities, we request whether or not Mintails has sufficient rehabilitation funds to cover its liabilities in the event that it applies for winding up. DRD Gold's Blyvooruitzicht Mine has amply demonstrated what happens when a Mine applies for winding up without sufficient rehabilitation funds.</i></p> <p><i>The FSE's previous PAIA application to the DMR for access to information pertaining to Mintails' rehabilitation plan and trust fund was granted, however, as you may recall, the information could not be supplied since neither a rehabilitation plan existed at the time nor rehabilitation funds.</i></p>
81	18 March 2015	Office of the Public Protector	<p>An extract from the letter reads:</p> <p><i>"The FSE's complaint involved not only the DWS and NNR but also the DMR. At the time of writing the FSE has not received a response from the DMR.</i></p> <p><i>The FSE's complaint included the failure by the DMR to enforce Mintails SA (Pty) Ltd's non-compliance with its legally binding Environmental Impact Assessment/Environmental Management Programme (GP 30/5/1/2/3/2/1(132) EM, dated October 2009 and updated in April 2011 and approved by the Chief Director Western Regions of the Department of Mineral Resources on the 26th of June 2013 (ANNEXURE "A1")</i></p> <p><i>The non-compliances are, inter alia:</i></p>

- Failure to develop and implement "...a rehabilitation programme aimed at backfilling and rehabilitating the pit/s concurrent with mining activities."
 - Failure to: "Defunct shafts, and their associated areas, will be rehabilitated."
 - Failure to: "Any topsoil removed during the mining operation will be stored separately where practicable. It will be utilised for the final rehabilitation of the surface area, concurrent with the backfill overburden material."
 - Failure to rehabilitate the footprints.
 - Failure to construct diversion berms and channels and catchment dams. "Construct diversion berms and channels and catchment dams...to separate clean and dirty water." Page 253.
 - Failure to construct or reinstate containment berms and paddocks. Page 253.
 - Failure to clean up all existing spillages around current mining footprints and along pipes routes.
 - o "Clean-up of all existing spillages around current mining footprints and along pipe routes." Page 254.
 - o "Maintain routine inspection of slurry handling and transport corridors for leaks/spillages with immediate response procedures." Page 254.
 - o "Implement a preventative maintenance and replacement policy on slurry transport infrastructure." Page 255.
 - Failure to implement of policy of immediate clean-up of spillages. "All spillages to be cleaned up immediately. If it is evident that spills occur on a regular basis, modifications to be made. A culture of 'zero tolerance' of material spills to be adopted." Page 223.
 - Failure to construct bunds around slurry handling and transport corridors in sensitive areas. Page 254.
 - Failure to develop of site specific mining plans that appropriately address and manage dust minimisation, zero surface water discharge. Page 255.
 - Failure to measure of residual salts, metals pH and radiological conditions. Page 255..
 - Failure to remediate footprints within one year of clearing. Page 256.
 - Failure to ridge plough and paddock exposed top surfaces of dumps. Page 253.
 - Failure to construct clean and dirty water separation facilities with appropriate seepage control and collection. Page 256.
 - Failure to have a water management system designed for the 1:50 year flood event. Page 256.
 - Failure to rehabilitate concurrent to deposition project and closure of defunct shaft areas. Page 258.
- Reference: Environmental Impact Assessment/Environmental Management Programme (GP 30/5/1/2/3/2/1(132) EM, dated October 2009 and updated in April 2011 and approved by the Chief

Director Western Regions of the Department of Mineral Resources on the 26th of June 2013. (ANNEXURE "A1")

The amended EMPR (DMR old reference numbers: ML 9/2000 & ML12/2003) (DMR New Order Reference Number: GP 30/5/1/1/2/206 MR) (ANNEXURE "A2"), which will be legally binding, calls for:

- *"Clean up all existing spillages around current mining footprints and along pipe-routes to remove current air, soil and water contamination sources. (Page 150)*
- *"Construct bunds around slurry handling and transport corridors in sensitive areas to prevent the spread of contamination from future spillages and protect the safety of affected parties. (Page 150)*
- *"Implement a policy of immediate (when practical) clean-up of spillages. (Page 150)*
- *"Maintain routine inspection of slurry handling and transport corridors for leaks, spillages with immediate response procedures to minimise the occurrence and extent of spillages. (Page 151)*
- *"Implement a preventative maintenance and replacement policy on slurry transport infrastructure to minimize the occurrence and extent of spillages. (Page 151)*
- *"Special care should be taken during the mining phase to prevent surface stormwater rich in sediments and other pollutants from entering the natural drainage system. (Page 151)*
- *"Prevention of erosion and soil loss as well as increased sedimentation...Consideration and provision shall be made for the following methods or combination thereof:*
 - o *Brushcut packing (although no alien plant material may be used for this purpose);*
 - o *Mulch or chip cover (although no alien plant material may be used for this purpose);*
 - o *Straw stabilising*
 - o *Watering:*
 - *Planting/sodding;*
 - *Hand seeding/sowing*
 - *Application of soil binders and anti-erosion compounds and/or*
 - *Mechanical cover/packing structures (including the use of Geofabric, hessian cover, log/pole fencing. (page 154)*
- *"Stabilised area must be demarcated with painted stakes or hazard tape. Page 154*
- *Measures must be implemented to prevent the migration of material (fines) into the drainage lines. This may include the use of a cut-off trench, straw bales or geofabric siltation barriers constructed across the site at specific points.*
- *"Ensure that topsoil retains its original potential to support vegetation. Page 158*
- *"Any erosion tunnels that develop during the mining period or during vegetation establishment period should be backfilled and compacted, and the areas restored to a proper condition. Page 159*
- *"Establish windbreaks, ridge plough and dust suppression systems.*
- *Construct diversion berms and channels and catchment dams*
- *Ridge plough and paddock exposed top surfaces of dumps.*

- *“Construct/re-instate containment berms and paddocks around toe of dumps. Page 160*
 - *“Clean-up all existing spillages around current mining footprints and along pipe-routes. Page 161*
 - *“Construct bunds around slurry handling and transport corridors in sensitive areas. Page 161*
 - *“Implement a policy of immediate (when practical) clean-up spillages. Page 161*
 - *Maintain routine inspection of slurry handling and transport corridors for leaks/spillages with immediate response procedures. Page 161*
 - *Implement a preventative maintenance and replacement policy on slurry transport infrastructure. Page 161*
 - *“If the removed topsoil will be used for rehabilitation and landscaping, it must be stockpiled separately. Page 143*
 - *“Topsoil stripped from different zones shall be stockpiled separately and clearly identified. All topsoil stockpiles are to be clearly demarcated. No vehicle shall be allowed to drive on the stockpiles. Page 143*
 - *“Soil stockpiles shall not be higher than 2.5 m in height or have slopes exceeding 1:3 or be stored for a period of longer than 12 months. Page 143*
 - *“Ensure that topsoil is not mixed with other material such as subsoil... Page 143*
 - *“The Contractors shall implement all appropriate soil conservation measures to prevent erosion (from wind or water) of the topsoil stockpiles. e.g. temporary grassing or netting. Page 143*
 - *“Erect signs and/or danger tape around the exposed excavations to warn the public of the inherent dangers. Page 146*
 - *“Control access to the mining area. Page 146*
 - *“Establish windbreaks, ridge plough ...to reduce dust emissions. Page 147*
 - *“Revegetation should start immediately upon completion of mining activities. Page 148*
 - *“Exposed soil and material stockpiles must be adequately protected against the wind (e.g. water spray vehicles, cover of material. Page 148*
 - *“Develop final land use plan. Liaise with pit owners, rehabilitation liability holders, I&APs. Page 167*
- Mintails SA (Pty) Ltd. is currently in non-compliance with the above-mentioned management measures.*
- . Section 38 of the Mineral and Petroleum Resources Development Act (28 of 2002) directs:*
- “38. Integrated environmental management and responsibility to remedy*
- (1) The holder of a ...mining right, mining permit-*
- (a) Must at all times give effect to the general objectives of integrated environmental management laid down in chapter 5 of the national Environmental Management Act, 1998;*
- (c)Must manage all environmental impacts-*

			<p>(i) In accordance with his or her environmental management plan or approved environmental management programme, where appropriate; and</p> <p>(ii) As an integral part of the ...mining operation, unless the Minister directs otherwise;</p> <p>(a) Must as far as is reasonably practicable, rehabilitate the environment affected by the mining operations to its natural or predetermined state or to a land use which conforms to the generally accepted principle of sustainable development; and</p> <p>(b) Is responsible for any environmental damage, pollution or ecological degradation as a result of his or her ...mining operations and which may occur inside and outside the boundaries of the area to which such right, permit or permission relates.</p> <p>And, failure to enforce the non-compliance by Mintails SA (Pty) Ltd with Regulation 56 of the Mineral and Petroleum Resources Development Regulations, which prescribes the principles for mine closure as follows:</p> <p>“In accordance with applicable legislative requirements for mine closure, the holder of a ... mining right... or mining permit must ensure that-</p> <p>(a) The closure of a ...mining operation incorporates a process which must start at the commencement of the operation and continue throughout the life of the operation;</p> <p>(b) Risks pertaining to environmental impacts must be quantified and managed proactively, which includes the gathering of relevant information throughout the life of a mining operation;</p> <p>(e) the land is rehabilitated, as far as is practicable, to its natural state, or to a predetermined and agreed standard or land use which conforms with the concept of sustainable development.”</p>	
82	30 March 2015	DMR (Andre Cronje, Jimmy Sekwale, Adv. Malebe, Rudzani Mabogo	<p>Pursuant to the Mooi River Forum meeting which was held on the 26th of March, 2015 The FSE submitted a similar request to the DWS for clarification. The FSE is awaiting the DWS response before or on the 4th of April 2015 subsequent to the DWS in loco inspection of Mintails’ operations within the West Rand goldfields.</p> <p>The FSE requested the DMR to clarify its position on whether Mintails and other mining companies, are responsible and liable for historical activities that are currently causing or likely to cause pollution.</p> <p>The FSE respectfully requested a simple answer from the DMR, within thirty (30) days, i.e. by the end of April 2015 whether or not the Department of Mineral Resources agrees with the principles of the historical responsibility and liability in terms of inter alia section 28 of NEMA.</p>	
83	1 April 2015	DMR	PAIA Application: Request for information regarding the shareholders of Mintails.	
84	4 April 2015	DMR (Mashudu Maduka, Rudzani Mabogo, Jimmy	Pursuant to Mooi River Catchment Management Forum: FSE’s submission of expert opinion of Mintails’ responsibilities and liabilities pertaining to current and historic pollution and request from DMR for clarification.	

		Sekgale; 'dmskatso.ledwba@ dmr.gov.za')	
85	26 May 2015	RSC (DMR, DWS, NNR, MCLM)	Remediation Steering Committee (RSC) meeting pertaining to the remediation of the Wonderfonteinspruit.
86	6 June 2015	DWS, DMR (Mashudu Maduka, Jimmy Sekgale, Rudzani Mabogo et al)	Request for information in terms of the provisions of PAIA. The request was for: Copies of the powerpoint presentations which were presented by Ms. Faith Chademana on behalf of Mintails (SA) (Pty) Ltd. titled "Rehabilitation Strategy for Lancaster Dam" and Dr. Dawid de Villiers titled "Update on Tudor Shaft Settlement Study" at the Wonderfonteinspruit Catchment Area's Remediation Steering Committee meeting on the 26th of May, 2015 at the ANC Caucus Room, Mogale City Local Municipality The FSE's comments pursuant to the RSC meeting, which was held on the 25 th of May 2015.
87	20 June 2015	DMR (Andre Cronje, Adv. Malebe, Mashudu Maduka, Jimmy Sekgale, Rudzani Mabogo)	FSEs' request for information regarding Mintails' rehabilitation funds and plan. An extract from the request reads: <i>"With reference to Mintails: Mintails is operating under 3 mining rights and 3 EMPr's which were compiled by DRD Gold, the previous owner of the mining rights. At the time of writing the amended EMPr's have not been approved hence Mintails is still operating under the existing EMPr's.</i> <i>In terms of the EMPr for one of the mining rights (ML9/2000) which was approved in 2002: It encompasses surface and underground mining. ML9/2000 is situated over the underground void which is flooded with Acid Mine Drainage (AMD). The EMPr's states that the underground void is not owned or created by DRD Gold (now in ownership of Mintails and its subsidiaries) and that DRD Gold only mined 0.5% of the underground void. Liability for the AMD is therefore not included in the EMPr.</i> <i>The EMPr shows that the rehabilitation costs for ML9.2000 are estimated at R18 707 240.</i> <i>As you may recollect, I submitted a PAIA to the DMR [dated 13 January 2014] for a copy of the rehabilitation plan and rehabilitation trust funds. Please see attached. Notwithstanding the fact that access was granted, I was notified that the rehabilitation plan has not been prepared and that Mintails' rehabilitation fund is being established as it continues to mine.</i> <i>May I please request that you respond within 7 days?"</i>

88	23 July 2015	RSC (DMR, DEA, NNR, MCLM, DWS)	<p>FSE's notification of Mintails' misrepresentation of its "Remediation Strategy for the Lancaster Dam" to the RSC.</p> <p>Call to address the sources of pollution within the WCA as a matter of priority. At the last RSC meeting there were no remediation measures proposed. (Reference is made to <i>inter alia</i> the DWS' Action Plan, the WCA:RAP Report, WESSA's SASS Report, which highlights the need to address pollution from source, that is, pollution within the headwaters of the Wonderfonteinspruit.)</p> <p>FSE's notification that Mintails' has failed to apply for a closure certificate in areas where mining operations have ceased.</p>	
89	24 August 2015	Office of the Public Protector	APPLICATION TO PUBLIC PROTECTOR FOR RELEASE OF SUBMITTED INFORMATION: In terms of s 7 of the Public Protector Act, Act No. 23 of 1994 ("PPA")	
90	17 September 2015	DMR (M. Mangobe, Jimmy Sekgale)	<p>Mooi River Forum CMA Meeting.</p> <p>The Minutes record inter alia the status of the RSC for the remediation of the WFS; Mintails' recurring and continuous spillages of acid mine water and uraniferous slurry, the transport of polluted water in unlined trenches into the Upper Wonderfonteinspruit by Mintails, recommendations by the FSE that the findings of the WCA:RAP be implemented with urgency as it pertains to the Lancaster Dam, the Tudor Dam and downstream of the Tudor Dam.</p>	
91	19 September 2015	DMR (Adv. Malebe, Pieter Alberts, Rudzani Mabogo, Mashudu Maduka, etc.)	FSE's request for DMR and DWS' strategy for derelict mines and <i>inter alia</i> Mintails' liabilities.	
92	3 October 2015	Office of the Public Protector	The FSE's preliminary comments with photographic evidence of the status of affairs at the time. The photographs adduce evidence of the systemic and ongoing failure of the DWS to enforce non-compliance with the NWA; the NNR's failure to enforce non-compliance with the NNRA and the DMR's failure to enforce non-compliance with Mintails' legally binding EMPR and the NEMA.	
93	6 October 2015 7 October 2015	DMR (Pieter Alberts, Adv. Malebe, Rudzani Mabogo, Mashudu Maduka et al)	The FSE's request to the DMR to investigate the alleged contraventions of the legally binding EMPR of Mintails pertaining to the management of toxic and radioactive dust fallout.	<p>Subjoined response on the 7th of October 2015 by the WRDM.</p> <p><i>From: Musa Zwane [mailto:mzwane@wrdm.gov.za]</i> <i>Sent: 07 October 2015 11:03 AM</i> <i>To: 'Mariette Liefferink' <mariette@pea.org.za></i> <i>Cc: cstevens@wrdm.gov.za</i></p>

				<p><i>Subject: RE: URGENT REQUEST FOR INTERVENTION BY THE WRDM AND GDARD AS COMPETENT AUTHORITIES TO INVESTIGATE AND ENFORCE THE NEM-AQA</i></p> <p><i>Mariette,</i></p> <p><i>Kindly note that we have referred your issues to all relevant for their attention. Unfortunately some of the issues are much bigger than Local Municipalities, hence the involvement of relevant Departments. We haven't heard anything response from the said Departments, but we will make follow-ups.</i></p> <p><i>Municipalities try to do everything they can given the nature and size of the issues.</i></p> <p><i>Regards</i> <i>Musa</i></p>
94	13 October 2015	DMR (Adv. Malebe, Pieter Alberts, Rudzani Mabogo, Mashudu Maduka, etc.)	FSE's notification re Mintails' financial status, anticipated cessation of mining (Eskom Dump) and no rehabilitation funds and rehabilitation plans.	
95	15 October 2015	DMR (Joseph Dabi, Pieter Alberts, Diphoko Modiselle, et al)	Un-responded requests by the FSE to the DMR in terms of the provisions of the PAIA pursuant to the SAHRC workshop in June 2015 pertaining to transparency	
96	19 November 2015	WRDM Mining Forum Meeting (DEA, WRDM, Mintails)	<p>The Minutes of the Meeting recorded the following environmental incident pertaining to Mintails in addition to issues pertaining to dust.</p> <p><i>“One environmental incident reported in October, relating to a pipe failure adjacent to the corner of K13 Kagiso Road and the turn off to Dirt Bronco wetland / Rush Exhaust properties. Incident occurred when the welding on the HDPE pipe next to the flange broke off resulting in slime spillage. The spillage spread backwards along the pipeline route and trenches, forwards along the pipeline route, and spreading laterally into the neighbouring Rush Exhaust property and adjacent area. There was no spillage into the Kagiso road. Investigation revealed that a substandard weld had been undertaken by the contractor. Clean up was conducted and regular calibration of welding and heating machines to be done and confirmed before welding takes place.”</i></p>	


97	<p>22 November 2015</p> <p>25 November 2015</p> <p>25 November 2015</p>	<p>DMR (Pieter Alberts, Adv. Malebe, Rudzani Mabogo, Mashudu Maduka), DEA (Ishaam Abader, Francis Craigie et al), DWS</p> <p>DEA (Ms Mamelato Ngoasheng Dept. of Environmental Affairs Branch: Legal, Authorisation, Compliance and Enforcement Directorate: Capacity Development and Support Sub-directorate: EMI Information Management)</p> <p>DEA</p>	<p>Urgent request by the FSE and affected parties for an investigation in the ostensible rehabilitation measures implemented by Mintails SA for the Champ D’Or Mining Area and a report on this matter at the upcoming Wonderfonteinspruit Catchment Forum.</p> <p>Acknowledgement of FSE’s complaint by the DEA and referred to DMR.</p> <p>Request by the FSE to the DEA for a Report on the Investigation.</p>	<p>DEA’s Response:</p> <p><i>From: Mamelato Ngoasheng [mailto:MNgoasheng@environment.gov.za] Sent: 25 November 2015 03:16 PM To: mariettel@iburst.co.za; mariette@pea.org.za Cc: Sipho Sibanyoni <Ssibanyoni@environment.gov.za> Subject: Complaint: Ostensible rehabilitation measures implemented by Mintails SA for the Champ D’Or Mining Area.</i></p> <p><i>Dear Mariette</i></p> <p><i>The Department of Environmental Affairs (DEA) would like to acknowledge receipt of the above-mentioned complaint. The complaint was brought to my attention by Ms Frances Craigie (Chief Director).</i></p> <p><i>I am responsible for administering environmental complaints related complaint within the Department and also to those that are not within the Department’s mandate in a different sphere of government. Your complaint will be registered on the Department’s system and further be referred to the Department of Mineral Resources (DMR) since it is an issue that involves its mandate. You will be provided with a reference number at a later stage, such reference number should be used in future when making follow up regarding this matter.</i></p> <p><i>Regards</i> <i>Ms Mamelato Ngoasheng</i> <i>Dept. of Environmental Affairs</i> <i>Branch: Legal, Authorisation, Compliance and Enforcement</i> <i>Directorate: Capacity Development and Support</i> <i>Sub-directorate: EMI Information Management</i> <i>Tel: 012 399 8955</i></p>
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98	7 December 2015	South African Human Rights Commission (SAHRC) (Matthew du Plessis)	Complaint to the South African Human Rights Commission alleging human rights violations by Mintails in terms of Section 21 of the Constitution of the Republic of South Africa and request for investigation	
99	30 December 2015	DMR (Mr Modiselle, Adv. Malebe, Pieter Alberts, Rudzani Mabogo)	Request for clarification regarding PAIA requests which were not responded too <i>inter alia</i> information requested regarding Mintails' shareholders.	
100	14 January 2016	SAHRC	Notification of whistleblower's report to the SAHRC of Mintails' pollution incidents.	
101	16 January 2016	DWS (DG); DEA (Ishaam Abader, Sonnyboy Bapela)	NOTIFICATION OF SIGNIFICANT ENVIRONMENTAL RISK AND SERIOUS AND IMMINENT THREAT TO THE ENVIRONMENT AND WATER RESOURCES: MINTAILS SA (PTY) LTD: REQUEST FOR INVESTIGATION, EVALUATION AND ASSESSMENT	
102	21 January 2016	SAHRC	<p>Submission of summary of Mintails' alleged contraventions with the relevant environmental legislation.</p> <p>An extract from the summary is subjoined hereunder.</p> <p><i>1. With reference to Mintails' compliance with the above requirements:</i></p> <p><i>a. In loco inspections, testimonies from affected parties, water results and authentic photographs adduce prima facie evidence that the above-mentioned requirements are not complied with.</i></p> <p><i>b. Mintails is in non-compliance with its legally binding EMPR pertaining to inter alia:</i></p> <ul style="list-style-type: none"> <i>• Clean up all existing spillages around current mining footprints and along pipe-routes to remove current air, soil and water contamination sources.</i> <i>• Construct bunds around slurry handling and transport corridors in sensitive areas to prevent the spread of contamination from future spillages and protect the safety of affected parties.</i> 	

			<ul style="list-style-type: none"> • <i>Implement a policy of immediate (when practical) clean-up of spillages.</i> • <i>Maintain routine inspection of slurry handling and transport corridors for leaks, spillages with immediate response procedures to minimise the occurrence and extent of spillages.</i> • <i>Implement a preventative maintenance and replacement policy on slurry transport infrastructure to minimize the occurrence and extent of spillages.</i> • <i>Special care should be taken during the mining phase to prevent surface stormwater rich in sediments and other pollutants from entering the natural drainage system.</i> • <i>Clean-up of all existing spillages around current mining footprints and along pipe-routes.</i> • <i>Construct bunds around slurry handling and transport corridors in sensitive areas.</i> • <i>Implement a policy of immediate (when practical) clean-up of spillages.</i> • <i>Implement a preventative maintenance and replacement policy on slurry transport infrastructure.</i> • <i>Rehabilitation concurrent to deposition project.</i> • <i>To determine radiation levels within communities and sensitive areas.</i> • <i>Establish windbreaks, ridge plough and dust suppression systems to reduce dust emissions.</i> • <i>Where possible, soil stockpiles shall be located in sheltered areas where they are not exposed to the erosive effects of the wind.</i> • <i>Exposed soil and material stockpiles must be adequately protected against the wind.</i> • <i>The incidents must be handled appropriately and records must be kept of all incidents.</i> • <i>Rehabilitation must commence as soon as possible after damage.</i> • <i>The Contractors shall implement all appropriate soil conservation measures to prevent erosion (from wind or water) of the topsoil stockpiles e.g. temporary grassing or netting.</i> • <i>Erect signs and/or danger tape around the exposed excavations to warn the public of the inherent dangers.</i> 	
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c. Water pollution is ongoing. Please see subjoined.

<i>S it e c o d e</i>	<i>Site descripti on</i>	<i>Latitude</i>	<i>Lo ngi tud e</i>	<i>Photograph</i>
<i>W F S l</i>	<i>Below Lancaste r Dam, Krugersd orp</i>	<i>26° 7'50.98"S</i>	<i>27 °4 6'3 6.2 1" E</i>	 <p><i>pH 2.9 TDS 7700mg/l Sulphate 4450 mg/l Al 132 mg/l Mn 75 mg/l Iron 50 mg/l Mg 107 mg/l Ca 455 mg/l</i></p>

WFS 2	Downstream of WFS 1, by bridge of Paardekr aal drive	26° 8'8.95"S	27° 4'6" 9.64" E	 <p>pH 2.9 TDS 7000 Sulphate 2060 mg/l Mg 511 mg/l Ca 451 mg/l Al 86 mg/l Mn 45 mg/l Iron 31 mg/l</p>
WFS 3	In Wetland downstream of WFS3 next to Paardekr aal drive	26° 8'16.16"S	27° 4'6" 9.07" E	 <p>pH 3.8 TDS 1300 mg/l Sulphate 1000 Ca 107 mg/l Mg 68 mg/l Al 4.3mg/l Mn 15 mg/l Iron 0.58 mg/l</p>

d. Mintails is in ongoing non-compliance with GN R 704 5; (6)(c)(d)(a); 7(a)(b).



Polluted water entering the Upper Wonderfonteinspruit, downstream of Mintails' operations.

pH 2.9; TDS 7700; Sulphate 4450 mg/l; Al 132 mg/l; Mn 75mg/l ; Iron 50mg/l; mg 554 mg/l; Ca 455mg/l.

Compare with DWS' Resource Quality Objectives and definition of pollution in terms of the NWA.



Polluted water seeping from Lancaster Dam wall into the Upper Wonderfonteinspruit



View below Lancaster Dam at road bridge. Mintail's man fixing leaking water pipeline

			<p>e. I have knowledge of 3 areas, which Mintails claims to have been rehabilitated. The FSE, as a principal Interested and Affected party, was not involved in the rehabilitation objectives. A Forum was established on the request of the Minister of Mineral Resources at the time of violent protests by the communities of Kagiso. The FSE is not invited to the Forum meetings.</p> <p>f. The areas, which were allegedly rehabilitated are: 2 sites adjacent to Mintails' head offices on Tweelopiespruit Street and 1 site adjacent to the Main Reef Road. From the physical (read) evidence is evident that the sites are not fit for any current and future sustainable land use. At best the 2 sites adjacent to Mintails' operations cannot be regarded as reasonable measures for remediation and are at best measures for interim stabilisation, unless it can be demonstrated that the implementation of these measures will facilitate the agreed future land use.</p> <p>g. The footprint of CAMS dump which was reclaimed, remains unremediated and a significant source of Acid Rock Drainage.</p> <p>h. Mining has ceased in Kagiso and Boltonia. The pits remain open with no warning signs and fences. This is in contravention of GN 704 section 8 and 9 which states: "every person in control of a mine or activity must - cause any impoundment or dam containing any poisonous, toxic or injurious substance to be effectively fenced off so as to restrict access thereto, and must erect warning notice boards at prominent locations so as to warn persons of the hazardous contents thereof; Any person in control of a mine or activity must at either temporary or permanent cessation of operations ensure that all pollution control measures have been designed, modified constructed and maintained as to comply with these regulations".</p> <p>The footprints of the partially reclaimed North Sands Dump, Frikkies Dam and the Eskom Dump remain unremediated and the areas are unfenced. Lancaster Dam and Tudor Dam remain unremediated notwithstanding the findings of the NNR/DWAF RAP for the WCA which identified Mintails as the polluter.</p>	
10 3	25 February 2016	DMR (Rudzani Mabogo), DWS	Notification to the Mooi River CMF of the findings of the WCA:RAP and the implementation of the findings with a matter of urgency.	
10 4	25 February 2016 27 February 2016	DWS, DMR	Notification that potentially radioactive rocks from the liquidated Blyvooruitzicht Gold Mining Company are currently sold to third parties. Some of the rocks are transported to Mintails to its crusher. It is believed that there are some non-compliance issues in terms of the National Nuclear Regulator Act, 47 of 1999 and request that the DMR participate in the discussion.	
			With reference to the Wonderfonteinspruit CMF meeting, the FSE requested:	

			<ul style="list-style-type: none"> • The justification by the DWS for its failure to enforce non-compliance by Mintails of Sections 5 and (a) (b) and (c) and 7(a) and (b) in terms of GN R 704, titled “Regulations on Use of Water for Mining and Related Activities aimed at the protection of Water Resources. • The DWS’s response to GN 704 Section 2 (2)(a) and (b) and Section 9(1) as it pertains to Mintails’ temporary cessation of mining or activity within the Middelvlei, Kagiso and Boltonia areas. • A copy of the assessment report on the contribution of ingress into the West Rand Basin and contribution to AMD from the numerous open cast pits and unrehabilitated footprints of Mintails within the West Rand. • A copy of the assessment report on the impacts of the deposition 12.2 million tons of slimes during the last 8 years by Mintails into the unlined West Wits Pit on the void and groundwater and the migration pathway of the slimes. • The DWS’s response pursuant to the FSE’s report that there is a crack in Lancaster Dam wall, which allows for seepage into the Upper Wonderfonteinspruit. 	
10 5	4 March 2016	DMR (Pieter Alberts, Adv. Malebe, Rudzani Mabogo, Jimmy Sekgale)	<p>Submission to the DMR of one of many news media articles, titled “Residents want to crack” in the Krugersdorp News, dated 4 March 2016 highlighting the grievances of communities with Mintails’ operations and notification that the matter is currently under investigation by the South African Human Rights Commission.</p> <p>The FSE requested the DMR’s investigation into this matter and a report on its investigation.</p>	
10 6	29 April 2016	DWS	<p>The DWS supplied the FSE with the subjoined documents and a covering letter by the Minister of Water and Sanitation, stating: <i>“Having heard from the office of the Deputy Information Officer the reasons why my Department has delayed in finalizing your request for records, and having considered the nature of the records requested, I hereby release to your office the requested records.”</i></p> <ul style="list-style-type: none"> • The Regional Head: Gauteng of the DWS’ Notice of intention to issue a directive in terms of Section 19 of the National Water Act to Mintails SA (Pty) Ltd, dated the 23rd of January 2014 and grounded upon the DWA’s inspection on the 12th of December 2013 in relation to the Mintails’ operations within the Krugersdorp area. • A Report on the inspection, which was conducted of Mintails Mining SA (Pty) Ltd/Mogale Gold on the 5-6th of August 2014. • Mintails’ responses to the Inspection Report. • Inspection Report by the DWS of Mintails facilities. Inspection Date: 3 November 2014. 	

			<ul style="list-style-type: none"> Letter by the Acting Head of Department: Gauteng of the DWS to Mintails requesting a response, dated the 7th of November 2014. Mintails' response to the Letter by the Acting Provincial Head of DWS. Copies of the water quality results of the Upper and Lower Wonderfonteinspruit. 	
10 7	7 June 2016	DMR (Jimmy Sekgale, Rudzani Mabogo), CoM, DWS	Wonderfonteinspruit CMF Meeting. 10.1 of the Minutes recorded the current status and outstanding reports pertaining to Mintails, inadequate water sampling of the WFS; the dormant RSC (the last RSC meeting was conducted in May 2015) and failure in the implementation of the RAP for the WCA; unlawful stormwater management within the Lancaster Dam area.	
10 8	9 June 2016	DWS, DMR, NNR	Mooi River CMF. See 10.2 of the Minutes where reference is made to the rushing of rock from the Blyvooruitzicht Gold Mining Company by Mintails without alleged authorisation.	
10 9	15 July 2016; 20 June 2016; 7 June 2016; 6 June 2016	SAHRC (Matthew du Plessis, Chantal Kisoon); DMR (Merriam Sebopa, Neo Kgokong – NEMAComplaints@dmr.gov.za , DG, and Chief Director: Enforcement and Compliance; DEA (Mamelato Ngoaskeng)	<p>Correspondence between the SAHRC, the DMR and the DEA regarding the FSE's complaint.</p> <p>An extract from the SAHRC's correspondence reads: <i>"The issues at hand are very extensive and centre on Mintails Mining SA's non-compliance with its EMPR at its rehabilitative mining sites throughout the West Rand. I would like to discuss this non-compliance with the DG and Chief Director of Enforcement and obtain a directive from them in terms of section 28 of NEMA ordering Mintails to comply with its obligations in terms of its EMPR.</i></p> <p><i>The breaches are numerous and the evidence that I have is too voluminous to communicate in an email, but I can present all of this in a meeting."</i></p> <p>The SAHRC requested a meeting with the DG and Chief Director: Enforcement and Compliance of the DMR.</p> <p>The DEA's reference number is: DEA:13070062016.</p>	
11 0	26 & 27 September 2016	DMR (Mr Joel Raphele)	<p>Re-submission of FSE's un-responded complaint, dated the 13th of October 2015.</p> <p>Response by Mr Joel Raphele of DMR following the SAHRC' hearings:</p> <p><i>"I acknowledge receipt of your email and noted its contents which is worrying. As a Department we want to build relationships with our stakeholders and would appreciate an opportunity to meet and address the issues raised as areas of concerns."</i></p> <p>Pursuant to Mr Rapheles response, FSE requested an in loco inspection of Mintails' operations.</p>	
11 1	5 October 2016 6 October 2016	DMR (Joel Raphele)	Reminders of FSE's request for an in loco inspection of Mintails' operations.	

SAHRC (Matthew du Plessis)

Ms R Nkambule responsible for Gauteng is arranging sessions aimed at addressing the said issues. This email is copied to her, for attention.”

Rebone Nkambule of DMR responded:

“We have a scheduled meeting with Minteals tomorrow afternoon. We will raise the issues raised in your communicate with them.”

The FSE replied: *“A meeting with Mintails, it is our respectful albeit considered opinion, in the absence of representation by the South African Human Rights Commission and the Federation for a Sustainable Environment and an in loco inspection of Mintails’ operations may lead to injudicious conclusions and decisions.”*

Mr Matthew du Plessis of the SAHRC requested that, as a representative of the South African Human Rights Commission, which is officially investigating this matter, be allowed to join this meeting on the 12th of October 2016.

Rebone Nkambule of DMR replied:

“The purpose of tomorrow’s meeting is a shareholder meeting between the main partner and the BEE’. There are disputes in the empowerment structure.

Minteals is currently under business rescue, may I suggest that Dimakatso arranges an urgent meeting with the business rescue practitioner because the issues you are raising are more aligned with the business rescue practitioner and he will not be joining tomorrow’s meeting.”

Mr Matthew du Plessis of the SAHRC wrote:

“The reason that I want to sit around a table with Mintails and the DMR is to discuss the possibility of the DMR issuing directives in terms of section 28(4) of NEMA to force Mintails to comply with its EMPR. Of course, these directives will need to take into account numerous realities, including the business rescue, but my overall purpose is to address the powers and duties of the DMR in relation to this problem.

*Would you be able to assist me to meet with whoever the relevant person is from the DMR to discuss Mintails’s EMPR? **I have been trying for months without success to set up such a meeting** and now that I am in communication with a DMR representative such as yourself, I would like to make the most of the opportunity.*

			<p><i>Please let me know if such a meeting can be scheduled.”</i></p> <p>Rebone Nkambule of DMR responded: <i>“In the proposed business rescue plan, we are dealing with financial provision for rehabilitation, that is why I suggested that we have a discussion with the BRP. The Regional Manager has the authority to enforce section 28 of NEMA. We have currently also issued them with a section 93 of the MPRDA on non - compliance issues.</i></p> <p><i>Can I suggest that you still meet with the Regional Manager who is copied here, I am happy to join the meeting.”</i></p>	
14 October 2016	SAHRC; DMR Simone- Kim.Fortune@dmr.gov.za; Rebone.Nkambule@dmr.gov.za;Dima katso.Ledwaba@dmr.gov.za; carol.khanyile@dmr.gov.za	Confirmation of meeting between SAHRC and DMR.		
18 October 2016	SAHRC, DMR, FSE	Meeting at the DMR’s Head Office with Ms. Nkambule of the DMR.		
19 October 2016	DMR (Joel Rraphele, Rudzani Mabogo, Ms Nkambule, et al), SAHRC	Pursuant to meeting with DMR’s Ms Nkambule, the SAHRC: FSE’s Invitation to a site visit of Mintails’ operations on the 25 th of October 2016.		
25 October 2016	DMR (Joel Rraphele, Ms Nkambule et al); SAHRC (Commissioners of the SAHRC, Matthew du Plessis)	<p>FSE’s notification to the DMR of the absence of a response to the FSE’s request for an in loco inspection of Mintails’ operations or any response pursuant to the meeting notwithstanding the DMR officials’ undertaking.</p> <p>Request for a copy of the inspection report by DMR officials of Mintails’ operations, which according to DMR officials during the meeting on the 18th of October, was conducted recently.</p>		

			Notification to Commissioners of the SAHRC of the difficulties civil society experiences in its attempts to engage with the DMR and to obtain access to information.	
3 November 2016			SAHRC's Reconvened Hearings on the Underlying socio-economic challenges of mining affected communities in SA.	
3 November 2016	DMR (Rebone Nkambule; Joel Raphela; Dimakatso Ledwaba; Simone-Kim Fortune; Carol Khanyile); SAHRC (Matthew du Plessis)		Mr du Plessis of the SAHR referred to the meeting on the 18 th of October 2016 and requested Ms Ledwaba whether <i>"you [have] been able to confirm yet whether you can provide me with a copy of your Mintails file? Furthermore, I am still interested in possibly joining in the litigation that you have planned against Mintails. Have there been any developments there and could I have sight of the draft papers to inform my decision?"</i>	
7 November 2016	DMR (Rebone Nkambule, Joel Raphela); SAHRC (Commissioners and Mr Matthew du Plessis)		Recordal by the FSE that the commitments made by the DMR at the meeting on the 18 th of October 2016, have not been honoured, that it is business as usual for Mintails and that the FSE's requests for an in loco inspection by the DMR with the FSE of Mintails' operations were abortive and were not responded to by the DMR. Reference to Report by the Harvard Law school International Human Rights Clinic titled "The Cost of Gold: Environmental, Health, and Human Rights Consequences of Gold Mining in South Africa's West and Central Rand" which supplies prima facie evidence of the systemic failure on the part of the DMR to enforce non-compliances with environmental legislation.	
9 November 2016	DMR (Dimakatso Ledwaba); SAHRC (Matthew du Plessis)		In response to Mr du Plessis' correspondence of the 3 rd of November, 2016 and his request for a copy of Mintails' file, Ms Ledwaba wrote: <i>"I wish to advise that I am no longer with the Gauteng office and I request that all further engagements be done with Ms Mashudu Maduka as I indicated in the last meeting."</i>	
17 November 2016	DMR (Mr Joel Raphele, Ms Masudu Maduka); SAHRC (Commissioners,		FSE's Recordal of the DMR's failure to engage with Affected Parties, Mintails' alleged non-compliances and alleged systemic failure by the DMR to enforce these non-compliances.	

		Mr Matthew du Plessis)		
	8 February 2017	DMR: Messrs Sunday Mabaso, Jimmy Sekgale, Ms Mashudu Maduka; FSE; DWS.	Inspection of Mintails' operations.	<p>Mintails was directed to:</p> <ul style="list-style-type: none"> • Compile and submit a rehabilitation plan in accordance with the requirements of Annexure 2 of the NEMA: Financial Provisions Regulations 2015. Rehabilitation plan must be subject to public comments which include amongst other the FSE, the Municipality, etc. • Engage with the DWS in order to address all issues that have been raised by the FSE that are within the ambit of the DWS • Respond to the FSE's issues and propose an action plan with time frames of addressing the issues raised • Constantly engage with the FSE to resolve issues or concerns that may possible emerge in future regarding its mining operations <p>See Mintails' response, dated 7 July 2017 and FSE's response dated</p>
	31 August 2017	DMR (C. Ramselo); DWS	Mooi River CMF Meeting. The Minutes record the RAP of 2009, which has not been implemented and the expert evidence of elevated levels of uranium within the Wonderfonteinspruit.	