



IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA

Case no.: 73278/15

In the matter between

**EARTHLIFE AFRICA JOHANNESBURG** First Applicant

**BIRDLIFE SOUTH AFRICA** Second Applicant

**MINING AND ENVIRONMENTAL JUSTICE  
COMMUNITY NETWORK OF SOUTH AFRICA** Third Applicant

**ENDANGERED WILDLIFE TRUST** Fourth Applicant

**FEDERATION FOR A SUSTAINABLE  
ENVIRONMENT** Fifth Applicant

**GROUNDWORK** Sixth Applicant

**ASSOCIATION FOR WATER AND RURAL  
DEVELOPMENT** Seventh Applicant

**BENCH MARKS FOUNDATION** Eighth Applicant

and

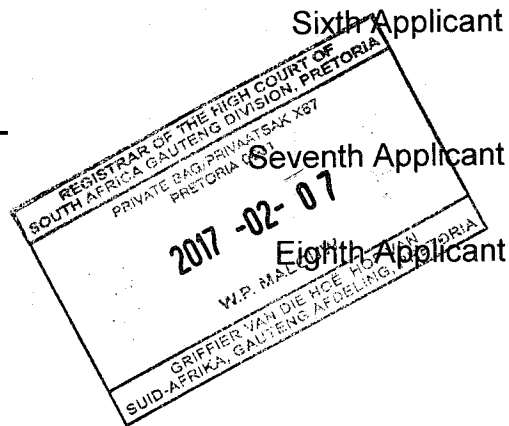
**MINISTER OF MINERAL RESOURCES** First Respondent

**DIRECTOR-GENERAL: DEPARTMENT OF  
MINERAL RESOURCES** Second Respondent

**MINISTER OF ENVIRONMENTAL AFFAIRS** Third Respondent

**MEC: DEPARTMENT OF AGRICULTURE, RURAL  
DEVELOPMENT, LAND AND ENVIRONMENTAL  
AFFAIRS MPUMALANGA** Fourth Respondent

**ATHA-AFRICA VENTURES (PTY) LTD** Fifth Respondent



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**NOTICE OF FILING: APPLICANTS' AMENDMENT TO THEIR NOTICE OF MOTION**

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**THE APPLICANTS FILE HERewith:** Applicants' amendment to their Notice of Motion, being in respect of paragraph 11 thereof, in terms of Rule 53(4).

DATED at PRETORIA on this 3rd day of February 2017.



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**CENTRE FOR ENVIRONMENTAL RIGHTS**

Applicants' Attorneys  
2<sup>nd</sup> Floor, Springtime Studios  
1 Scott Road  
Observatory  
Cape Town  
Tel: 021 447 1647

Email: [chorsfield@cer.org.za](mailto:chorsfield@cer.org.za)

Care of:

**KRUYSHAAR AND DU PLESSIS**

Suite No. 2, Route 21 Corporate Park  
118 Sovereign Drive

Irene

Pretoria

Tel: 0861 000 779

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Email: [kruyshaar@dupkruys.co.za](mailto:kruyshaar@dupkruys.co.za)

Ref: Rentia Kruyshaar *1 RK0136*

TO: **THE REGISTRAR**  
NORTH GAUTENG HIGH COURT  
PRETORIA

AND TO: **THE STATE ATTORNEY**  
Attorney for the First, Second, Third and Fourth Respondents  
Salu Building Ground Floor  
316 Thabo Sehume Street  
Pretoria  
Tel: (012) 309 1572

Fax: 086 406 6203  
Email: [tmukasi@justice.gov.za](mailto:tmukasi@justice.gov.za)  
Ref: 7515/2015/Z42/DM

AND TO:

**GFJ ATTORNEYS**

Attorney for the Fifth Respondent  
3 Oakfields, 67 Portebello Drive  
Highveld Ext 7, 0169

Cel: 083 680 2075

Tel: (011) 442 3242

Email: [randeree4@law.co.za](mailto:randeree4@law.co.za) / [joubert@gfjattorneys.co.za](mailto:joubert@gfjattorneys.co.za)

Ref: Francis Joubert/Ashleigh

## Rentia Kruyshaar

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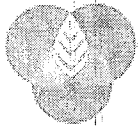
**From:** Suzanne Powell <spowell@cer.org.za>  
**Sent:** 03 February 2017 11:08 AM  
**To:** tmukasi@justice.gov.za  
**Cc:** Catherine Horsfield; Thobeka Gumede  
**Subject:** Earthlife Africa and others / Minister of Mineral Resources and others (Case no.: 73278/15)  
**Attachments:** Filing Sheet - Amendment to Notice of Motion.pdf; Amended NoM.pdf

Dear Mr Mukasi

Kindly receive service of the attached Amendment by the Applicants to their Notice of Motion.

Yours sincerely

Suzanne Powell  
Attorney  
Centre for Environmental Rights NPC  
A non-profit organisation with registration number 2009/020736/08  
PBO No. 930032226, NPO No. 075-863, VAT No. 4770260653  
and a Law Clinic registered with the Law Society of the Cape of Good Hope  
2<sup>nd</sup> Floor, Springtime Studios, 1 Scott Road, Observatory 7925, Cape Town, South Africa  
Tel: 021 447 1647 Fax: 086 730 9098  
Email: [spowell@cer.org.za](mailto:spowell@cer.org.za)  
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Centre for  
Environmental Rights

Advancing Environmental Rights in South Africa

## Rentia Kruyshaar

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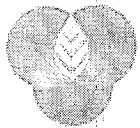
**From:** Suzanne Powell <spowell@cer.org.za>  
**Sent:** 03 February 2017 01:14 PM  
**To:** joubert@gfjattorneys.co.za  
**Cc:** Catherine Horsfield; Thobeka Gumede  
**Subject:** Earthlife Africa and others / Minister of Mineral Resources and others (Case no.: 73278/15)  
**Attachments:** Filing Sheet - Amendment to Notice of Motion.pdf; Amended NoM.pdf

Dear Mr Joubert

- 1) Kindly receive service of the attached Amendment by the Applicants of their Notice of Motion.
- 2) Are you amendable to collecting a hard copy of the attached papers from our correspondent's offices, Du Plessis and Kruyshaar, along with the Applicants' further supplementary affidavit? Alternatively, we can arrange service on your offices as per your previous email.

Yours sincerely

Suzanne Powell  
Attorney  
Centre for Environmental Rights NPC  
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the Department of Environmental Affairs and the Department of Water Affairs and Sanitation,

- 9.3 a critical terrestrial and aquatic biodiversity area under the Mpumalanga Biodiversity Conservation Plan endorsed by the MEC for Agriculture, Rural Development, Environmental Affairs and Tourism for Mpumalanga Province; and
  - 9.4 an endangered ecosystem under the List of Ecosystems that are Threatened and in Need of Protection published by the Minister of Environmental Affairs under the National Environmental Management: Biodiversity Act No. 10 of 2004;
10. directing the DG (or his delegate), when deciding whether to grant the Fifth Respondent's application for a mining right, to have due regard to, and consider, the cumulative impacts of existing mining, and mining as proposed by the Fifth Respondent, on the Enkangala Drakensberg Strategic Water Source Area, including the catchment areas of the Pongola, Tugela and Vaal River Systems;
  11. declaring section 103(4)(b) of the Mineral and Petroleum Resources Development Act, 28 of 2002 inconsistent with the Constitution of the Republic of South Africa, 1996 and invalid;

12. that the First and Second Respondents be ordered to pay the Applicants' costs, with those costs to be paid jointly and severally together with any of the respondents who oppose the relief sought in the application;
13. further and/or alternative relief.

**TAKE NOTICE FURTHER** that the affidavit of PHILLIPINE MAKOMA LEKALAKALA will be used in support of this application.

**TAKE NOTICE FURTHER** that the Applicants have appointed the address of Centre for Environmental Rights, care of its correspondent attorneys, DU PLESSIS AND KRUYSHAAR INCORPORATED, Suite No. 2, Route 21 Corporate Park, 118 Sovereign Drive, Irene, Pretoria as being the address at which they will accept notice and service of all process in these proceedings.

**TAKE NOTICE FURTHER** that the Respondents are called upon to show cause why the relief should not be granted.

**TAKE NOTICE FURTHER** that the First and Second Respondents are required to despatch within fifteen (15) days of receipt of this Notice of Motion to the Registrar of this Honourable Court the record of decision identified in paragraphs 1 and 2, together with such reasons as they may desire to give or are in law required to give, and to notify the Applicants that they have done so.

**TAKE NOTICE FURTHER** that the Applicants shall be entitled, within ten (10) days after the Registrar has made the Record available to them, to deliver a Notice and accompanying affidavit amending, adding to or varying the terms of this Notice of Motion and founding affidavit.