

"Original"

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

NOTICE OF MOTION IN TERMS OF RULE 30A(2)

KINDLY TAKE NOTICE that the Applicants intend to make application to the above Honourable Court on 29 June 2016 at 10am or as soon thereafter as the matter may be heard, for an order in the following terms:

1. directing the First Respondent, within five (5) days of the granting of the order in the Applicants' favour, to dispatch the record of his decision identified in paragraph 1 of the Notice of Motion in the main application, together with any reasons that he desires to give or is in law required to give, and to notify the Applicants that he has done so, in terms of Rule 53(1)(b) of the Uniform Rules of Court;
2. directing the First Respondent, together with any other Respondent(s) opposing this application, to pay the Applicants' costs;
3. granting further and/or alternative relief.

TAKE NOTICE FURTHER that the affidavit of CATHERINE HORSFIELD, the Applicants' attorney of record, and the annexures thereto, will be used in support of this application.

DATED at PRETORIA on this 12th day of **MAY 2016**.

Handwritten signature

CENTRE FOR ENVIRONMENTAL RIGHTS

Applicants' Attorneys
2nd Floor, Springtime Studios
1 Scott Road
Observatory
Cape Town
Tel: 021 447 1647
Email: chorsfield@cer.org.za

Care of:

DU PLESSIS AND KRUYSHAAR INC

Suite No. 2, Route 21 Corporate Park
118 Sovereign Drive
Irene
Pretoria
Tel: 0861 000 779
Fax: 086 548 0837
Email: kruyshaar@dupkruys.co.za
Ref: Rentia Kruyshaar

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
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/joubert@gfjattorneys.co.za
Ref: Francis Joubert/Ashleigh



**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

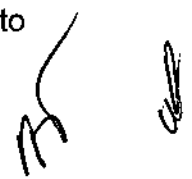
AFFIDAVIT IN TERMS OF RULE 30A(2)

I, the undersigned –

CATHERINE HORSFIELD

do hereby make oath and say that –

1. I am an attorney, employed as such by the Centre for Environmental Rights (the CER) of 2nd Floor, Springtime Studios, 1 Scott Road, Observatory, Cape Town, the Applicants' attorneys of record. I am duly authorised to depose this affidavit.
2. The facts and circumstances set out in this affidavit fall within my personal knowledge and belief, except where the context indicates otherwise, and are true and correct.
3. On 10 September 2015, the Applicants launched an application in this Honourable Court in terms of the Promotion of Administrative Justice Act, 2000 (PAJA) (hereinafter referred to as "*the main application*") for, *inter alia*, for the review and setting aside of:-
 - 3.1 the decision of the First Respondent taken in terms of section 103(4)(b) of the Mineral and Petroleum Resources Development Act, 2002 (MPRDA) to amend a decision of the Second Respondent to grant a mining right to the Fifth Respondent in terms of section 23 of the MPRDA, alternatively to withdraw that decision of the Second Respondent and to

Handwritten signature and initials in the bottom right corner of the page.


replace it with a fresh grant of the mining right in question in terms of section 23 of the MPRDA;

- 3.2 the decision of the Second Respondent to grant a mining right to the Fifth Respondent in terms of section 23 of the MPRDA.
4. This is an application in terms of Rule 30A(2) to compel the First Respondent to dispatch the record of his decision as required in terms of Rule 53(1)(b) of the Uniform Rules of Court, and notification of having done so.
5. The Applicants' Notice of Motion in the main application was served on the First Respondent on 14 September 2015. A copy of the return of service is annexed, marked "CH1".
6. In terms of Rule 53(1)(b), the Applicants' Notice of Motion in the main application specifically called upon both the First Respondent and Second Respondents to despatch, within fifteen (15) days of receipt of the Notice of Motion, to the Registrar of this Honourable Court, the record of their respective decisions together with any reasons that each of them desires to give or is in law required to give, and to notify the Applicants that they have done so. Accordingly, the respective records were required to be dispatched to the Registrar by 6 October 2015.
7. On 23 October 2015 the CER, on behalf of the Applicants, addressed a letter to the First and Second Respondents setting out the information in paragraph 5 above and stating that, as at the date of the letter, the Applicants had received no notification of the dispatch of the records. The Applicants demanded that the records be dispatched, and notice



thereof be given, by no later than 30 October 2015. A copy of this letter is annexed, marked "CH2".

8. On 3 December 2015, acting on behalf of the Applicants, I had a telephonic discussion with Mr Terrence Mukasi, the State Attorney on record for the First and Second Respondents. During our telephonic discussion, Mr Mukasi informed me that the Rule 53 record was in his possession and we agreed that it would be dispatched on 18 January 2016 (the date of his return to office after the December/January holiday period). I confirmed this agreement in an email to him on the same date, a copy of which is annexed, marked "CH3".
9. On 22 January 2016 a notice in terms of Rule 53 was served on our correspondent reflecting that "*the Respondents hereby file the records*". A copy of the notice is annexed marked "CH4". The CER received the dispatched documents from our Pretoria-based correspondent attorneys on 1 February 2016.
10. Given the volume of the dispatched documents (2865 pages), on 2 February 2016 the CER (on behalf of the Applicants) requested an extension of the period for the Applicants to file any supplements to their Notice of Motion and Founding Affidavit to 4 March 2016. The Fifth Respondent acceded to this request in an email dated 3 February 2016. Copies of this request and acceptance are annexed, marked "CH5".
11. However, on 9 February 2016 it came to my attention that the dispatched documents do not contain the record pertaining to the First Respondent's decision. They only comprise a record of the Second Respondent's decision.



12. Accordingly, on 9 February 2016 I addressed an email to Mr Mukasi and to Mr Francois Joubert of GFJ Attorneys, the Fifth Respondent's attorneys of record, in which I informed them that the dispatched documents do not contain the record pertaining to the First Respondent's decision and requested that Mr Mukasi dispatch that record at his earliest convenience. A copy of this email is annexed, marked "**CH6**".

13. On 24 February 2016 I addressed an email to Mr Mukasi in which I requested that he advise the applicants of his instructions regarding the outstanding record of the First Respondent's decision. A copy of this email is annexed, marked "**CH7**".

14. On 3 March 2016 I telephonically contacted Mr Mukasi and explained to him that the Applicants are anxious about the delay in the main application caused by the First Respondent's failure to dispatch the record of his decision. I requested that he advise when the record will be dispatched. He said he would revert. On 7 March 2016 I addressed an email to Mr Mukasi confirming our telephonic discussion and advising him that in the absence of confirmation of the filing of the record, my instructions were to bring an application to compel the dispatch of the record. A copy of this email is annexed, marked "**CH8**".

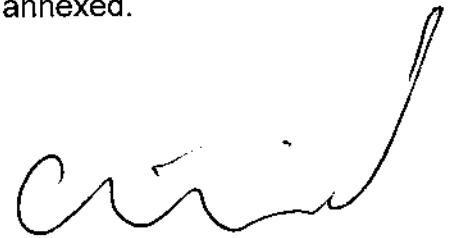
15. By 18 March 2016 the First Respondent had still not notified the Applicants of the dispatch of the record. Accordingly the Applicants served a Notice in terms of Rule 30A(1) requiring the First Respondent to dispatch the record and notify the Applicants that he has done so within ten (10) days of the date thereof.

AK

AK

16. As at the date of this affidavit, the Applicants have still not received notification of the dispatch of the record by the First Respondent or any response from Mr Mukasi as to when the record will be dispatched. More than ten (10) days have lapsed since the Applicants gave notice to the First Respondent in terms of Rule 30A(1).

17. The First Respondent has not complied with the Applicants' Notice in terms of Rule 30A(1). Accordingly the Applicants seek the relief set out in the Notice of Motion to which this affidavit is annexed.

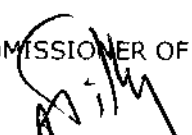


CATHERINE HORSFIELD

I certify that:

1. the deponent acknowledged to me that –
 - (a) s/he knows and understands the contents of this declaration;
 - (b) s/he has no objection to taking the prescribed oath;
 - (c) s/he considers the prescribed oath to be binding on her/his conscience;
2. the deponent thereafter uttered the words "I swear that the contents of this declaration are true, so help me God";
3. the deponent signed this declaration in my presence at the address set out hereunder on 28th APRIL 2016.

COMMISSIONER OF OATHS



Name: **ALISON TILLEY**
Practising Attorney
OPEN DEMOCRACY ADVICE CENTRE
1 Scott Road
OBSERVATORY
7925
CAPE TOWN



Commissioner of Oaths

"CHI"

21 SEP 2015

**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)**

Case No. 73278/2015

In the matter between:

EARTHLIFE AFRICA JOHANNESBURG ANE
AND 7 OTHER

Applicant

and

MINISTER OF MINERAL RESOURCES

1st Respondant

and

RETURN: SERVICE OF NOTICE OF MOTION

IT IS HEREBY CERTIFIED:

That on the 14/09/2015 at 11h35 at BLOCK 2C,4TH FLOOR TREVENNA CAMPUS CNR, FRANCIS BAARD & MEINTJES STREET, SUNNYSIDE, being the principal place of business of MINISTER OF MINERAL RESOURCES, a copy of the Notice of Motion was served upon MS DOROTHY GOLIATH-LEGAL ADMIN, of MINISTER OF MINERAL RESOURCES, after the original document was displayed and the nature and contents thereof explained to her. MS DOROTHY GOLIATH a person apparently not less than sixteen years of age and in the employ of MINISTER OF MINERAL RESOURCES accepted service. Rule 4(1)(a)(v).

SHERIFF CHARGES/EXPENSES: (You may require that this account be taxed and vouched before payment)

Description	Tariff	QTY	Amount	Description	Tariff	QTY	Amount
Service	55.00	1	55.00				
Registration & Return	39.60	1	39.60				
Travelling	5.00	10	50.00				

TO: THE REGISTRAR OF THE HIGH COURT, PRETORIA

Zero rated items	0.00
Sub-total	144.60
VAT	20.24
Total	164.84

Account No.: 0DUPLES100
TO: DU PLESSIS & KRUYSHAAR
 Dx - 289 PRETORIA

Mrs Isabel Nieuwenhuys - Deputy Sheriff
 (Properly appointed in terms of Section 6(1) of the Sheriff's Act No. 90/1986)
 Signed at Pretoria on 16/09/15
 My Reference: 2015/01/14252.00 / LSG

Sheriff Pretoria South East
 P.O. Box 12526, Hatfield, 0028 Dx 40 Hatfield

[Handwritten signatures and initials]



Centre for Environmental Rights

Advancing Environmental Rights in South Africa

"CH2"

Honourable Mosebenzi Zwane
The Minister of Mineral Resources
Trevenna Campus, Block 2C Floor 4
cnr Meintjies and Francis Baard Streets
Sunnyside
Pretoria
By email: refilwe.motau@dmr.gov.za
By fax: 012 444 3145

Dr Thibedi Ramontja
Director-General
Department of Mineral Resources
Trevenna Campus, Block 2C Floor 4
cnr Meintjies and Francis Baard Streets
Sunnyside
Pretoria
By email: nwabisa.qwanyashe@dmr.gov.za
By fax: 012 341 2228

Our ref: CH/MT
23 October 2015

URGENT

Dear Sirs

**EARTHLIFE AFRICA JOHANNESBURG AND OTHERS V MINISTER OF MINERAL RESOURCES AND OTHERS
HIGH COURT OF SOUTH AFRICA, GAUTENG DIVISION, PRETORIA: CASE NO. 73278/15**

1. As you are aware, we act for the applicants in the above matter.
2. The Applicants' Notice of Motion was served on your respective offices by the Sheriff of the Court on 14 September 2015. That Notice of Motion, *inter alia*, called on you to dispatch within fifteen (15) days of receipt of the Notice of Motion to the Registrar of the Court, the records of decision identified in paragraphs 1 and 2 of the Notice of Motion, together with reasons; and to notify the Applicants that you have done so.
3. The deadline for dispatching the relevant records of decision to the Registrar and notification thereof expired on 6 October 2015. Yet the Applicants have received no such notification.
4. In the circumstances, we are instructed to demand that the records of decision referred to in paragraphs 1 and 2 of the Notice of Motion are dispatched to the Registrar, and notice thereof given, within 7 court days of this letter,

Yours faithfully,
[Signature]
[Name]
[Title]
[Contact Information]

This document is the property of Earthlife Africa Johannesburg and is intended for the use of the recipient only. It is confidential and may contain information that is not intended for publication. If you have received this document in error, please contact the sender immediately. This document is not intended to constitute an offer of insurance or any other financial product. It is not to be used as a basis for any investment decision. The information contained herein is for general information only and does not constitute an offer of any financial product. The information contained herein is not intended to constitute an offer of any financial product. The information contained herein is not intended to constitute an offer of any financial product.

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i.e. by no later than the close of business on 30 October 2015. The Applicants' rights to approach the High Court for appropriate relief should the records not be accordingly dispatched, are reserved.

Yours faithfully
CENTRE FOR ENVIRONMENTAL RIGHTS

per:

Catherine Horsfield

Attorney

Programme Head: Mining

Direct email: chorsfield@cer.org.za

Cc: Mr Pieter Alberts

Director: Legal Services

Department of Mineral Resources

By email: Pieter.Alberts@dmr.gov.za

11 2.

Fax Header Information

OPEN DEMOCRACY
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23-Oct-2015 13:20

Job	Date/Time	Type	Identification	Duration	Pgs	Result
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Centre for Environmental Rights
Advancing Environmental Rights in South Africa

Honourable Mosebenzi Zwane
The Minister of Mineral Resources
Trevenna Campus, Block 2C Floor 4
cnr Meintjies and Francis Baard Streets
Sunnyside
Pretoria
By email: refjwz.motau@dmr.gov.za
By fax: 012 444 3145

Dr Thibedi Ramontja
Director-General
Department of Mineral Resources
Trevenna Campus, Block 2C Floor 4
cnr Meintjies and Francis Baard Streets
Sunnyside
Pretoria
By email: nwabisa.qwanvashe@dmr.gov.za
By fax: 012 341 2228

Our ref: CH/MT
23 October 2015

URGENT

Dear Sirs

**EARTHLIFE AFRICA JOHANNESBURG AND OTHERS V MINISTER OF MINERAL RESOURCES AND OTHERS
HIGH COURT OF SOUTH AFRICA, GAUTENG DIVISION, PRETORIA: CASE NO. 73278/15**

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Centre for Environmental Rights
PO Box 1010, Braamfontein, Johannesburg
Tel: +27 (0)11 447 1191
Fax: +27 (0)11 447 1192
Email: info@ceur.org.za
Website: www.ceur.org.za

AD 3. *[Handwritten initials and number]*

Catherine Horsfield

From: Catherine Horsfield
Sent: 23 October 2015 02:02 PM
To: 'refilwe.motau@dmr.gov.za'; 'Thibedi.Ramontja@dmr.gov.za'; 'Nwabisa Qwanyashe'
Cc: 'pieter.alberts@dmr.gov.za'; Marthán Theart
Subject: EARTHLIFE AFRICA JOHANNESBURG AND OTHERS V MINISTER OF MINERAL RESOURCES AND OTHERS; PRETORIA HIGH COURT: CASE NO. 73278/15
Attachments: 23 10 15 CER letter to Min MR and DG.pdf

Dear Honourable Minister and Dr Ramontja

Please see the attached letter for your respective kind attention.

Yours faithfully

Catherine Horsfield

Attorney and Programme Head: Mining
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

2nd Floor, Springtime Studios, 1 Scott Road, Observatory 7925, Cape Town, South Africa

Tel: 021 447 1647 Fax: 086 730 9098

Email: chorsfield@cer.org.za

Web: www.cer.org.za and follow us on Facebook: www.facebook.com/CentreEnvironmentalRights



Centre for
Environmental Rights

Advancing Environmental Rights in South Africa

Newsflash: The Centre runs an Environmental Rights Clinic on the first Friday of every month. See if you, your community or your organisation qualify for a free Clinic consultation and book an appointment at <http://cer.org.za/about/accessing-cer-services/>

"CH3"

Marthán Theart

From: Catherine Horsfield
Sent: 03 December 2015 02:33 PM
To: Mukasi Terrence
Cc: Marthán Theart; Thobeka Gumede
Subject: RE: Earthlife Africa Jhb and Others v Min of Mineral Resources and Others Case no.: 73278/15

Dear Terrence

Thanks for your email and the call earlier.

I confirm that our clients' response to both your clients' and the 5th respondent's Notice in terms of Rule 7 has been dispatched to our Pretoria correspondents by courier and should be served on you shortly.

I also confirm that once you have received that response you will be ready to file your clients' Rule 53 records, but at in light of the holiday period, you shall do so on your return to office on 18 January 2016.

Kind regards
Catherine

Catherine Horsfield
Attorney and Programme Head: Mining
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
2nd Floor, Springtime Studios, 1 Scott Road, Observatory 7925, Cape Town, South Africa
Tel: 021 447 1647 Fax: 086 730 9098
Email: chorsfield@cer.org.za
Web: www.cer.org.za and follow us on Facebook: www.facebook.com/CentreEnvironmentalRights



Centre for
Environmental Rights

Advancing Environmental Rights in South Africa

Newsflash: The Centre runs an Environmental Rights Clinic on the first Friday of every month. See if you, your community or your organisation qualify for a free Clinic consultation and book an appointment at <http://cer.org.za/about/accessing-cer-services/>

From: Mukasi Terrence [mailto:TMukasi@justice.gov.za]
Sent: 03 December 2015 11:56 AM
To: Catherine Horsfield <chorsfield@cer.org.za>
Cc: Marthán Theart <mtheart@cer.org.za>; Thobeka Gumede <tgumede@cer.org.za>
Subject: RE: Earthlife Africa Jhb and Others v Min of Mineral Resources and Others Case no.: 73278/15

Good morning

I made corrections on the one to be served at your offices.

AS
CCH

"CH4" c

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NO: 73278/15

In the matter between:

EARTHLIFE AFRICA JOHANNESBURG

1ST APPLICANT

BIRDLIFE SOUTH AFRICA

2ND APPLICANT

**MINING AND JUSTICE COMMUNITY
NETWORK OF SOUTH AFRICA**

3RD APPLICANT

ENDANGERED WILDLIFE TRUST

4TH APPLICANT

**FEDERATION FOR A SUSTAINABLE
ENVIRONMENT**

5TH APPLICANT

GROUNDWORK

6TH APPLICANT

**ASSOCIATION FOR WATER AND RURAL
DEVELOPMENT**

7TH APPLICANT

BENCH MARKS FOUNDATION

8TH APPLICANT

AND

MINISTER OF MINERAL RESOURCES

1ST RESPONDENT

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

2ND RESPONDENT

MINISTER OF ENVIRONMENTAL AFFAIRS

3RD RESPONDENT

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

4TH RESPONDENT

ATHA-AFRICA VENTURES (PTY) LTD


5TH RESPONDENT

NOTICE IN TERMS OF RULE 53

[Handwritten signatures and initials]

KINDLY TAKE NOTICE THAT that the Respondents hereby file the records as required by Rule 53 with the Registrar of the above Honourable Court.

DATED AND SIGNED AT PRETORIA ON THIS THE 26TH DAY OF NOVEMBER 2015.




**THE STATE ATTORNEY
RESPONDENTS' ATTORNEY**
SALU BUILDING GROUND FLOOR
316 THABO SEHUME STREET, PRETORIA
PRIVATE BAG X91
PRETORIA
REF: 7515/2015/Z42/DM
TEL: (012) 309-1572
Fax: 086 406 6203
E-mail: tmukasi@justice.gov.za

TO : THE REGISTRAR OF THE ABOVE
HONOURABLE COURT
PRETORIA

22 JAN 2016 13h15

AND TO : **CENTRE FOR ENVIRONMENTAL RIGHTS**
APPLICANTS' ATTORNEYS
TEL: (021) 447-1647
C/O DU PLESSIS AND KRUYSHAAR INC.
SUITE NO. 2, ROUTE 21 CORPORATE PARK
118 SOVEREIGN DRIVE, IRENE
PRETORIA
TEL: 0861 000 779
FAX: 086 548 0837
EMAIL: kruyshaar@dupkruys.co.za
REF: **Rentia Kruyshaar/RK0136**

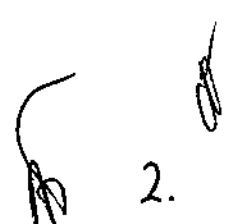


DU PLESSIS & KRUYSHAAR Inc/Inc
POSBUS 32282
WAVERLEY, 0135
Republiek van Suid Afrika

RECEIVED BY:

DATE:

TIME:



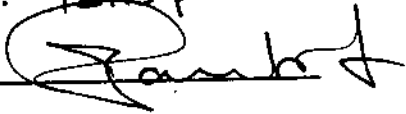
AND TO :

MESSRS GFJ ATTORNEYS
5TH RESPONDENT'S ATTORNEYS
3 OAKFIELDS, 67 PORTEBELLO DRIVE
HIGHVELD EXT 7, 0169
CELL: 083 680 2075
TEL: (011) 442-3242
EMAIL: randeree4@law.co.za / joubert@gfjattorneys.co.za
REF: Francis Joubert/Ashleigh

RECEIVED BY: G.F. Joubert

DATE: 21/01/2015

TIME: 12:45 pm



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*RECORD OF PROCEEDINGS IN RELATION TO ENVIRONMENTAL MANAGEMENT
PROGRAMME OF ATHA AFRICA VENTURES (PTY) LTD (MP30/5/1/2/2/10069MR)*

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AF

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"CH5"

Thobeka Gumede

From: Catherine Horsfield <chorsfield@cer.org.za>
Sent: 02 February 2016 09:57 AM
To: Mukasi Terrence; Francois Joubert
Cc: Thobeka Gumede; Marthán Theart
Subject: EARTHLIFE AFRICA JOHANNESBURG & 7 OTHERS V MINISTER OF MINERAL RESOURCES & 4 OTHERS
Attachments: 02 02 16 CER letter to resps attorneys.pdf; _Certification_.htm
Follow Up Flag: Follow up
Flag Status: Flagged

Dear Sirs

Please see the attached correspondence for your attention.

Yours faithfully

Catherine Horsfield
Attorney and Programme Head: Mining
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
2nd Floor, Springtime Studios, 1 Scott Road, Observatory 7925, Cape Town, South Africa
Tel: 021 447 1647 Fax: 086 730 9098
Email: chorsfield@cer.org.za
Web: www.cer.org.za and follow us on Facebook: www.facebook.com/CentreEnvironmentalRights



Centre for
Environmental Rights

Advancing Environmental Rights in South Africa

Report violations of environmental rights to the 24-hour Environmental Crimes & Incidents Hotline on **0800 205 005**. More reports of environmental violations assist in justifying more investment in more inspectors, and more enforcement of environmental laws. Numbers matter! Take the time to report violations, even if you have done so elsewhere. For more information about this CER campaign, visit <http://cer.org.za/news/numbers-matter-join-us-in-reporting-violations-of-environmental-rights>



Centre for Environmental Rights
Advancing Environmental Rights in South Africa

Mr Terrence Mukasi
The Office of the State Attorney
Your ref: 7515/2015/Z42/DM

By Email: tmukasi@justice.gov.za

Mr Francois Joubert
GFJ Attorneys
Your ref: Francois Joubert/Ashleigh

By Email: joubert@gfjattorneys.co.za

Our ref: CH/MT/TG
2 February 2016

Dear Sirs

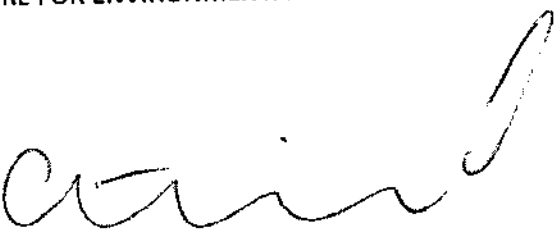
EARTHLIFE AFRICA JOHANNESBURG & 7 OTHERS V MINISTER OF MINERAL RESOURCES & 4 OTHERS
CASE NO. 73278/2015

We refer to the state respondents' Notice in terms of Uniform Rule 53.

Please be advised that we received the record from our correspondents yesterday, 1 February 2016. We note that it is 2865 pages. Given the volume of the record, we request an extension of the 10 days provided for our clients to supplement their papers. In this regard, our senior Counsel is in an opposed application for the first 2 weeks of February and then in an arbitration for the next two weeks. Accordingly, we seek an extension to 4 March 2016 to file supplementary papers.

Kindly let us know whether our request is acceptable to your clients.

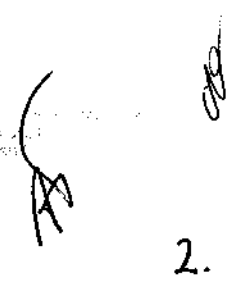
Yours faithfully
CENTRE FOR ENVIRONMENTAL RIGHTS

per: 

Catherine Horsfield
Attorney
Programme Head: Mining
Direct email: chorsfield@cer.org.za

1st Floor, Longhorne Avenue
Cape Town, Western Cape, 7800
Cape Town, South Africa
Tel: 021 447 1547, Fax: 021 447 0919
Email: info@cer.org.za

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2.

Thobeka Gumede

From: Francois Joubert <joubert@gfjattorneys.co.za>
Sent: 03 February 2016 12:02 PM
To: Catherine Horsfield; 'Mukasi Terrence'
Cc: Thobeka Gumede; Marthán Theart; praveer.tripathi@athagroup.in; morgam.munsamy@athagroup.in; arun.thakur@athagroup.in; 'Fanie Botha'
Subject: RE: EARTHLIFE AFRICA JOHANNESBURG & 7 OTHERS V MINISTER OF MINERAL RESOURCES & 4 OTHERS
Attachments: EARTHLIFE AFRICA JOHANNESBURG & 7 OTHERS V MINISTER OF MINERAL RESOURCES & 4 OTHERS
Importance: High

Dear Ms Horsfield,

Your e-mail of yesterday in respect of the above-mentioned matter refers. Your request for an extension of time to file supplementary papers is accepted as requested.

Best regards,

Francois Joubert

Cell: +27 (0)83 680 2075



ATTORNEYS

The information contained in this email and any attachments is confidential and/or privileged. If you are not the intended recipient, you must not disclose or use the information in this email in any way. If you received it in error, kindly notify us immediately by return e-mail and delete the original message.

3.

"CH6"

Thobeka Gumede

From: Catherine Horsfield
Sent: 09 February 2016 03:55 PM
To: Francois Joubert; 'Mukasi Terrence'
Cc: Thobeka Gumede; Suzanne Powell
Subject: RE: EARTHLIFE AFRICA JOHANNESBURG & 7 OTHERS V MINISTER OF MINERAL RESOURCES & 4 OTHERS

Dear Mr Mukasi and Mr Joubert

Thank you for the email below accepting our request for an extension.

However, it has, since my email of 2 February 2016, come to our attention that the record filed is that in relation to the decision of the Director General only. There is no record of the Minister's decision.

Kindly file the record of the Minister's decision at your earliest convenience. We will naturally only be in a position to supplement fully once the Minister's record of decision has been made available.

Kind regards

Catherine Horsfield
Attorney and Programme Head: Mining
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From: Francois Joubert [mailto:joubert@gfjattorneys.co.za]
Sent: 03 February 2016 12:02 PM
To: Catherine Horsfield <chorsfield@cer.org.za>; 'Mukasi Terrence' <TMukasi@justice.gov.za>
Cc: Thobeka Gumede <tgumede@cer.org.za>; Marthán Theart <mtheart@cer.org.za>;
praveer.tripathi@athagroup.in; morgam.munsamy@athagroup.in; arun.thakur@athagroup.in; 'Fanie Botha'
<stelpos@mweb.co.za>
Subject: RE: EARTHLIFE AFRICA JOHANNESBURG & 7 OTHERS V MINISTER OF MINERAL RESOURCES & 4 OTHERS
Importance: High

Thobeka Gumede

From: Catherine Horsfield
Sent: 24 February 2016 03:20 PM
To: 'Mukasi Terrence'
Cc: Thobeka Gumede; Suzanne Powell; Francois Joubert
Subject: RE: EARTHLIFE AFRICA JOHANNESBURG & 7 OTHERS V MINISTER OF MINERAL RESOURCES & 4 OTHERS

Dear Mr Mukasi

I refer to my email below and to Mr Joubert's email of 11 February on a similar point.

Kindly advise us of your instructions regarding the outstanding record of the Minister's decision. Specifically, when will this be filed?

Kind regards

Catherine Horsfield
 Attorney and Programme Head: Mining
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From: Catherine Horsfield
Sent: 09 February 2016 03:55 PM
To: 'Francois Joubert' <joubert@gfjattorneys.co.za>; 'Mukasi Terrence' <TMukasi@justice.gov.za>
Cc: Thobeka Gumede <tgumede@cer.org.za>; Suzanne Powell <spowell@cer.org.za>
Subject: RE: EARTHLIFE AFRICA JOHANNESBURG & 7 OTHERS V MINISTER OF MINERAL RESOURCES & 4 OTHERS

Dear Mr Mukasi and Mr Joubert

Thank you for the email below accepting our request for an extension.

However, it has, since my email of 2 February 2016, come to our attention that the record filed is that in relation to the decision of the Director General only. There is no record of the Minister's decision.

"CH8"

Suzanne Powell

From: Catherine Horsfield
Sent: 07 March 2016 12:34
To: 'Mukasi Terrence'
Cc: Thobeka Gumede; Suzanne Powell; Francois Joubert
Subject: RE: EARTHLIFE AFRICA JOHANNESBURG & 7 OTHERS V MINISTER OF MINERAL RESOURCES & 4 OTHERS

Dear Terrence

I refer to our telephone conversation on 3 March 2016.

As mentioned, my clients are anxious about the delay in this matter caused by your client's failure to file the record of the Minister's decision.

Our clients' Notice of Motion was served on the Minister on 14 September 2015. That Notice of Motion called for the record to be filed within 15 days of its receipt. While we later agreed that the record would be filed after the end of year break, on 18 January 2016, seven weeks have since lapsed and the record has still not been filed. As indicated before, our clients will only be able to supplement fully once the record of decision is received.

There have been 3 emails on behalf of the parties, calling on your client to file the record of his decision. We still have no indication when this will be filed.

Please would you indicate per return when your client will file the record of the Minister's decision. Our instructions are otherwise to bring an application to compel.

Kind regards
Catherine

From: Catherine Horsfield
Sent: 24 February 2016 03:20 PM
To: 'Mukasi Terrence' <TMukasi@justice.gov.za>
Cc: Thobeka Gumede <tgumede@cer.org.za>; Suzanne Powell <spowell@cer.org.za>; 'Francois Joubert' <bjoubert@gfjattorneys.co.za>
Subject: RE: EARTHLIFE AFRICA JOHANNESBURG & 7 OTHERS V MINISTER OF MINERAL RESOURCES & 4 OTHERS

Dear Mr Mukasi

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Kind regards

Catherine Horsfield
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