

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

CASE NO: 50779/17

In the matter between:

MINING AND ENVIRONMENTAL JUSTICE COMMUNITY NETWORK OF SOUTH AFRICA	First Applicant
GROUNDWORK	Second Applicant
EARTHLIFE AFRICA, JOHANNESBURG	Third Applicant
BIRDLIFE SOUTH AFRICA	Fourth Applicant
ENDANGERED WILDLIFE TRUST	Fifth Applicant
FEDERATION FOR A SUSTAINABLE ENVIRONMENT	Sixth Applicant
ASSOCIATION FOR WATER AND RURAL DEVELOPMENT	Seventh Applicant
BENCH MARKS FOUNDATION	Eighth Applicant
and	
MINISTER OF ENVIRONMENTAL AFFAIRS	First Respondent
MINISTER OF MINERAL RESOURCES	Second Respondent
ATHA-AFRICA VENTURES (PTY) LTD	Third Respondent
THE MABOLA PROTECTED ENVIRONMENT LANDOWNERS ASSOCIATION	Fourth Respondent
MEC FOR AGRICULTURE, RURAL DEVELOPMENT, LAND AND ENVIRONMENTAL AFFAIRS, MPUMALANGA	Fifth Respondent

CHRONOLOGY OF EVENTS

- 09/12/2011: The Minister of Mineral Resources (“Minerals Minister”) renewed the prospecting right granted to Atha-Africa Ventures (Pty) Ltd’s (“Atha”) predecessor (Bunengi Mining Services (Pty) Ltd)
- 24/08/2012: Atha issued the notice of environmental impact assessment for the proposed mine under Mineral and Petroleum Resources Development Act 28 of 2002 (“MPRDA”), National Environmental Management Act 107 of 1998 (“NEMA”), National Water Act 36 of 1998 (“NWA”) and National Environmental Management: Waste Act 59 of 2008
- 19/03/2013: Atha applied to Mpumalanga Regional Manager of Department of Mineral Resources (“DMR”) (“Regional Manager”) for a mining right in terms section 22 of MPRDA
- 25/04/2013: Atha’s application for a mining right was accepted by Regional Manager in terms of section 22 of MPRDA
- 10/05/2013: Member of the Executive Council: Economic Development, Environment and Tourism, Mpumalanga (“MEC”) published a notice in the Government Gazette in terms of section 33(1) of National Environmental Management: Protected Areas Act 57 of 2003 (“NEMPAA”) in terms of which she gave a notice of her intention to declare the Mabola Protected Environment (“MPE”) as a protected environment
- 04/07/2013: Atha lodged a formal objection with the MEC and requested that the relevant mining properties be excluded from the declaration of the MPE
- 22/01/2014: MEC declares MPE in terms of section 28(1)(a)(i) and (b) of NEMPAA
- 17/02/2014: MEC concludes agreement with Mabola Protected Environment Landowners Association (“MPELA”) in terms of which MPELA is assigned and accepts management authority for MPE
- 19/09/2014: Director-General (“DG”) of DMR grants Atha mining right in terms of section 23(1) of MPRDA
- 23/01/2015: Meeting between Atha, representatives of MPELA, representatives of Mpumalanga Tourism and Parks Agency (“MTPA”) and a representative of Mpumalanga Environmental Department at which the draft management plan for the MPE was presented
- 19/02/2015: Public participation/consultation meeting organised by MTPA on the developed management plan for the MPE, where it was

- decided to subject the management plan to further public participation
- 14/04/2015: Mining right withdrawn by Minerals Minister in terms of section 103(4)(b) of MPRDA and purportedly replaced with new mining right
- 10/09/2015: Applicants apply for judicial review of mining right in Gauteng Division, Pretoria of the High Court
- 03/05/2016: Atha's applies for permission in terms of section 48(1)(b) of NEMPAA
- 07/06/2016: Chief Director: Environmental Affairs, Mpumalanga grants Atha environmental authorisation for listed activities in terms of section 24 of NEMA ("EA")
- 28/06/2016: Mpumalanga Regional Manager of DMR approves Atha's environmental management programme ("EMPR") in terms of section 39 of MPRDA
- 07/07/2016: DG (Acting) of Department of Water and Sanitation grants Atha water use licence in terms of section 22(1)(b) of NWA ("WUL")
- 19/08/2016: Applicants lodge internal appeal against EMPR decision in terms of section 96(1)(a) of MPRDA with DG of DMR
- 20/08/2016: Environment Minister grants permission in terms of section 48(1)(b) of NEMPAA
- 13/10/2016: Applicants lodge internal appeal against EA in terms of section 43(2) of NEMA with MEC ("EA appeal")
- 21/11/2016: Minerals Minister grants permission in terms of section 48(1)(b) of NEMPAA
- 15/12/2016: Two applicants and Mpumalanga Landbou/Agriculture lodge internal appeal in terms of section 148(1) of NWA against WUL with Water Tribunal
- 31/01/2017: DWS provides CER with Atha's request to uplift suspension of WUL, and CER learns that NEMPAA decisions taken
- 20/06/2017: Applicants institute application in Gauteng Division, Pretoria for urgent interdict; and Atha undertakes to comply with all statutory requirements before commencing mining and to provide three weeks' written notice before commencement of any mining or mining-related activity
- 24/07/2017: Applicants launch present application
- 23/11/2017: MEC dismisses EA appeal

Alan Dodson SC

Chambers

Johannesburg

Aymone du Toit

Chambers

Cape Town

Counsel for Applicants

Kameshni Pillay SC

Louis Gumbi

Chambers

Johannesburg

Counsel for First, Second and
Fifth Respondents

Peter Lazarus SC

Angelo Pantazis

Chambers

Johannesburg

Counsel for Third Respondent

July/August 2018