



**IN THE HIGH COURT OF SOUTH AFRICA**

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

Private Bag X67, Pretoria 0001

2021 -03- 23

GD-PRET-006

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA

Case No:11761/2021

In the matter between:

**MINING AND ENVIRONMENTAL JUSTICE**

**COMMUNITY NETWORK OF SOUTH AFRICA**

**GROUNDWORK**

**BIRDLIFE SOUTH AFRICA**

**ENDANGERED WILDLIFE TRUST**

**FEDERATION FOR A SUSTAINABLE ENVIRONMENT**

**ASSOCIATION FOR WATER AND RURAL DEVELOPMENT**

**THE BENCH MARKS FOUNDATION**

First Applicant

Second Applicant

Third Applicant

Fourth Applicant

Fifth Applicant

Sixth Applicant

Seventh Applicant

and

**UTHAKA ENERGY (PTY) LTD**

First Respondent

**MEC FOR AGRICULTURE, RURAL DEVELOPMENT,  
LAND AND ENVIRONMENTAL AFFAIRS, MPUMALANGA**

Second Respondent

**THE MINISTER OF ENVIRONMENT, FORESTRY  
AND FISHERIES**

Third Respondent

**MINISTER OF MINERAL RESOURCES AND ENERGY**

Fourth Respondent

**ACTING CHIEF DIRECTOR: ENVIRONMENTAL AFFAIRS,  
DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT,**

**LAND AND ENVIRONMENT AFFAIRS, MPUMALANGA**

Sixth Respondent

**GERT SIBANDE DISTRICT MUNICIPALITY**

Seventh Respondent

**DR PIXLEY KA ISAKA SEME LOCAL MUNICIPALITY**

Eighth Respondent

**THE WATER TRIBUNAL**

Ninth Respondent

**ESTATE LATE PIERRE WILLIAM BRUWER UYS**

Tenth Repondent

**OCCUPIERS OF PORTION 1 OF THE FARM YZERMYN**

**96 HT**



Eleventh Respondent

**THE VOICE COMMUNITY REPRESENTATIVE COUNCIL**

Twelfth Respondent

**THE MABOLA PROTECTED ENVIRONMENT**

**LANDOWNERS ASSOCIATION**

Thirteenth Respondent

**ORDER**

Having heard the parties and, having read and considered the papers filed of record, it is ordered as follows:

1. It has been directed that this matter be heard on an urgent basis in terms of rule 6(12).
2. The first respondent ("Uthaka") is interdicted and restrained from conducting any mining activities and mining-related operations (including any activities preparatory, ancillary or incidental to mining, including without limitation any fencing, cutting or clearing of vegetation, any establishment of roads, any construction or installation of buildings, infrastructure or equipment and any drilling, excavation, digging, removal of soil, coal, ore or any mineral) ("mining activities") save for the survey pegging of the surface infrastructure boundary as contemplated as activity 1 in the first respondent's Gantt Chart, and the wetlands demarcation pegging

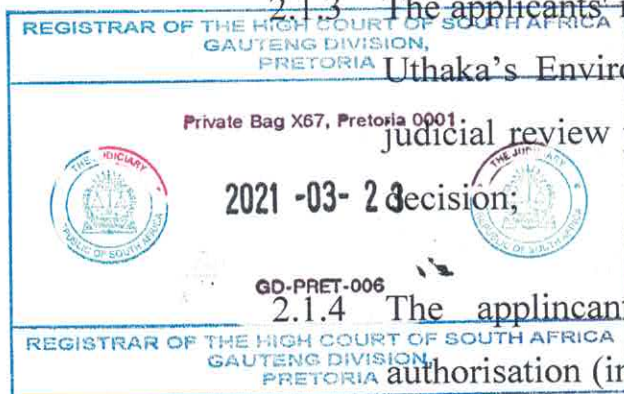
of the approved plan, contemplated as activity 2 in the Gantt Chart, on the properties listed in annexure 'A' to the Applicants' Notice of Motion ("the properties") unless and until, the following has taken place -

2.1 The final determination of the following reviews and appeals –

2.1.1 The applicants' appeal in this division under case number A155/19 in terms of section 149 of the National Water Act 36 of 1998;

2.1.2 The applicants' judicial review in this division under case number 86261/19 of the water use licence;

2.1.3 The applicants' internal statutory appeal against the approval of Uthaka's Environmental Management Programme and any judicial review proceedings instituted in respect of that appeal



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2.1.4

The applicants' judicial review of the environmental authorisation (in the Mpumalanga Division of the High Court, Mbombela under case number 1390/18);

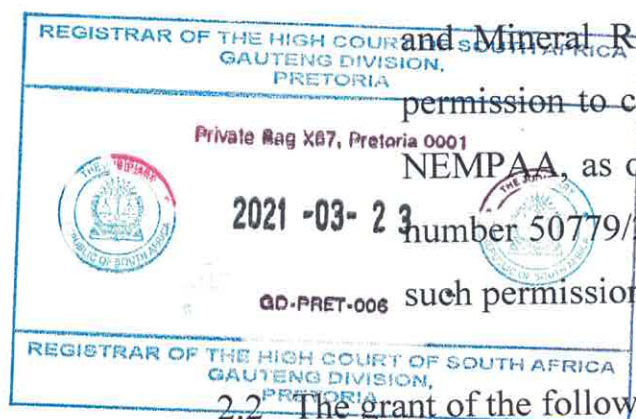
2.1.5 The applicants' judicial review of Uthaka's mining right (in this division under case number 73278/15);

2.1.6 The applicants' judicial review of the decision by the Gert Sibande District Joint Municipal Planning Tribunal to approve the rezoning of Portion 1 of the farm Yzermyn 96 HT from agriculture to mining, and the Municipal Appeal Authority of the Dr Pixley Ka Isaka Seme Local Municipality's confirmation of the approval of that decision (in the

Mpumalanga Division of the High Court, Middleburg under case number 1344/20); and

2.1.7 The applicants' judicial review of the MEC's decision to exclude the properties from the Mabola Protected Environment, which review application must be instituted within 30 days after the MEC has delivered his reasons for said decision;

2.1.8 The reconsideration by the Ministers of Environmental Affairs and Mineral Resources of Uthaka's application for written permission to conduct mining in terms of section 48(1)(b) of NEMPAA, as ordered by Davis J in his judgment under case number 50779/2017, should Uthaka need or persist in seeking such permission.



2.2 The grant of the following authorisations and permissions –

2.2.1 A valid mining right, in respect of which the period for commencement has been duly extended in terms of section 25(2)(b) of the Mineral and Petroleum Resources Development Act 28 of 2002 ("MPRDA");

2.2.2 the exhaustion of the statutory procedures in terms of section 54 of the MPRDA vis-à-vis the owner of portion 1 of Yzermyn 96 HT and any occupier of that land; and

2.2.3 the fulfillment of all relevant conditions laid down in statutory authorisations, including those imposed by the Water Tribunal.

3. The first respondent is ordered to pay the costs of this application including the costs of two counsel, such costs in respect of the applicants' instruction

attorneys and senior counsel to be payable in terms of section 32(3)(a) of the National Environmental Management Act 107 of 1998.

4. In view of the fact that the Acting Deputy Judge President's directive that papers should not exceed 500 pages has been disregarded, primarily by the first respondent, reasons for this order will only be handed down a week from date hereof, on 30 March 2021.

BY ORDER OF COURT.

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THE REGISTRAR