



the federation for a sustainable environment

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Postnet Suite #113, Private Bag X153, Bryanston, 2021

DRAFT SCOPING REPORT  
FOR LISTED ACTIVITIES ASSOCIATED WITH THE RECLAMATION AND  
REPROCESSING OF THE SOWETO CLUSTER DUMPS IN JOHANNESBURG,  
GAUTENG PROVINCE.

APPLICATION FOR ENVIRONMENTAL AUTHORISATION (EA):  
SUBMITTED FOR ENVIRONMENTAL AUTHORISATIONS IN TERMS OF THE  
NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 AND THE NATIONAL  
ENVIRONMENTAL MANAGEMENT WASTE ACT, 2008 IN RESPECT OF LISTED  
ACTIVITIES THAT MAY BE TRIGGERED.

The following comments are submitted on behalf of the Federation for a Sustainable Environment and should be read in conjunction with our previous comments.

PREVIOUS COMMENTS

COMMENTS ON THE 24<sup>TH</sup> OF JUNE, 2019

The FSE's comments regarding the reclamation of the Soweto Cluster Dumps are analogous to our comments regarding the reclamation of the Rooikraal and the Ergo City Deep Dumps, namely:

Past experiences of such activities raise a number of issues which needs to be addressed in any application to reprocess dumps by applicants and regulators:

- In past dump reclamation activities, a number of cases have been identified where the re-mining of dumps was not completed, either due to lack of funding on the part of the miner or due to the heterogeneity in the dumps which were mined. **Any new application to exploit mining residues should only be approved if it involves the 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 contaminate sites, where one previously existed. (Interpolation: From the reading of the Draft Scoping Report it is inferred that the ultimate deposition will take place onto one of the authorised TSFs, namely the Brakpan/Withok TSF, Cooke TSF or Pits or the West Rand Regional TSF which is still to be constructed. We wish to advise that the Brakpan/Withof TSF, the Cooke TSF and the Cooke Pits are unlined, which may result**

**in the long term migration (seepage) of contaminated ground water. Please see attached WRC report in substantiation.)**

- The past practice of granting rights and authorisation for the reprocessing of individual residue deposits many need to be reviewed insofar it allows for 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 super dumps, if this is not to costly or rehabilitated in situ.
- Radiometric surveys over previously reprocessed mine residue deposit footprints have, in some cases, shown elevated levels of residual radioactivity in the soils. In these cases, it must be accepted that some areas will never be suitable for unrestricted development and that these areas will need to be demarcated as such and appropriated land uses proposed and implemented. **(Interpolation: Wilderness status is a sub-economical and a non-sustainable future land use. Residential townships, edible crop production and livestock grazing - please see second attached Report - are considered to be high risk land uses for tailings storage footprints, which could exacerbate liabilities for the State and the Mines. I also refer to challenges which were recently brought to the FSE's attention by the landowners of ERF 877 pertaining to their purchase of the mining land from ERPM.)**
- In terms of the proposed Financial Regulation for Mining, Exploration, Prospecting and Production Operations, the financial provision must guarantee the availability of sufficient funds for (a) progressive rehabilitation and remediation; (b) rehabilitation, remediation, decommissioning and closure activities; and (c) remediation and management of residual and latent environmental damage including the ongoing pumping and treatment of polluted or extraneous water where relevant. **The FSE hereby requests confirmation that the Applicant and the DMR will consider the following risks when determining the financial provision of the Applicant, namely:**
  - **The near certainty of contaminated water, which will require decontamination treatment;**
  - **The near certainty of sulphate, chloride, metal and NORM contamination of soils and sediments;**
  - **The near certainty of sulphate, chloride, metal and NORM contamination of surface water bodies and their sediments;**
  - **The impaired ecosystem functioning and bioaccumulation of contaminants;**
  - **The remobilization of contaminants (such as uranium and cyanides) during the reclamation of older sand and slimes dams for residual gold.**

## **COMMENTS ON THE 25<sup>TH</sup> OF JUNE 2019**

I, on behalf of the FSE, commented on the application and I received the following responses from the EAP:

COMMENTS	RESPONSES
1 It is our understanding that the Soweto Cluster Dumps, according to Mintails Business Rescue Plan 2016 (page 27) (please see subjoined), was in the ownership of Mintails Mining SA (Pty) Ltd.	Correct.
2 As you may reflect, Mintails Mining SA (Pty) Ltd (MMSA) was placed in final liquidation hence it is assumed that Crown Gold Recoveries (Pty) Ltd will not be in the position to act as an operator for MMSA.	Correct.
3 Kindly advise in which capacity Crown Gold Recoveries will reclaim the Soweto Cluster Dumps.	Crown Gold Recoveries (Pty) Ltd, a subsidiary of DRDGold Limited is the registered owner of the immovable property (land) underlying the 2L24 slimes dump. As early as 2012, numerous consultations were had with the directors and/or business rescue practitioner and recently, the liquidators of Mintails Mining SA (Pty) Ltd (MMSA) with a view to finding a resolution to the proposed reclamation activities to ensure, amongst other things, that the area is remediated against negative environmental impacts and realisation of value in the underlying immovable property which remains encumbered by the tailings. To date, there has been no concessions by either the directors or the liquidators of MMSA even though they continue to cause an environmental nuisance unabated. DRDGold, as a landowner, is proposing to reclaim these tailings and take responsibility for rehabilitating the land in question.
4 Has the mining right been transferred by the Minister of Mineral Resources since MMSA liquidation?	We confirm the Mining Right has not been transferred to Crown Gold Recoveries.
5 We understand that Crown Gold Recoveries is a subsidiary of DRDGold Limited.	We confirm Crown Gold Recoveries is a subsidiary of DRDGold Limited.

According to a letter by Mr Henry Gouws titled “RESPONSE TO STATEMENTS MADE IN THE DUST STEERING COMMITTEE PUBLIC FORUM MEETING /DURBAN ROODEPOORT DEEP REHABILITATION, dated 11 June 2012, Mr Gouws submitted:

3.8 *In addition to the above, a further restated and clarified agreement (“Restated Agreement”) was entered into between inter alia DRDGold and Mintails SA on 08 March 2012.*

3.8.1 *Clause 2.2.1 of the Restated Agreement reads as follows:*

*“DRDGold and the West Wits Group sold to Mintails the movable tailings dumps located within the DRDGold Mining Area (“Tailings Dumps”).*

3.8.2 *Clause 2.2.2 of the Restated Agreement reads as follows –*

*“Mintails assumed the liability to rehabilitate the Tailings Dumps to the absolute exclusion of any residual liability remaining with DRDGold and/or the West Wits Group, to undertake such rehabilitation of the Tailings Dumps.”*

Mr Gouws concluded: *“We therefore persist with our initial view that Mintails SA and/or its affiliated and/or associated companies are responsible for the rehabilitation of, inter alia, the 2L24 slimes dam.”*

It is inferred from the above submission that reference is made to the Soweto Cluster Dumps since the 2L24 slimes dam forms part of the Soweto Cluster Dumps. It is furthermore inferred that DRDGold sold the Soweto Cluster Dumps to the Mintails SA Soweto Cluster of the Mintails Group.

Our inference also finds support in Mr Niel Pretorius’ e-mail, subjoined hereunder.

*From: Niel Pretorius <[niel.pretorius@drdgold.com](mailto:niel.pretorius@drdgold.com)>  
Sent: 15 May 2019 03:19 PM  
To: Mariette Liefferink <[mariette@pea.org.za](mailto:mariette@pea.org.za)>  
Cc: 'Grant Stuart' <[Grant.Stuart@sibanyestillwater.com](mailto:Grant.Stuart@sibanyestillwater.com)>  
Subject: Re: MINTAILS MATTER*

*Dear Mariette*

*Thank you for your email. I trust that you too are well.*

*To answer your question, Durban Roodepoort Deep Ltd formally changed its name to DRDGold Ltd a few years before I became the CEO. I stand corrected but I think it was around 2005 or 2006.*

*Durban Roodepoort Deep (Pty) Ltd was a new company established for the specific purpose of bringing about the change of ownership of the mining assets of the Durban Roodepoort Deep Mine, to Mintails. After these mining assets were unbundled into Durban Roodepoort Deep (Pty) Ltd, the said company was acquired by Mintails Ltd, who in turn changed the name of the company to Mintails SA Soweto Cluster (Pty) Ltd. This company (Soweto Cluster) is not in liquidation and is being pursued by DRDGOLD for damages caused by pollution to the land below the 2L24 dump. I think I may have sent you the letters of demand. If not, I would be happy to.*

*I hope this is of value.*

*All the best*

*Niël*

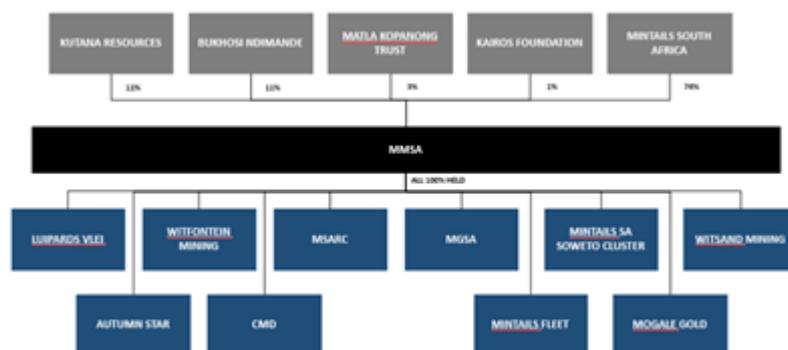
Mintails Randfontein Cluster, Mintails Gold (Pty) Ltd and Mintails Mining (Pty) Ltd of the Mintails Group were liquidated. Mintails SA Soweto Cluster has not been liquidated. Mintails SA Soweto Cluster owns the dumps, which are assets to the Mintails Group. The reclamation of the dumps will result in revenue (profits), however, the revenue will not flow to the Mintails Group but to Crown Gold Recoveries (Pty) Ltd, a subsidiary of DRDGold Limited.

Is this legitimate and is Mintails SA Soweto Cluster in agreement with this?

## COMMENTS SUBMITTED ON THE 31<sup>ST</sup> OF MAY 2019

It is our understanding that the Soweto Cluster Dumps, according to Mintails Business Rescue Plan 2016 (page 27) (please see subjoined), was in the ownership of Mintails Mining SA (Pty) Ltd.

As you may reflect, Mintails Mining SA (Pty) Ltd (MMSA) was placed in final liquidation hence it is assumed that Crown Gold Recoveries (Pty) Ltd will not be in the position to act as an operator for MMSA. Kindly advise in which capacity Crown Gold Recoveries will reclaim the Soweto Cluster Dumps. Has the mining right been transferred by the Minister of Mineral Resources since MMSA liquidation? We understand that Crown Gold Recoveries is a subsidiary of DRDGOLD Limited.



In anticipation of your prompt response, please accept my sincere thanks!

## COMMENTS SUBMITTED ON THE 8<sup>TH</sup> OF JULY, 2019

### DUST, RADIOACTIVITY AND HEALTH IMPACTS

The Draft Scoping Report informs us that the slimes dams will be removed by means of hydraulic mining while the sand dumps will be mechanically removed. It is anticipated that

the mechanical removal will result in the liberation and dispersal of dust. In view of the fact that:

1. The Soweto Cluster is situated adjacent to the suburb of Bramfischerville, Thulzani in Soweto and Matholesville in Roodepoort and surrounded by several active and historic mining activities;
2. Significant radiation exposure can occur due to the inhalation of contaminated dust and the contamination of agricultural crop (pasture, vegetables) by the deposition of radioactive dust particles, which can cause considerable dose contributions via ingestion (Reference: NNR Report – TR-RRD-07-0006 – “Radiological Impacts of the Mining Activities to the Public in the Wonderfonteinspruit Catchment Area.” 12 July 2007);

It is crucial that dust fallout be prevented. The Draft Scoping Report acknowledges the health risks of dust inhalation and ingestion (Section 8.8 of the DSR.) We consider it relevant to also attach hereto the findings of a recent study of the International Agency for Research on Cancer, an arm of the World Health Organisation that probes the causes of cancer. Please see 1<sup>st</sup> attached Report. The Report found that the concentrations of U measured in the hair of residents living in and near gold mining areas merit research on possible adverse health consequences.

In the light of the above-mentioned findings, we strongly recommend that the possible health impacts and radiation exposure during the 20 years of Life of Mine, in close proximity to communities, be assessed as part of the EIA process and preventative measures proposed and implemented.

#### RELEVANT FINDINGS AND RECOMMENDATIONS OF THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION

We recommend that the South African Human Rights Commission (SAHRC) be included in the list of commenting authorities in the light of their recent findings and directives pursuant to the Commission’s *National Hearing on the Underlying Socio-Economic Challenges of Mining-Affected Communities in South Africa*. (Please see 2<sup>nd</sup> attached Report.) The Report found and directed the DMR:

1. Not to grant licences where long term sustainable land use cannot be guaranteed
2. There is an immediate need for all EIAs and EMPRS to clearly detail land quality and potential post closure land use
3. A study be commissioned to study and assess the impact of mining on human health
4. Electronically publish all SLPs in its possession.

The Applicant should consider these findings in its EIA/EMPR.

The Commission furthermore directed all mining companies to:

1. Develop internal mechanisms for the dissemination of information to ensure that all relevant documents are made available to interested and affected parties and the public generally.
2. Establish community engagement forums with mining affected communities.

The provision for these internal mechanisms for the dissemination of information and engagement forums is particularly important in the light of the findings of Judge Spilg in the Uzani Environmental Advocacy v BP Southern Africa (Pty) Ltd matter, in which he found:

*“NEMA not only requires a transparent administration but recognised the contribution that can be made to the protection of the environment by a vigilant and committed public which has most to lose. Securing protection is therefore no longer the exclusive preserve of those engaged in these activities, nor of an opaque administration or an under-capacitated and potentially inhibited law enforcement agency which cannot claim the number of successful convictions one would have expected despite clear evidence of historic degradation to our environment.”*

## WETLANDS

The DSR informs us that the Soweto Cluster is surrounded by several wetland areas and is linked to the Klip River. A number of dams is also identified within the mining area. (Section 8.7 of the DSR.) Airborne radiometric surveys over the Witwatersrand have identified the contamination of wetland areas within the Central Rand in the Witwatersrand with metals and radionuclides. These metals are adsorbed in the sediments and they may become remobilised by the reclamation operations. (Please see attached Wetlands Report, 2005.)

It is critical that the EIA/EMPR identifies the risk of the remobilisation of the metals and radionuclides during the reclamation process and make provision of sufficient management measures to prevent the remobilisation in addition to the proposed impacts which will be assessed in the Wetland Study (page 92 of the DSR).

## FINANCIAL PROVISIONS

Since the *Proposed Regulations pertaining to Financial Provisioning for the Rehabilitation and Remediation of Environmental Damage caused by Reconnaissance, Prospecting, Exploration, Mining or Production Operations* (17 May 2019) most probably would have been published by the time that the Soweto Cluster project is authorised, we request that the Applicant determine and provide sufficient funds for:

- progressive rehabilitation and remediation;
- rehabilitation, remediation, decommissioning and closure activities; and
- remediation and management of residual and latent environmental damage including the ongoing pumping and treatment of polluted or extraneous water

And, in the event of unscheduled closure that the Chief Executive Officer of the Applicant, holder, or person appointed in a similar position, or where liquidation or business rescue proceedings have been initiated, the liquidator or business rescue administrator of the company, accepts his or her responsibility for implementing the plans and report contemplated in subsregulation (2) (annual rehabilitation, final rehabilitation, decommissioning and mine closure, remediation and management of residual and latent environmental impacts, including the ongoing pumping and treatment of polluted or extraneous water). (Reference: Regulation 6 (6).)

## CONCLUSION

This is unfortunately all we have time for to comment on. We express the hope that our comments will not be merely noted, but will be responded to in a meaningful way.

Best Regards

Mariette Liefferink

CEO: FEDERATION FOR A SUSTAINABLE ENVIRONMENT

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