

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

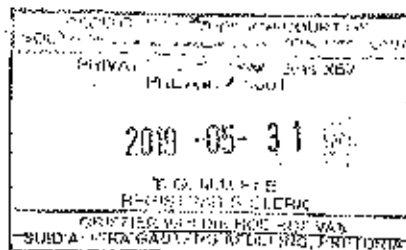
CASE NO: 38365/19

In the matter between:

FEDERATION FOR A SUSTAINABLE ENVIRONMENT

Applicant

And



**CHIEF DIRECTORATE AND REGIONAL MANAGER FOR
GAUTENG FOR MINERAL RESOURCES**

First Respondent

DIRECTOR GENERAL FOR MINERAL RESOURCES

Second Respondent

**THE MINISTER OF MINERAL RESOURCES AND ENERGY
(PREVIOUSLY THE MINISTER OF MINERAL
RESOURCES)**

Third Respondent

**THE MINISTER OF HUMAN SETTLEMENT, WATER AND
SANITATION (PREVIOUSLY THE MINISTER OF WATER
AND SANITATION)**

Fourth Respondent

Fifth Respondent

DIRECTOR GENERAL FOR WATER AND SANITATION

Sixth Respondent

**DEPUTY DIRECTOR GENERAL FOR WATER AND
SANITATION**

THE MINISTER OF TRADE AND INDUSTRY

Seventh Respondent

MOGALE CITY LOCAL MUNICIPALITY

Eighth Respondent

**THE COMPANIES AND INTELLECTUAL PROPERTY
COMMISSION**

Ninth Respondent

**THE MINISTER OF ENVIRONMENT, FORESTRY AND
FISHERIES (PREVIOUSLY THE MINISTER OF
ENVIRONMENTAL AFFAIRS)**

Tenth Respondent

**§
MINSTER OF ENERGY**

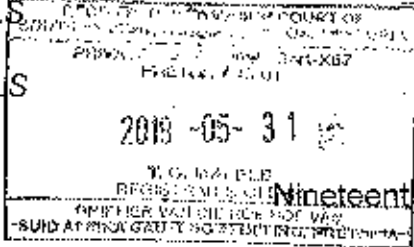
Eleventh Respondent

S. TRAKMAN N.O.

Twelfth Respondent

S.M. SEIMA N.O.

Thirteenth Respondent

- E.G. SEBASTIAN N.O. Fourteenth Respondent
- N.U. SEFANYETSO N.O. Fifteenth Respondent
- W. VAN ROOYEN N.O. Sixteenth Respondent
- A. SCHEEPERS N.O. Seventeenth Respondent
- C. SCHROUDER N.O. Eighteenth Respondent
- (in their capacities as joint liquidators in MINTAILS SA RANDFONTEIN CLUSTER (PTY) LIMITED), MINTAILS MINING SA (PTY) LIMITED, MINTAILS GOLD (PTY) LIMITED)  Nineteenth Respondent
- MINTAILS SA (PTY) LTD REGISTRATION NUMBER 2004/007547/07
- MINTAILS FLEET (PTY) LIMITED WITH REGISTRATION NUMBER 2007/004786/07 Twentieth Respondent
- CREAM MAGENTA 171 (PTY) LIMITED WITH REGISTRATION NUMBER 2004/035659/07 Twenty-First Respondent
- AUTUMN STAR TRADING 776 (PTY) LIMITED WITH REGISTRATION NUMBER 2006/028969/07 Twenty-Second Respondent
- WITFONTEIN MINING (PTY) LIMITED WITH REGISTRATION NUMBER 2003/013481/07 Twenty-Third Respondent
- LUIPAARDSVLEI ESTATES (PTY) LIMITED WITH REGISTRATION NUMBER 1984/002863/07 Twenty-Fourth Respondent
- MINTAILS SA SOWETO CLUSTER (PTY) LIMITED WITH REGISTRATION NUMBER 2003/011659/07 Twenty-Fifth Respondent
- MOGALE GOLD (PTY) LTD WITH REGISTRATION NUMBER 1996/010274/07 Twenty-Sixth Respondent
- WITSAND MINING (PTY) LTD WITH REGISTRATION NUMBER 2008/005342/07 Twenty-Seventh Respondent
- MINTAILS GOLD (PTY) LTD WITH REGISTRATION NUMBER 2007/003948/07 Twenty-Eighth Respondent
- FIRST WESGOLD PROP (PTY) LTD WITH REGISTRATION NUMBER 1992/004711/07 Twenty-Ninth Respondent
- MANS SUSAN JEANETTE WITH IDENTITY NUMBER 6201270132085 Thirtieth Respondent

MANS ADAM SAMUEL HENDRICUS
WITH IDENTITY NUMBER 5912105033089

Thirty-First Respondent

LUIPAARDS VLEI ESTATES LTD
WITH REGISTRATION NUMBER 08/296

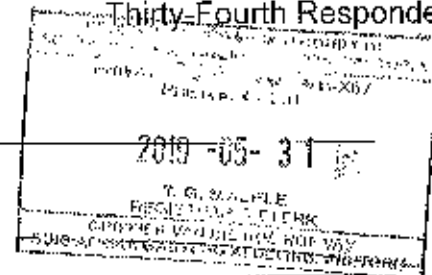
Thirty-Second Respondent

WEST WITS MONARCH (PTY) LTD
WITH REGISTRATION NUMBER 2007/004877/07

Thirty-Third Respondent

MINERAL AND MINING RECLAMATION
SERVICES (PTY) LTD
WITH REGISTRATION NUMBER 2003/020378/07

Thirty-Fourth Respondent



NOTICE OF MOTION

BE PLEASED TO TAKE NOTICE that the abovementioned Applicant intends to make application to the above Honourable Court on a date to be determined by the Registrar, for an order in the following terms:

PART A

1. That pending Part B, the First to Ninth Respondents be ordered to do all things necessary against juristic and private persons responsible to: -

1.1. remediate and rehabilitate the environment affected by the Mintails operations, including but not limited to enforcing current directives and compliance notices as against the directors of the Mintails Group and to recover any monies against responsible persons for the rehabilitation, preservation and protection of the environment in terms of Section 24(a) and (b) of the Constitution of the Republic of South Africa, 1996 (The Constitution), Section 37 and Section 38(1) of the Mineral and Petroleum Resources Development Act 28 of 2002 (the "MPRDA") read with Section 2(4)(a)(i), Section 2(4)(a)(ii), Section (2)(4)(a)(v), Section (2)(4)(a)(viii), Section 2(4)(e), Section 2(4)(o), Section 2(4)(p), Section 24R, Section

Section 24P, Section 24S of the **National Environmental Management Act 107** of 1998 ("the NEMA") read against Section 28 of the NEMA;

- 1.2. investigate the affairs of the Mintails Group and its board of directors of the Mintails group in terms of Sections 26 and 32 Insolvency Act 24 of 1936 ("the Insolvency Act") read against Section 2(4)(c) and Section 24N(8) of the NEMA.

- 1.3. investigate the affairs of the Mintails Group and its board of directors in terms of Sections 20(9) and 424 read against Section 162(2),(3) and (4)Section of the **Companies Act 71** of 2008 ("the Companies Act"), and Section 38(2) of the MPRDA, section 24N(8) of the NEMA and section 24(a) of the Constitution, which investigation is to include enquiry as to whether there is personal liability and/or delinquency of any historic and/or current director;

- 1.4. immediately do all things necessary, to cordon off affected mining areas and that safety mechanisms be adopted to safe-guard the general public;

- 1.5. the Fifth to the Sixth Respondents enforce the measures in section 8 of the Regulations on Use of Water for Mining and Related Activities Aimed at the Protection of Water Resources Government Gazette 704 of 4 June 1999 in that: every person in control of a mine or activity must cause any impoundment or dam containing any poisonous, toxic or injurious substance to be effectively fenced-off so as to restrict access thereto and must erect warning notice boards at prominent locations so as to warn persons of the hazardous contents.

1.6. provide the Applicant and the above Honourable Court with comprehensive feedback on the implementation of the relief sought, once a month;

1.7. provide the Applicant and the above Honourable Court with comprehensive feedback on the findings of the investigations in terms of the relief sought, once a month;

1.8. that the comprehensive feedback be served and filed with the Honourable Court for the purposes of Part B;

1.9. That the parties be granted leave to supplement in terms of Part B;

2. The Tenth Respondents are ordered to enforce section 31D (7) – (9) in assisting the First to Third Respondent with compliance monitoring and directing environmental management inspectors to undertake compliance monitoring and enforcement functions due to the non-implementation of compliance in terms of NEMA by the First to Third Respondents. In terms of section (1) – (6) of NEMA, it is ordered that these sections are suspended due to the numerous letters delivered to the Tenth Respondent as annexed in the founding affidavit.

3. Those Respondents who oppose the relief sought in this application shall pay the Applicant's cost in the cause; and

4. Further and/or alternative relief.

PART B

6

5. That the First to Ninth Respondents be ordered to do all things necessary against juristic and private persons responsible to: -

5.1. remediate and rehabilitate the environment affected by the Mintails operations, including but not limited to enforcing current directives and compliance notices as against the directors of the Mintails Group and to recover any monies against responsible persons for the rehabilitation, preservation and protection of the environment in terms of Section 24(a) and (b) of the Constitution of the Republic of South Africa, 1996 (The Constitution), Section 37 and Section 38(1) of the Mineral and Petroleum Resources Development Act 28 of 2002 (the "MPRDA") read with Section 2(4)(a)(i), Section 2(4)(a)(ii), Section 2(4)(a)(v), Section 2(4)(a)(viii), Section 2(4)(e), Section 2(4)(o), Section 2(4)(p), Section 24R, Section 24P, Section 24S of the *National Environmental management Act* 107 of 1998 ("the NEMA") read against Section 28 of the NEMA;

5.2. investigate the affairs of the Mintails Group and its board of directors of the Mintails group in terms of Sections 26 and 32 Insolvency Act 24 of 1936 ("the Insolvency Act") read against Section 2(4)(c) and Section 24N(8) of the NEMA;

5.3. investigate the affairs of the Mintails Group and its board of directors in terms of Sections 20(9) and 424 read against Section 162(2),(3) and (4) Section of the *Companies Act* 71 of 2008 ("the Companies Act"), and section 24N(8) of the NEMA and section 24(a) of the Constitution, which

Investigation is to include enquiry as to whether there is personal liability and/or delinquency of any historic and/or current director;

- 5.4. immediately do all things necessary, to cordon off affected mining areas and that safety mechanisms be adopted to safe-guard the general public;
- 5.5. provide the Applicant and the Honourable Court with comprehensive feedback on the implementation of the relief sought, once a month until the Honourable Court is satisfied that full rehabilitation has taken place and the First to Ninth Respondents have complied with all their obligations in terms of NEMA and the Companies Act;
- 5.6. provide the applicant and the above Honourable Court with comprehensive feedback on the findings of the investigations in terms of the relief sought, once a month;
6. The Tenth Respondent is ordered to enforce section 31D (7) – (9) in assisting the First to Third Respondent with compliance monitoring and directing environmental management inspectors to also undertake compliance monitoring and enforcement functions due to the non-implementation of compliance in terms of the NEMA by the First to Third Respondents.
7. Those Respondents who oppose the relief sought in this application shall pay the Applicant's cost; and
8. Further and/or alternative relief.

TAKE NOTICE FURTHER that the founding affidavit of MARIETTE LIEFFERINK together with annexures will be used in support of this application.


TAKE NOTICE FURTHER that the Applicants have appointed the address of their attorneys as set out at the end of the notice of motion, as their chosen address for delivery of all notices and processes in these proceedings.

TAKE NOTICE FURTHER that if you intend opposing this application, you are required:

- (a) to notify the Applicant's attorneys in writing within 20 days your intention to oppose; and
- (b) within 15 days after giving your notice of intention to oppose the application, to file your answering affidavits, if any;
- (c) further that you are required to appoint in such notification an address as required in Rule 6(5)(b) at which you will accept notice and service of all documents in these proceedings.

Take further notice if no such intention to oppose be given, application will be made on the date to be determined by the Registrar.

DATED at Johannesburg on this the 31st day of MAY 2019


 Applicant's Attorneys
 Legal Resources Centre
 15th Floor Bram Fischer Towers
 20 Albert Street
 Marshalltown

Johannesburg 2004
Tel: (011) 836 9831
Fax: (011) 836 8680
Email: lucien@lrc.org.za
C/O E C OELOFSE ATTORNEYS INC
Office No SOW-4
Monument Hill
Corner Monument Street and Eeufees Road
Groenkloof
Pretoria
Gauteng

**TO: THE REGISTRAR OF THE ABOVE
HONOURABLE COURT
PRETORIA**

**TO:
CHIEF DIRECTORATE AND REGIONAL MANAGER
FOR GAUTENG FOR MINERAL RESOURCES**
The First Respondent
Department of Mineral Resources
Mineralia Building
Corner De Korte Street and De Beer Street
Braamfontein, 2017

SERVICE BY SHERIFF

**AND TO:
DIRECTOR GENERAL FOR MINERAL RESOURCES**
The Second Respondent
Department of Mineral Resources
Trevenna Campus Building 2C
Corner Meintjies and Francis Baard Street
Pretoria

SERVICE BY SHERIFF

**THE MINISTER OF MINERAL RESOURCES AND
ENERGY (PREVIOUSLY MINISTER OF MINERAL
RESOURCES)**
The Third Respondent
Department of Mineral Resources
Trevenna Campus Building 2C
Corner Meintjies and Francis Baard Street
Pretoria

SERVICE BY SHERIFF

**AND TO: THE MINISTER OF HUMNA
SETTLEMENT, WATER AND SANITATION
(PREVIOUSLY THE MINISTER OF WATER AND
SANITATION)**
The Fourth Respondent
285 Francis Baard Street
Bothongo Plaza East
PRETORIA
0001
Alternatively: Sedibeng Building, 185 Francis Baard
Street, Pretoria, 001

SERVICE BY SHERIFF

b

**AND TO:
THE DIRECTOR-GENERAL FOR WATER AND
SANITATION**

The Fifth Respondent
Sedibeng Building
10th Floor, Room 1029
185 Francis Baard Street
Pretoria

SERVICE BY SHERIFF

**AND TO:
DEPUTY DIRECTOR GENERAL FOR WATER AND
SANITATION: COMPLIANCE**

The Sixth Respondent
Sedibeng Building
10th Floor, Room 1029
185 Francis Baard Street
Pretoria

SERVICE BY SHERIFF

**AND TO:
THE MINISTER OF TRADE AND INDUSTRY**

The Seventh Respondent
77 Meintjies Street
Sunnyside
Pretoria
0002

SERVICE BY SHERIFF

**AND TO:
MOGALE CITY LOCAL MUNICIPALITY**

The Eighth Respondent
Cnr Commissioner & Market Streets,
Krugersdorp
1740

SERVICE BY SHERIFF

**AND TO:
THE COMPANIES AND INTELLECTUAL
PROPERTY COMMISSION**

The Ninth Respondent
The DTI Campus
Block F
77 Meintjies Street
Sunnyside
Pretoria

SERVICE BY SHERIFF

**AND TO:
THE MINISTER OF ENVIRONMENT, FORESTRY
AND FISHERIES (PREVIOUSLY THE MINISTER OF
ENVIRONMENTAL AFFAIRS)**

The Tenth Respondent
Corner Steve Biko and Soutpansberg Road
Environment House
473 Steve Biko

Arcadia
Pretoria
0083

SERVICE BY SHERIFF

AND TO:
**THE MINISTER OF MINERAL RESOURCES AND
ENERGY (PREVIOUSLY THE MINISTER OF
ENERGY)**

The Eleventh Respondent
192 Visagie Street
Corner Paul Kruger and Visagie Street
Pretoria
001

SERVICE BY SHERIFF

AND TO:
S. TRAKMAN N.O.

The Twelfth Respondent
Highveld Trust and Management Co (Pty) Ltd
3 Sandown Valley Crescent
Sandown
Sandton
2031

SERVICE BY SHERIFF

AND TO:
S.M. SEIMA N.O.

The Thirteenth Respondent
Seima Attorneys
98 Doreen Street
Colbyn
Hatfield

SERVICE BY SHERIFF

AND TO:
E.G. SEBASTIAN N.O.

The Fourteenth Respondent
106 Sandton Drive
Sandton
2146

SERVICE BY SHERIFF

AND TO:
N.U. SEFANYETSO N.O.

The Fifteenth Respondent
Selebogo Incorporated
4th Floor, Suite S402
MBA Building
527 Church Street East
Arcadia, 0001

SERVICE BY SHERIFF

AND TO:
W. VAN ROOYEN N.O.
The Sixteenth Respondent

Investrust
73 Bond Street
Pretoria
Gauteng, 0082

SERVICE BY SHERIFF

AND TO:
A. SCHEEPERS N.O.
The Seventeenth Respondent
Investrust
73 Bond Street
Pretoria
Gauteng, 0082

SERVICE BY SHERIFF

AND TO:
C.SCHROEDER N.O.
The Eighteenth Respondent
IDEC Trustees
2nd Floor,
Liberty Quarry View Building,
Quartzite Dr,
Berea,
East London, 5241
*(in their capacities as joint liquidators in MINTAILS
MINING SA RANDFONTEIN CLUSTER (PTY)
LIMITED), MINTAILS SA (PTY) LIMITED, MINTAILS
GOLD (PTY) LIMITED)*

SERVICE BY SHERIFF

AND TO
**MINTAILS SA (PTY) LTD WITH REGISTRATION
NUMBER 2004/007547/07**
The Nineteenth Respondent
14 Tweelopies Street
Krugersdorp
Gauteng
1739
(Registered Address)

SERVICE BY SHERIFF

AND TO
**MINTAILS FLEET (PTY) LIMITED WITH
REGISTRATION NUMBER 2007/004786/07**
The Twentieth Respondent
14 Tweelopies Street
Krugersdorp
Gauteng
1739
(Registered Address)

SERVICE BY SHERIFF

AND TO:
**CREAM MAGENTA 171 (PTY) LIMITED WITH
REGISTRATION NUMBER 2004/035659/07**
The Twenty-First Respondent

14 Tweelopies Street
Krugersdorp
Gauteng
1739
(Registered Address)

SERVICE BY SHERIFF

AND TO:
AUTUMN STAR TRADING 776 (PTY) LIMITED
WITH REGISTRATION NUMBER 2006/028969/07
The Twenty-Second Respondent
14 Tweelopies Street
Krugersdorp
Gauteng
1739
(Registered Address)

SERVICE BY SHERIFF

AND TO:
WITFONTEIN MINING (PTY) LIMITED WITH
REGISTRATION NUMBER 2003/013481/07
The Twenty-Third Respondent
14 Tweelopies Street
Krugersdorp
Gauteng
1739
(Registered Address)

SERVICE BY SHERIFF

AND TO:
LUIPAARDSVLEI ESTATES (PTY) LIMITED WITH
REGISTRATION NUMBER 1984/002863/07
The Twenty-Fourth Respondent
14 Tweelopies Street
Krugersdorp
Gauteng
1739
(Registered Address)

SERVICE BY SHERIFF

AND TO:
MINTAILS SA SOWETO CLUSTER (PTY) LIMITED
WITH REGISTRATION NUMBER 2003/011659/07
The Twenty-Fifth Respondent
14 Tweelopies Street
Krugersdorp
Gauteng
1739
(Registered Address)

SERVICE BY SHERIFF

AND TO:
MOGALE GOLD (PTY) LTD
WITH REGISTRATION NUMBER 1996/010274/07
The Twenty-Sixth Respondent
14 Tweelopies Street
Krugersdorp

Gauteng
1739
(Registered Address)

SERVICE BY SHERIFF

AND TO:
WITSAND MINING (PTY) LTD
WITH REGISTRATION NUMBER 2008/005342/07
The Twenty-Seventh Respondent
14 Tweelopies Street
Krugersdorp
Gauteng
1739
(Registered Address)

SERVICE BY SHERIFF

AND TO:
MINTAILS GOLD (PTY) LTD
WITH REGISTRATION NUMBER 2007/003948/07
The Twenty-Eighth Respondent
14 Tweelopies Street
Krugersdorp
Gauteng
1739
(Registered Address)

SERVICE BY SHERIFF

AND TO:
FIRST WESGOLD PROP (PTY) LTD
WITH REGISTRATION NUMBER 1992/004711/07
The Twenty-Ninth Respondent
Rand Leases House
Peter Place Park
54 Peter Place
Lyme Park
Bryanston
South Africa
(Business Address)

SERVICE BY SHERIFF

AND TO:
MANS SUSAN JEANETTE
WITH IDENTITY NUMBER 6201270132085
The Thirtieth Respondent
Farm 174 of Waterval
Portion 99
Mogale City
Gauteng

SERVICE BY SHERIFF

AND TO:
MANS ADAM SAMUEL HENDRICUS
WITH IDENTITY NUMBER 5912105033089
The Thirty-First Respondent
Farm 174 of Waterval
Portion 99
Mogale City

Gauteng

SERVICE BY SHERIFF

AND TO:
LUIPAARDS VLEI ESTATES LTD
WITH REGISTRATION NUMBER 08/296
The Thirty-Second Respondent
Registered address
75 Fox Street
Johannesburg
1627
(Registered Address)

SERVICE BY SHERIFF

AND TO:
WEST WITS MONARCH (PTY) LTD
WITH REGISTRATION NUMBER 2007/004877/07
The Thirty-Third Respondent
Quadrum Office Park
1st Floor, Building 1
50 Constantia Boulevard
Constantia Kloof Ext 28, 1709
(Business Address)
Mathew Goniwe Road
Roodepoort
Gauteng 1724
(Registered Address)

SERVICE BY SHERIFF

MINERAL AND MINING RECLAMATION
SERVICES (PTY) LTD
WITH REGISTRATION NUMBER 2003/020378/07
The Thirty-Fourth Respondent
Quadrum Office Park
1st Floor, Building 1
50 Constantia Boulevard
Constantia Kloof Ext 28
1709
(Business Address)
Mathew Goniwe Road
Roodepoort
Gauteng 1724
(Registered Address)

SERVICE BY SHERIFF

THE STATE ATTORNEY
10th Floor North State Building
95 Market Street
Johannesburg, 2001

SERVICE BY SHERIFF