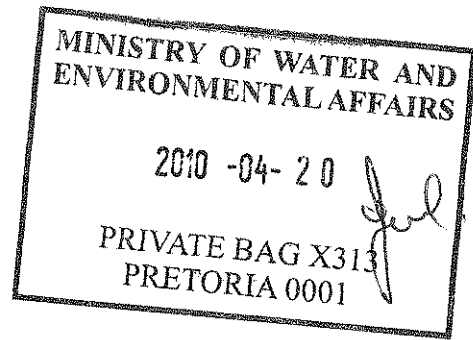




water affairs

Department:
Water Affairs
REPUBLIC OF SOUTH AFRICA



Enquiries: M.S. Skosana
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Reference: 6/2/2/6

MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS

NATIONAL ASSEMBLY: QUESTION 927 FOR WRITTEN REPLY

A draft reply to the above-mentioned question asked by Mrs C N Z Zikalala (IFP); is attached for your consideration.


DIRECTOR-GENERAL (Acting)

DATE: 16/4/10


DRAFT REPLY APPROVED/AMENDED


MS B P SONJICA, MP
MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS

DATE: 26. 04. 2010

NATIONAL ASSEMBLY

FOR WRITTEN REPLY

QUESTION NO 927

DATE OF PUBLICATION IN INTERNAL QUESTION PAPER: 23 MARCH 2010
(INTERNAL QUESTION PAPER NO. 8)

927. Mrs C N Z Zikalala (IFP) to ask the Minister of Water and Environmental Affairs:

- (1) (a) How many mining companies have contravened the conditions of their water licences (i) in 2009 and (ii) from 1 January 2010 up to the latest specified date for which information is available and (b) what penalties have been handed to such companies;
- (2) whether such companies have rectified their transgressions; if not, why not; if so, what are the relevant details;
- (3) whether any water licences have been terminated as a result of repeated transgressions; if not, what is the position in this regard; if so, what are the relevant details?

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REPLY:

(1)

Region	(1)(i)	(1)(ii)	(1)(b)
Gauteng	None, all mining companies complied to their licensing conditions	one	None yet. Awaiting the results of water sample tests taken in order to verify the alleged contravention
Limpopo	Two Exxaro Mine Ventetia Mine	None	No penalties because mines took remedial actions (see response to question 2 for further details).
Mpumalanga	Eight	one	* please see table below
Free State	None (all complied)	None (all complied)	No penalties applicable
KZN	None (all complied)	None (all complied)	No penalties applicable
Northern Cape	None (all complied)	None (all complied)	No penalties applicable
Western Cape	None (all complied)	None (all complied)	No penalties applicable
Eastern Cape	None (all complied)	None (all complied)	
Total	Ten (10)	Two(2)	

Mpumalanga: Some form of penalties become applicable once a mine has been found guilty of an offence under section 151 of the National Water Act, 36 of 1998 (NWA) in the court of law e.g. paying of fines and/or imprisonment. After an audit has taken place against an authorisation, my Department initially uses section 53 as an enforcement action under the NWA to engage the mine to try and correct the contraventions. However, if the mine does not respond to the section 53 engagement then my Department can opt to pursue a criminal case under section 151 offences.

Mine	Year of audit	Compliant or non-compliant	(1)(b)
Mine 1	2009	Non-compliant	No penalties as yet pending the finalisation of the due process
Mine 2	2009	Non-compliant	No penalties as yet pending the finalisation of the due process
Mine 3	2009	Non-compliant	No penalties as yet pending the finalisation of the due process
Mine 4	2009	Non-compliant	No penalties as yet pending the finalisation of the due process
Mine 5	2009	Non-compliant	No penalties as yet pending the finalisation of the due process
Mine 6	2009	Non-compliant	No penalties as yet pending the finalisation of the due process
Mine 7	2009	Non-compliant	No penalties as yet pending the finalisation of the due process
Mine 8	2009	Non-compliant	No penalties as yet pending the finalisation of the due process
Mine 9	2010	Non-compliant	No penalties as yet pending the finalisation of the due process

(2)

Region	
Gauteng	The relevant mining company is experiencing serious financial difficulties and has applied for pumping subsidy from the Department of Mineral Resources in an attempt to maintain its mining activities. The Department of Water Affairs will continue with legal proceedings against the mine once contravention of the licence conditions has been confirmed.
Limpopo	<p>Exxaro – pollution control dam was overflowing. The quantity of water in the pollution control dam is reduced by recycling method.</p> <p>Venetia Mine –pollution control dam was overflowing due to heavy rain. The pollution control dam was abandoned and disposed dirty water into a clean water dam which is lined and is big enough that the overflow will never be experienced.</p>
Mpumalanga Mines	<p>Mine 1 Not yet verified, my Department is still to conduct a follow-up assessment based on the representation made by the mining company in response to the issued notice.</p> <p>Mine 2 Not yet verified, my Department is still to conduct a follow-up assessment based on the representation made by the mining company in response to the issued notice.</p> <p>Mine 3 Not yet verified, my Department is to issue a Directive as the mine did not make representation in response to the issued notice.</p> <p>Mine 4 In the process of being verified -thereafter section 53(1) notice will be issued</p> <p>Mine 5 In the process of being verified thereafter section 53(1) notice will be issued</p> <p>Mine 6 In the process of being verified thereafter section 53(1) notice will be issued</p> <p>Mine 7 In the process of being verified thereafter section 53(1) notice will be issued</p> <p>Mine 8 In the process of being verified thereafter section 53(1) notice will be issued</p> <p>Mine 9 In the process of being verified thereafter section 53(1) notice will be issued</p>

(3)

Region	
Gauteng	No water use licences issued to mining companies have been terminated
Limpopo	Not Applicable
Mpumalanga	No licenses have been withdrawn and/or suspended as a result of transgressions. The NWA makes provision for my Department to initially start by engaging the user contravening the licence conditions by making use of section 53 in conjunction with the Promotion of Administrative Justice Act, 03 of 2000 (PAJA). This engagement can take a minimum of 3 months to get to an action plan that would lead to compliance with the licence conditions. If the non-compliant water use still fails to respond under section 53 then section 54 (suspension or withdrawal of licence) becomes an option that the Department can pursue. Section 54 is also subjected to PAJA requirements with regard to being given an opportunity to be heard within reasonable timeframes.