



## water & sanitation

Department:  
Water and Sanitation  
REPUBLIC OF SOUTH AFRICA

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Reference:6/2/2/6

### NATIONAL COUNCIL OF PROVINCES

#### FOR WRITTEN REPLY

#### QUESTION NO 839

DATE OF PUBLICATION IN INTERNAL QUESTION PAPER: 17 NOVEMBER 2023  
(INTERNAL QUESTION PAPER NO. 47)

#### **839. Mr G Michalakis (Free State: DA) to ask the Minister of Water and Sanitation:**

- (1) With reference to a confirmation by his department that there had been a water-use licence that was issued for the mining or related activities at the mine in a meeting of the Free State Legislature on Cooperative Governance and Traditional Affairs Portfolio Committee on 27 September 2022 (details furnished), when was the water-use licence issued;
- (2) whether any environmental impact assessments were conducted prior to the issuing of the licence; if not, why not; if so, when a copy of such a report will be made available;
- (3) whether the conditions of the licence included the construction of three Fine Tailings Storage Facilities (FTSF) on top of the hill; if not, how was it envisaged that his department would monitor the safety of the FTSF dams; if so, what conditions were related to the FTSFs;
- (4) on which dates were monitoring inspections conducted on the condition of the FTSFs prior to 11 September 2022 disaster?

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## MINISTER OF WATER AND SANITATION

- (1) The water use licence was issued on 14 February 2023.
- (2) Yes, the environmental impact assessments were conducted as per the licencing process requirements.
- (3) There is one FTSF that was authorised on site. The FTSF was authorised in a water use licence (WUL) no.10/D33K/AA/6148 dated 16 January 2018. The FTSF was constructed on a flat topography, not on top of the hill. The conditions that relate to the FTSF are captured in the WUL of 16 January 2018. The WUL of 14 February 2023 did not authorise the FTSF because the facility had already collapsed when the WUL was issued.
- (4) There is a requirement for any dam owner to register a dam with a safety risk with the Department's Dam Safety Office in terms of Section 120 of the National Water Act. A dam with a safety risk is defined as a dam with a storage capacity of 50 000m<sup>3</sup> or more (of water or water-containing substance) and a dam wall height of more than 5m. As the company increased the size of its tailings dam, it did not timeously apply for registration of the dam as a dam with a safety risk, as required by Section 120. The legal requirement is for such a dam to be registered within 120 days of it meeting the requirements for registration as a dam with a safety risk.

Through its normal regulatory monitoring, the Department identified that the dam had surpassed the parameters requiring registration as a dam with a safety risk, and in December 2021 advised the mine to apply for registration to have the dam classified as a dam with a safety risk. The classification was approved in April 2022, with a requirement that the dam safety inspection by an APP be completed within three years of the classification. This is the timeframe provided in the National Water Act. Classification of a dam as a dam with a safety risk comes with a requirement of a mandatory five-yearly dam safety evaluation to be conducted by an approved professional person (APP). An APP is a highly experienced dam engineer with a proven track record in dam engineering. The appointment of APPs must be approved by the Minister of Water and Sanitation after consultation with the Engineering Council of South Africa.

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DRAFT REPLY: RECOMMENDED/ NOT RECOMMENDED/ AMENDED



DR SEAN PHILLIPS  
DIRECTOR-GENERAL

DATE: 26/11/23

DRAFT REPLY: APPROVED/ NOT APPROVED/ AMENDED



MR SENZO MCHUNU, MP  
MINISTER OF WATER AND SANITATION

DATE: 28/11/23