



water affairs

Department:
Water Affairs
REPUBLIC OF SOUTH AFRICA

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Reference: 1/9

MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS

NATIONAL ASSEMBLY: QUESTION ★63 FOR ORAL REPLY

A draft reply to the above mentioned question asked by Mrs S V Kalyan (DA) is attached for your consideration.

ACTING DIRECTOR-GENERAL

DATE:

DRAFT REPLY APPROVED/AMENDED ✓

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MRS B E E MOLEWA, MP
MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS

DATE: 26.6.2011

See comments overleaf.

NATIONAL ASSEMBLY

FOR ORAL REPLY

QUESTION NO ★63

DATE OF PUBLICATION IN INTERNAL QUESTION PAPER: 13 JUNE 2011
(INTERNAL QUESTION PAPER NO. 16)

★63. Mrs S V Kalyan (DA) to ask the Minister of Water and Environmental Affairs:

Whether the Water Trading Entity is a defendant in any lawsuits; if not, what is the reason for note 19 in the financial statements of the Department of Water and Environmental Affairs, 2009-10 financial year; if so, what (a) amount has been spent on these lawsuits and (b) are the further relevant details?

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REPLY:

Yes, the Department through the Water Trading Entity is a defendant in some lawsuits as indicated in note 19 of the 2009-10 annual financial statement.

- (a) The total amount that has been spend on these lawsuits is R 1 086 282.79 representing only the two (2) of the five (5) cases mentioned in note 19 of the 2009-10 annual financial statement. These are the only cases whose legal fees for contingent liabilities had been paid by the State Attorney on behalf of the Department. The reason can be explained as follows:

All government Departments are required to litigate through the office of the State Attorney that pays all legal costs as and when they are submitted by various service providers. The said office then sends invoices with proof of payment to the relevant government Department for re-imburement. In certain instances, invoices are submitted long after payments had been made to the service providers on behalf of the government department. The above-mentioned figure is based on the invoices received by the department at the time of responding to this parliamentary question.

The Water Trading Entity can be described as a business trading account of the Department. Its main functions include building of dams and other infrastructure necessary for the storage and supply of water to the citizens of the Republic of South Africa as well as selling water. This means that it engages the services of contractors, to assist with the execution of its core business as it does not have all the required expertise in-house.

To ensure that the parties have a common understanding with regard to their responsibilities, each selected contractor performing a service is required to enter into a legally binding contract with the Department. The contracts will have all the terms of the agreement which will also include what has to be done as well as payment provisions. Payments will usually be linked to amongst other things the achievement of certain milestones. However, due to the nature of this relationship, there would be instances where the parties may have differences in the interpretation of the terms of the contract. There may also be clear cases where one party, usually the contractors, may be in breach of contract. Should it happen that all the breach of contract remedies provided for in the contract are to no avail, the last remedy available would always be litigation by one party against another.

- (b) To date there are a total of 15 cases involving the Water Trading Entity that are handled by the State Attorney on behalf of the Department. This includes the two (2) cases that have accumulated legal costs as mentioned earlier. A narrative report of the nature of these cases can be made available upon request.

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