



# **MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE DEPARTMENT OF WATER AFFAIRS AND FORESTRY**

**DULY REPRESENTED BY  
MR JI SINDANE**

**IN HIS CAPACITY AS  
DIRECTOR-GENERAL: WATER AFFAIRS AND FORESTRY**

**AND**

**THE DEPARTMENT OF MINERALS AND ENERGY**

**DULY REPRESENTED BY  
ADV S NOGXINA**

**IN HIS CAPACITY AS  
DIRECTOR-GENERAL: MINERALS AND ENERGY**

**ON**

**FINANCIAL PROVISION ASSOCIATED WITH THE REHABILITATION OF QUARRIES  
AND BORROWED AREAS USED FOR THE CONSTRUCTION OR MAINTENANCE OF  
DAMS OR ANY OTHER WATER RESOURCE INFRASTRUCTURE**

Jointly hereinafter referred to as the parties

## PREAMBLE

**WHEREAS** in terms of the National Water Act, 1998 (Act No. 36 of 1998), the Minister of Water Affairs and Forestry may enquire, construct, alter, repair, operate or control Government water works in order to protect, use, develop, conserve, manage and control the nation's water resources in the public interest;

**WHEREAS** section 41(1) of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002) requires an applicant for a prospecting right, mining right or mining permit, to make the prescribed financial provision for the rehabilitation and management of negative environmental impacts, before the Minister approves the environmental management plan or environmental management programme;

**WHEREAS** the Department of Water Affairs And Forestry (*hereinafter referred to as DWAF*) raised some concerns on the implementation on section 41(1) of the Mineral and Petroleum Resources Development Act, 2002 with respect to the methods of financial provision for the rehabilitation and management of negative environmental impacts prescribed in the Mineral and Petroleum Resources Regulation 53 as it relates to quarrying and burrowed activities undertaken during the development and maintenance of water resource infrastructure and recognising the requirements of the Public Finance Management Act, 1999 (Act No 1 of 1999) in particular for the efficient use of State funds;

**AND PURSUANT** to a meeting on, Friday 6 October 2006 between representatives of DWAF and the Department of Mineral and Energy (*hereinafter referred to as DME*) where a common understanding was reached on the implementation of sections 41(1) and 106 of the Mineral and Petroleum Resources Development Act, 2002 read with the Government Notice No. R.762 of 25 June 2004 as published in Government Gazette No. 26501;

### **NOW THEREFORE THE PARITES' UNDERSTANDING IS HEREWITH RECORDED AS FOLLOWS:**

The purpose of this Memorandum of Understanding is to confirm consistent compliance of legislation by DWAF when undertaking construction or maintenance of Government water works infrastructure.

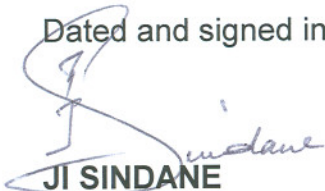
It is thus understood by both DWAF and DME that:

- 1.1 In terms of section 106(1) of the Mineral and Petroleum Resources Development Act, 2002 read with the Government Notice No. R.762 of 25 June 2004 published in Government Gazette No. 26501, an organ of state is only exempted from application procedures and the approval or granting of such right or permit in terms of sections 16, 20, 22 and 27 of the said Act,



- 1.2 Notwithstanding the exemption stated in clause 1.1 above, in terms of section 106(2) of the Mineral and Petroleum Resources Development Act, 2002, the provisions pertaining to environmental management, financial provision and mine closure in terms of the Mineral and Petroleum Resources Development Act, 2002 and its supporting Regulations, applies to quarrying and burrowing activities undertaken by DWAF during the development or maintenance of water resource infrastructure.
- 2.1 With regard to section 41 of the Mineral and Petroleum Resources Development Act, 2002 and its supporting Regulations 53 and 54, DWAF, its agents, or developer or any other person contracted by DWAF, is not exempted from these provisions that requires financial provision to be made.
- 2.2 It is therefore agreed between the parties that for the construction and maintenance of Government water works undertaken by the DWAF's own Construction Unit, DWAF shall be deemed to comply with the requirements of financial provision: Provided that the estimated costs for the management, rehabilitation and closure of such quarries and borrowed areas or works are provided for within the approved budget for such Government water works.
3. This Memorandum of Understanding shall be in force upon signature by both parties, and shall remain in force until terminated by written notice signed by both parties.

Dated and signed in Pretoria on this 02 day of APRIL 2007



JI SINDANE

**DIRECTOR-GENERAL: WATER AFFAIRS AND FORESTRY**

Dated and signed in Pretoria on this 20<sup>TH</sup> day of MARCH 2007



ADV S NOGXINA

**DIRECTOR-GENERAL: MINERALS AND ENERGY**