



CRIMINAL CASES REPORTED

**BRIEFING TO THE PORTFOLIO COMMITTEE ON WATER &
SANITATION**

2 SEPTEMBER 2015

Contents



- **CRIMINAL CASES OPENED AGAINST WATER USERS FOR VIOLATING PRESCRIPTS OF THE NATIONAL WATER ACT (ACT NO: 36 OF 1998) NWA IN SOUTH AFRICA**

REPORTED CASES



PROVINCE	Reported Cases	No of suspects	Cases on court roll	Guilty	Withdrawn : Nolle Prosequi	Undetected	Under investigation
Free State	6	6	3	0	3	0	0
Gauteng	2	0	0	0	1	1	0
KwaZulu-Natal	8	8	7	0	1	0	0
Limpopo	10	10	0	1	6	1	2
Mpumalanga	20	20	3	0	9	7	1
Northern Cape	4	4	3	0	0	1	0
North West	2	2	1	0	0	1	0
Western Cape	3	3	0	0	2	1	0
RSA TOTAL	55	53	17	1	22	12	3

CRIMINAL CASES REPORTED : DEPARTMENT OF WATER & SANITATION



FREE STATE

CASE NUMBER	NAME OF ACCUSED	SECTION 151 (1) OFFENCE	STATUS
Odendaalsrus CAS 278/04/2007	Vermeulens Kraal Van Heerden Matjhabeng Municipality	(a) Use water otherwise than as permitted under this Act	Case remanded to 2015-10-07
Villiers CAS 44/09/2014	Villiers Abattoir	(a) Use water otherwise than as permitted under this Act	Docket to SPP on 2015-07-31
Villiers CAS 50/11/2014	Villiers Abattoir	(a) Use water otherwise than as permitted under this Act	Docket to SPP on 2015-07-31

FREE STATE ... CONTINUES



CASE NUMBER	NAME OF ACCUSED	SECTION 151 (1) OFFENCE	STATUS
Welkom CAS 278/04/2007	Vermeulenskraal – Van Heerden	(a) Use water otherwise than as permitted under this Act	Case withdrawn on 2008-01-30
Verkykersdorp CAS 242/06/2014	Mr PJ Van Eeden	(a) Use water otherwise than as permitted under this Act	Case withdrawn Nolle Prosequi
Reitz Cas 109/06/2014	Ms IL	(a) Use water otherwise than as permitted under this Act	Case withdrawn on 2014-04-29

GAUTENG



CASE NUMBER	NAME OF ACCUSED	SECTION 151 (1) OFFENCE	STATUS
Cullinan CAS 29/04/2014	Delf Sand	(a) Use water otherwise than as permitted under this Act	Undetected
Vanderbijlpark CAS 315/08/2009	Emfuleni Municipality	(j) Unlawfully commit any act or omission which detrimentally affects or is likely to affect a water resource	Case withdrawn on 2009-08-11

KWAZULU-NATAL



CASE NUMBER	NAME OF ACCUSED	SECTION 151 (1) OFFENCE	STATUS
Kwadukuza CAS 440/08/2014	Mr Thinashen Govender – Mdloti Mining & Olant Hire CC	(a) Use water otherwise than as permitted under this Act (j) Unlawfully commit any act or omission which detrimentally affects or is likely to affect a water resource	Docket with SPP on 2014-09-11

KWAZULU-NATAL ...CONTINUES



CASE NUMBER	NAME OF ACCUSED	SECTION 151 (1) OFFENCE	STATUS
Kwadukuza CAS 169/12/2014	Mr Adheel Baniparsadh – Adheel Sands & KwaZulu Bulk Logistics CC	(a) Use water otherwise than as permitted under this Act	Docket with SPP on 2015-04-15
Kwadukuza CAS 168/12/2014	Mr Arumugan Moodley – Tri Sand CC	(a) Use water otherwise than as permitted under this Act (j) Unlawfully commit any act or omission which detrimentally affects or is likely to affect a water resource	Docket with SPP on 2015/04/15

KWAZULU-NATAL ...CONTINUES



CASE NUMBER	NAME OF ACCUSED	SECTION 151 (1) OFFENCE	STATUS
Kwadukuza CAS 170/12/2014	Mr D Singh – Esprit Investments CC	(a) Use water otherwise than as permitted under this Act (j) Unlawfully commit any act or omission which detrimentally affects or is likely to affect a water resource	Docket with SPP on 2015/04/15

KWAZULU-NATAL ...CONTINUES



CASE NUMBER	NAME OF ACCUSED	SECTION 151 (1) OFFENCE	STATUS
Kwadukuza CAS 164/12/2014	Mr Dhaver Pillay – Wellvale Denetu Farm	(a) Use water otherwise than as permitted under this Act (j) Unlawfully commit any act or omission which detrimentally affects or is likely to affect a water resource	Docket with SPP on 2015/04/15

KWAZULU-NATAL ...CONTINUES



CASE NUMBER	NAME OF ACCUSED	SECTION 151 (1) OFFENCE	STATUS
Kwadukuza CAS 171/12/2014	Mr Junior Bhowan	(a) Use water otherwise than as permitted under this Act (j) Unlawfully commit any act or omission which detrimentally affects or is likely to affect a water resource	Docket with SPP on 2015/04/15

KWAZULU-NATAL ...CONTINUES



CASE NUMBER	NAME OF ACCUSED	SECTION 151 (1) OFFENCE	STATUS
Kwadukuza Cas 172/12/2014	Navin Baniparsad – Dixon Africa Plant / Verulam Sands	(a) Use water otherwise than as permitted under this Act (j) Unlawfully commit any act or omission which detrimentally affects or is likely to affect a water resource	Docket with SPP on 2015/04/15

KWAZULU-NATAL ...CONTINUES



CASE NUMBER	NAME OF ACCUSED	SECTION 151 (1) OFFENCE	STATUS
Hlobane CAS 10/11/2013	Henque 4064 CC	<ul style="list-style-type: none">(a) Use water otherwise than as permitted under this Act(d) to comply with a directive issued under section 19,20,53 or 118(i) Unlawfully and intentionally or negligently commit any act or omission which pollutes or is likely to pollute a water resource	Docket withdrawn on 2014-11-05

LIMPOPO



CASE NUMBER	NAME OF ACCUSED	SECTION 151 (1) OFFENCE	STATUS
Marble Hall CAS 120/03/2009	Joan Botes	(a) Use water otherwise than as permitted under this Act	Case Closed- Undetected on 2009-03-31
Pienaars River CAS 341/04/2009	Mr Maritz of De Kuil Boerdery	(a) Use water otherwise than as permitted under this Act	Nolle Prosequi
Groblerdsdal CAS 52/03/2009	Deon Meyer	(a) Use water otherwise than as permitted under this Act (d) to comply with a directive issued under section 19,20,53 or 118	Accused sentenced to 1 year imprisonment

LIMPOPO ... continues



CASE NUMBER	NAME OF ACCUSED	SECTION 151 (1) OFFENCE	STATUS
Laersdrift CAS 8/11/2009	FS & JC Boerdery	(a) Use water otherwise than as permitted under this Act	Case Closed – Withdrawn on 18-04-2012
Naboomspruit CAS 172/11/2014	Greenway Farm	(a) Use water otherwise than as permitted under this Act	Case still under investigation
Phalaborwa CAS 96/01/2015	Hans Merensky	(a) Use water otherwise than as permitted under this Act	Undetected on 2015-05-28

LIMPOPO ... continues



CASE NUMBER	NAME OF ACCUSED	SECTION 151 (1) OFFENCE	STATUS
Phalaborwa CAS 37/07/2011	Foskor Mine	(a) Use water otherwise than as permitted under this Act (d) to comply with a directive issued under section 19, 20, 53 or 118	Docket withdrawn on 2011-11-23
Hoedspruit CAS 39/11/2011	Mr Sean Nielson	(a) Use water otherwise than as permitted under this Act (d) to comply with a directive issued under section 19,20,53 or 118	Docket withdrawn on 2015-08-15

LIMPOPO ... continues



CASE NUMBER	NAME OF ACCUSED	SECTION 151 (1) OFFENCE	STATUS
Phalaborwa CAS 132/11/2011	Phalaborwa Mining Company	(a) Use water otherwise than as permitted under this Act	Docket withdrawn on 2012-08-30
Modimolle CAS 206/05/2015	Infinity Mining and Industrial Solution (Modimolle Spill)	(j) Unlawfully commit any act or omission which detrimentally affects or is likely to affect a water resource	Docket still under investigation

MPUMALANGA



CASE NUMBER	NAME OF ACCUSED	SECTION 151 (1) OFFENCE	STATUS
Witbank CAS 980/11/2011	Mr Terrance Mall	(a) Use water otherwise than as permitted under this Act	Undetected on 2013-07-03
Witbank CAS 408/07/2011	Wescoal Mine	(a) Use water otherwise than as permitted under this Act	Undetected on 2013-03-12
Witbank CAS 858/11/2009	Mr Langa	(a) Use water otherwise than as permitted under this Act	Docket withdrawn on 19-09-2011
Witbank CAS 601/10/2011	Mr Louis Steyn	(a) Use water otherwise than as permitted under this Act	Undetected on 2012-05-29

MPUMALANGA...CONTINUES



CASE NUMBER	NAME OF ACCUSED	SECTION 151 (1) OFFENCE	STATUS
Barberton CAS 171/06/2009	Mr AP De Vos	(a) Use water otherwise than as permitted under this Act	Docket withdrawn on 28-03-2014
Breyten CAS 35/11/2009	Mr T Marshall	(a) Use water otherwise than as permitted under this Act (d) to comply with a directive issued under section 19,20,53 or 118	Docket withdrawn on 2012-04-05

MPUMALANGA...CONTINUES



CASE NUMBER	NAME OF ACCUSED	SECTION 151 (1) OFFENCE	STATUS
Carolina CAS 57/11/2009	Grootpan Mine	(a) Use water otherwise than as permitted under this Act	Docket withdrawn on 2010-01-07
Vosman CAS 885/11/2013	Elandsfontein Colliery	(a) Use water otherwise than as permitted under this Act	Undetected
Delmas CAS 06/05/2012	Brakfontein (Idwala Colliery)	(a) Use water otherwise than as permitted under this Act	Warrant of Arrest issued on 2012-11-13

MPUMALANGA...CONTINUES



CASE NUMBER	NAME OF ACCUSED	SECTION 151 (1) OFFENCE	STATUS
Secunda CAS 27/10/2009	Eastside Mine	(a) Use water otherwise than as permitted under this Act	Undetected on 2014-11-03
Malelane CAS 118/11/2009	Mr T Sibozza (Nkomazi Local Municipality)	(a) Use water otherwise than as permitted under this Act (d) to comply with a directive issued under section 19,20,53 or 118 (i) Unlawfully and intentionally or negligently commit any act or omission which pollutes or is likely to pollute a water resource	Undetected on 30-11-2009

MPUMALANGA...CONTINUES



CASE NUMBER	NAME OF ACCUSED	SECTION 151 (1) OFFENCE	STATUS
Tonga CAS 119/06/2011	Mr R Ntimane	(a) Use water otherwise than as permitted under this Act (d) to comply with a directive issued under section 19, 20,53 or 118	Booked out to SPP on 2011-12-15
Machadodorp CAS 17/07/2011	Mr FP Van Den Berg	(a) Use water otherwise than as permitted under this Act (d) to comply with a directive issued under section 19, 20,53 or 118	Docket withdrawn on 2012-01-04

MPUMALANGA...CONTINUES



CASE NUMBER	NAME OF ACCUSED	SECTION 151 (1) OFFENCE	STATUS
Barberton CAS 24/08/2011	Mr Karl Hinteregger	(a) Use water otherwise than as permitted under this Act (d) to comply with a directive issued under section 19,20,53 or 118	Docket with drawn on 2012-11-08
Ogies CAS 08/11/2011	Kendal Colliery	(a) Use water otherwise than as permitted under this Act	Booked out to SPP on 2014-12-12

MPUMALANGA...CONTINUES



CASE NUMBER	NAME OF ACCUSED	SECTION 151 (1) OFFENCE	STATUS
Machadodorp CAS 05/11/2011	Mr H Pretorius – Watchebietjieshook Developers	(a) Use water otherwise than as permitted under this Act (d) to comply with a directive issued under section 19, 20, 53 or 118	Docket withdrawn on 2012-01-24
Middelburg Cas 70/11/2011	Mr Caril Dirker	(a) Use water otherwise than as permitted under this Act (d) to comply with a directive issued under section 19, 20,53 or 118	Undetected

MPUMALANGA...CONTINUES



CASE NUMBER	NAME OF ACCUSED	SECTION 151 (1) OFFENCE	STATUS
Bushbuckridge CAS 66/11/2011	Mr Strydom Shakwane	(a) Use water otherwise than as permitted under this Act (d) to comply with a directive issued under section 19, 20,53 or 118	Docket withdrawn on 2011-11-29
Machadodorp CAS 38/01/2012	Mr Verna Blom	(a) Use water otherwise than as permitted under this Act	Docket withdrawn on 2012-01-31

MPUMALANGA...CONTINUES



CASE NUMBER	NAME OF ACCUSED	SECTION 151 (1) OFFENCE	STATUS
Belfast CAS 52/05/2012	Exxaro : Glisa	(a) Use water otherwise than as permitted under this Act (d) to comply with a directive issued under section 19,20,53 or 118	Booked out to SPP on 2013-11-21

NORTHERN CAPE



CASE NUMBER	NAME OF ACCUSED	SECTION 151 (1) OFFENCE	STATUS
Olifantshoek CAS 19/09/2014	Makukukwe Vervoer CC	(a) Use water otherwise than as permitted under this Act	Docket with SPP on 2015-07-13
Olifantshoek CAS 18/09/2014	Langenberg Stene CC	(a) Use water otherwise than as permitted under this Act	Docket with SPP on 2015-02-15
Windsorton CAS 32/11/2014	Mr Amos Davids Dries Mangenese CSS	(a) Use water otherwise than as permitted under this Act	Docket with SPP on 2015-02-15
Upington CAS 349/09/2014	Oranje Sand CC	(a) Use water otherwise than as permitted under this Act	Docket with SPP on 2015-04-28

NORTH WEST



CASE NUMBER	NAME OF ACCUSED	SECTION 151 (1) OFFENCE	STATUS
Potchefstroom CAS 324/02/2014	Blyvoor	(a) Use water otherwise than as permitted under this Act	Undetected on 2014-03-06
Brits CAS 130/01/2010	Madibeng Municipality	(j) Unlawfully commit any act or omission which detrimentally affects or is likely to affect a water resource	Back from court on 2015-04-21 – SPP queries attended to

WESTERN CAPE



CASE NUMBER	NAME OF ACCUSED	SECTION 151 (1) OFFENCE	STATUS
Stellenbosch CAS 540/06/2011	Ross Demolition	(a) Use water otherwise than as permitted under this Act	Docket withdrawn on 2012-08-31
Landsdown CAS 113/10/2013	Greystone Trading	(a) Use water otherwise than as permitted under this Act	Undetected

WESTERN CAPE ... CONTINUES



CASE NUMBER	NAME OF ACCUSED	SECTION 151 (1) OFFENCE	STATUS
Stellenbosch CAS 133/03/2013	Stellenbosch Municipality	(i) Unlawfully and intentionally or negligently commit any act or omission which pollutes or is likely to pollute a water resource	Nolle Prosequi Docket withdrawn on 2014-10-23

SIGNIFICANT CONVICTIONS



CASE NUMBER	NAME OF ACCUSED	OFFENCE
05/01/2014	Bosveld Phosphate	(c)Fail to comply with any condition of a permitted water use.

SENTENCES

The accused is fined to pay R 1 000 000.00 (one million) suspended for three years on condition that the accused is not convicted of an offence in terms of section 49(1)(e) of the National Environmental Management Act 107 of 1998 during the period of suspension.

The Accused is fined to pay a fine of R100 000.00 (one hundred thousand) suspended for three years on condition that the Accused is not convicted of an offence in terms of Section 151(c) of the National Water Act no 36 of 1998 (Fail to comply with any condition of a permitted water use) during the period of suspension.

SIGNIFICANT CONVICTIONS



CASE NUMBER	NAME OF ACCUSED	OFFENCE
139/11/2011	Nkomati Anthracite	(a) use water otherwise than as permitted under this Act;

SENTENCES

The parties entered into a plea and sentence agreement in terms of section 105A of the Criminal Procedure Act, 1977 in terms of which Nkomati Anthracite was sentenced to a fine of one million Rand (R1 000 000) suspended for a period of 5 years

SIGNIFICANT CONVICTIONS



CASE NUMBER	NAME OF ACCUSED	OFFENCE
	Goldview Leliefontein Operation	(i) unlawfully and intentionally or negligently commit any act or omission which pollutes or is likely to pollute a water resource;

SENTENCES

R3 000 000 (three million rand for sec151(1) read with section 21(c) or (i) of NWA and section 28(14)(a) and section 24F(1)(a) of NEMA

SIGNIFICANT CONVICTIONS



CASE NUMBER	NAME OF ACCUSED	OFFENCE
94/11/2010	Vunene Mine	<i>(a) use water otherwise than as permitted under this Act;</i>

SENTENCES

The plea and sentence agreement concluded with a cumulative fine of R300 000 being imposed on the accused together with the appointment of an independent environmental consultant to investigate and assess the damage caused by the unlawful mining and to set the limits within which rehabilitation must take place with the goal to rehabilitate to the pre-mining state. This rehabilitation must be completed within five years.

SIGNIFICANT CONVICTIONS



CASE NUMBER	NAME OF ACCUSED	OFFENCE
971/12/2010	Harmony Gold	<i>(a) use water otherwise than as permitted under this Act;</i>

SENTENCES

The mine was instructed by the Supreme Court of Appeal to continue pumping underground water. The costs for removal and re-use of water will be carried out by Harmony Gold

SIGNIFICANT CONVICTIONS



CASE NUMBER	NAME OF ACCUSED	OFFENCE
114/06/2009	Mr JJ Herbst	(a) use water otherwise than as permitted under this Act;

SENTENCES

Case was finalized and transgressor fined R 5000

SIGNIFICANT CONVICTIONS



CASE NUMBER	NAME OF ACCUSED	OFFENCE
169/12/2014	Adheel (Bulk Logistics)	(d) fail to comply with a directive issued under section 19, 20, 53 or 118;

SENTENCES

The High Court in Durban instructed Adheel Sand to stop all Water use activities as instructed by the Directive issued by the DWS pending the decision by the Water Tribunal

SIGNIFICANT CONVICTIONS



CASE NUMBER	NAME OF ACCUSED	OFFENCE
52/03/2009	Mr Deon Meyer	(a) use water otherwise than as permitted under this Act; (d) fail to comply with a directive issued under section 19, 20, 53 or 118;

SENTENCES

Mr. Meyer was found guilty and had two suspended sentences 5 years and 24,000.00 on 12 January 2012



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YEARS OF POLICING IN A DEMOCRACY

Thank you