

**IN THE HIGH COURT OF SOUTH AFRICA
NORTH WEST DIVISION, MAHIKENG**

Case No.: UM117/2021

In the matter between:

SAKELIGA NPC

Applicant

and

SEDIBENG WATER BOARD

First Respondent

**MEMBER OF THE EXECUTIVE COUNCIL: NORTH WEST
PROVINCE: COOPERATIVE GOVERNANCE, HUMAN
SETTLEMENTS AND TRADITIONAL AFFAIRS**

Second Respondent

**MEMBER OF THE EXECUTIVE COUNCIL: NORTH WEST
PROVINCE: FINANCE**

Third Respondent

**MINISTER OF COOPERATIVE GOVERNANCE AND
TRADITIONAL AFFAIRS**

Fourth Respondent

MINISTER OF FINANCE

Fifth Respondent

**MINISTER OF HUMAN SETTLEMENTS, WATER AND
SANITATION**

Sixth Respondent

NGAKA MODIRI MOLEMA DISTRICT MUNICIPALITY

Seventh Respondent

DITSOBOTLA LOCAL MUNICIPALITY

Eighth Respondent

MAHIKENG LOCAL MUNICIPALITY

Ninth Respondent

RATLOU LOCAL MUNICIPALITY

Tenth Respondent

PREMIER OF THE NORTH WEST PROVINCE

Eleventh Respondent

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DATED AND SIGNED AT MAHIKENG ON THIS THE 28TH DAY OF 2021.

KRIEK WASSENAAR & VENTER INC ATTORNEYS

ATTORNEYS FOR THE APPLICANT

Tel: 012 756 7566

Fax: 086 596 8799

Email: peter@kriekprok.co.za

Ref: PJ Wassenaar/es/QB0861

C/O SMIT STANTON INC

29 Warren Street

Mahikeng

Tel: 018 381 0180

Ref: NJ/KRI19/0003/21

AND TO: THE REGISTRAR OF THE ABOVE COURT
MMABATHO

IN THE HIGH COURT OF SOUTH AFRICA
(NORTH WEST DIVISION, MAHIKENG)

CASE NO.: UM 117 /2021

In the application between:

SAKELIGA NPC

and

SEDIBENG WATER BOARD



Applicant

1st Respondent

**THE MEMBER OF THE EXECUTIVE
COUNCIL: NORTH WEST PROVINCE:
COOPERATIVE GOVERNANCE, HUMAN
SETTLEMENT AND TRADITIONAL AFFAIRS**

2nd Respondent

**THE MEMBER OF THE EXECUTIVE COUNCIL:
NORTH WEST PROVINCE: FINANCE**

3rd Respondent

**THE MINISTER: NATIONAL DEPARTMENT
OF COOPERATIVE GOVERNANCE AND
TRADITIONAL AFFAIRS**

4th Respondent

THE MINISTER OF FINANCE	5th Respondent
THE MINISTER: NATIONAL DEPARTMENT OF HUMAN SETTLEMENTS, WATER AND SANITATION	6th Respondent
NGAKA MODIRI MOLEMA DISTRICT MUNICIPALITY	7th Respondent
DITSOBOTLA LOCAL MUNICIPALITY	8th Respondent
MAHIKENG LOCAL MUNICIPALITY	9th Respondent
RATLOU LOCAL MUNICIPALITY	10th Respondent
THE PREMIER: NORTH WEST PROVINCE	11th Respondent

NOTICE OF MOTION

PART A

TAKE NOTICE that the applicant intends to apply to the above Honourable Court on **Monday, 31 May 2021 at 10h00** or as soon thereafter as counsel may be heard, for an order in the following terms:

- 1 Dispensing with the ordinary rules relating to forms, service and time periods and permitting this application to be heard as one of urgency in terms of rule 6(12) of the Uniform Rules of Court;

- 2 That, pending the adjudication of Part B of this application, the first respondent be interdicted and restrained from implementing its decision to interrupt or discontinue the supply of water and/or bulk water services as well as all operational and maintenance services relating to the supply of water and/or bulk water to the seventh, eighth, ninth, and tenth respondents;
- 3 That the applicant is granted leave to supplement its founding affidavit on or before 8 June 2021 in respect of Part B of this application;
- 4 That the respondents, or any one of them, intending to oppose the relief sought in Part B of this application, be ordered to file a notice of their intention to do so by 8 June 2021 and their answering papers, if any, by no later than 14h00 on 17 June 2021, and the applicants to file their replying affidavits, if any, by no later than 24 June 2021 by 12h00, before the closing of the urgent roll;
- 5 That the applicants are granted leave to enrol this application on the urgent court roll for hearing on 29 June 2021 in respect of Part B of this application;
- 6 That the costs of Part A be reserved for determination at the hearing of Part B of this application;
- 7 Granting the applicant such further and/or alternative relief as the court deems meet.

TAKE NOTICE FURTHER that the founding affidavit of TOBIAS VIVIAN ALBERTS, together with annexures and supporting affidavits thereto, shall be used in support of this application.

TAKE NOTICE FURTHER that the applicant appoints the address of its attorney of record, set out hereunder, as the address where the applicant shall receive notice of all process in this application.

TAKE NOTICE FURTHER that if you intend to oppose **Part A** of this application you are required to:

- (a) deliver a written notice of your intention to oppose this application by no later than **28 May 2021 at 16h00**, which notice shall be directed to the to the applicant's attorney of record and the Registrar of this Court;
- (b) file your answering affidavit to Part A, if any, by no later than 29 May 2021 at 17h00; and
- (c) in your notice of intention to oppose this application, provide an address as envisaged in rule 6(5)(b) of the Uniform Rules of Court at which you shall accept notice of all process in this application.

PART B

TAKE NOTICE that the applicant intends to apply to the above Honourable Court on **Tuesday, 29 June 2021 at 10h00** or as soon thereafter as counsel may be heard, for an order in the following terms:

- 1 That the applicant's non-compliance with the rules of Court relating to service and time periods be condoned and that the relief sought under Part B be heard as one of urgency in accordance with rule 6(12) of the Uniform Rules of Court;
- 2 That, pending the adjudication of Part B of this application, the first respondent be interdicted and restrained from implementing its decision to interrupt or

discontinue the supply of water and/or bulk water services as well as all operational and maintenance services relating to the supply of water and/or bulk water to the seventh, eighth, ninth, and tenth respondents;

- 3 That the first respondent be ordered to pay the costs of Part A and Part B of this application on a scale as between attorney and client, including the costs of two counsel, where so employed;
- 4 That all such other respondents who may oppose this application be ordered to pay the costs of the application on a scale as between attorney and client, jointly and severally, including the costs of two counsel, where so employed;
- 5 Granting the applicant such further and/or alternative relief as the court deems meet.

TAKE NOTICE FURTHER that the founding affidavit of TOBIAS VIVIAN ALBERTS, together with annexures and supporting affidavits thereto, shall be used in support of this application.

TAKE NOTICE FURTHER that the applicant appoints the address of its attorney of record, set out hereunder, as the address where the applicant shall receive notice of all process in this application.

TAKE NOTICE FURTHER that if you intend to oppose **Part B** of this application you are required to:

- (a) deliver a written notice of your intention to oppose this application by **8 June 2021**, which notice shall be directed to the to the applicant's attorney of record and the Registrar of this Court;

- (b) file your answering affidavit, if any, by no later than **17 June 2021 at 14h00**; and
- (c) in your notice of intention to oppose this application, provide an address as envisaged in Rule 6(5)(b) of the Uniform Rules of Court at which you shall accept notice of all process in this application.

PART C

TAKE FURTHER NOTICE that the applicants intend to apply to the above Honourable Court on a date to be arranged with the registrar or the Honourable Deputy Judge President for an order in the following terms:

- 1 Declaring that the decision of the first respondent to interrupt or discontinue the supply of water and/or bulk water services as well as all operational and maintenance services relating to the supply of water and/or bulk water to the seventh, eighth, ninth, and tenth respondents is unconstitutional, unlawful and invalid;
- 2 Reviewing and setting aside the decision of the first respondent to interrupt or discontinue the supply of water and/or bulk water services as well as all operational and maintenance services relating to the supply of water and/or bulk water to the seventh, eighth, ninth, and tenth respondents;
- 3 Declaring that the failure by the respondents to exercise their powers, and for this purpose to cooperate with one another so as to ensure that the seventh, eighth, ninth, and tenth respondents meet their respective financial obligations in respect of payment towards the first respondent for the supply of water and bulk

water services as well as all operational and maintenance services relating to the supply of water and bulk water by the first respondent to the seventh, eighth, ninth, and tenth respondents, is in conflict with and contrary to section 27 and Chapter 3 of the Constitution of the Republic of South Africa, 1996, the Intergovernmental Relations Framework Act 13 of 2005, chapter 13 of the Municipal Local Government: Municipal Finance Management Act 56 of 2003 and/or section 44 of the Local Government: Municipal Finance Management Act 56 of 2003.

- 4 Ordering the respondents to take the necessary steps to exercise their powers and obligations in terms of chapter 13 of the Local Government: Municipal Finance Management Act 56 of 2003 with the view to resolve the financial difficulties faced by the seventh, eighth, ninth, and tenth respondents, and in particular, their failure to comply with their financial obligations towards the first respondent.
- 5 Interdicting the first respondent from interrupting or disconnecting supply of water and/or bulk water services as well as all operational and maintenance services relating to the supply of water and/or bulk water to the seventh, eighth, ninth, and tenth respondents for the purpose of compelling the seventh, eighth, ninth, and tenth respondents to pay their respective arrear debts towards the first respondent or otherwise threatening to do so;
- 6 That the first respondent be ordered to pay the costs of Part C of this application on a scale as between attorney and client, including the costs of two counsel, where so employed;

- 7 That all such respondents who oppose this application be ordered to pay the costs of the application on a scale as between attorney and client, jointly and severally, including the costs of two counsel, where so employed;
- 8 Granting the applicant such further and/or alternative relief as the court deems meet.

TAKE NOTICE FURTHER that the first respondent is called upon to show cause why the decision to interrupt or discontinue the supply of water and/or bulk water services as well as all operational and maintenance services relating to the supply of water and/or bulk water to the seventh, eighth, ninth, and tenth respondents should not be reviewed and set aside;

TAKE FURTHER NOTICE that the first respondent is called upon to dispatch to the registrar of this Honourable Court within 15 (fifteen) days after receipt of this application, the record pertaining to its decision and the reasons for its decision.

TAKE FUTHER NOTICE that the applicant may within ten days after the registrar has made the record available to the applicant, by delivery of a notice and accompanying affidavit, amend, add to or vary the terms of his or her notice of motion and supplement the supporting affidavit.

TAKE FURTHER NOTICE that if any of the respondents intend to oppose **Part C** of this application, they are required:

- a) to notify the applicant's attorneys and the registrar of this Honourable Court within 15 (fifteen) days after service of this notice of motion in terms of Rule 53(4);

- b) to appoint an address in terms of Rule 6(5)(b) as an address at which they will accept notice and service of all documents in these proceedings;
- c) within 30 (thirty) days after expiry of the time period referred to in Rule 53(4) to deliver their answering affidavit(s) if any.

TAKE NOTICE FURTHER that the founding affidavit of TOBIAS VIVIAN ALBERTS, together with annexures and supporting affidavits thereto, shall be used in support of this application.

TAKE NOTICE FURTHER that the applicant appoints the address of its attorney of record, set out hereunder, as the address where the applicant shall receive notice of all process in this application.

Dated at PRETORIA on 27 MAY 2021.



KRIEK WASSENAAR & VENTER INC. ATTORNEYS
ATTORNEYS FOR THE APPLICANT

Tel.: 012 756 7566

Fax: 086 596 8799

Email: peter@kriekprok.co.za

Ref.: PJ Wassenaar/es/QB0861

C/O SMIT STANTON INCORPORATED

29 Warren Street

Mahikeng

Tel: 018 381 0180

Fax: 086 274 6253

E-mail: litigation1@smitstanton.co.za

REF: KRI19/0003/21

**TO: THE REGISTRAR
OF THE HIGH COURT
MAHIKENG**

AND TO:**SEDIBENG WATER BOARD****FIRST RESPONDENT**

132 University Drive

Mmabatho

Mahikeng

North West Province

E-mail: ceosec@sedibengwater.co.zaamassyn@sedibengwater.co.zaannelinebotes@sedibengwater.co.zassithole@sedibengwater.co.zakvallatt@sedibengwater.co.zapnkwale@sedibengwater.co.zanfulatela@sedibengwater.co.zaeratsh9tanga@sedibengwater.co.zambadamanas@gmail.com**SEDIBENG WATER**

P.O. BOX 4500, MMABATHO 2730

TEL: (018) 392 2047

TEL: (018) 392 3941 / 3

FAX: (018) 392 2827

SERVICE BY EMAIL

AND TO:

MEC: NORTH WEST PROVINCE: COGTA

SECOND RESPONDENT

NWDC Building

Corner Provident House and University Drive

Mmabatho

North West Province

Tel: 018 - 388 2882/3690

E-mail: MMotlogelwa@nwpg.gov.za

COOPORATIVE GOVERNANCE, HUMAN SETTLEMENT
AND TRADITIONAL AFFAIRS
PRIVATE BAG X2099, MMABATHO 2735

2021-05-28

RECEIVED
OFFICE OF THE MEC

P. Motlhabane MEC support.

PMotoko@nwpg.gov.za

SERVICE BY EMAIL

AND TO:

MEC: NORTH WEST PROVINCE: FINANCE

THIRD RESPONDENT

Garona Building

2nd Floor, East Wing

Corner James Moroka and University Drive

Mmabatho

North West Province

Tel: 018 387 3445

Fax: 018 387 3305

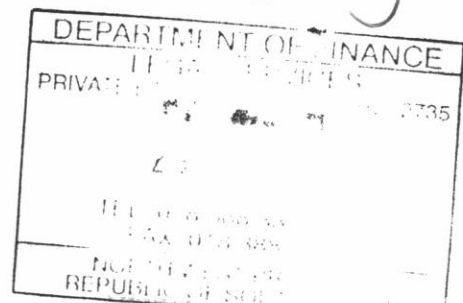
E-mail: IKunene@nwpg.gov.za

nmatseke@nwpg.gov.za

MMotshabi@justice.gov.za



Attegang 10:15



SERVICE BY EMAIL**AND TO:****THE MINISTER: COGTA****FOURTH RESPONDENT**

87 Hamilton Street

Arcadia

Pretoria

Gauteng Province

Tel: 012 300 5200 / 021 681 5758

Fax: 012 300 5795 / 021 464 2147

E-mail: MandisaMB@cogta.gov.zaPamelaS@cogta.gov.zaMathoM@cogta.gov.zaLungim@cogta.gov.zaCarolineM@cogta.gov.zaThobaniM@cogta.gov.zalegadimal@cogta.gov.za**SERVICE BY EMAIL****AND TO:****THE MINISTER OF FINANCE****FIFTH RESPONDENT**

40 Church square

2nd Floor, Old Reserve Bank Building

Pretoria

Gauteng Province

Tel: 012 323 8911 / 021 464 6100

Fax: 012 323 3262 / 021 461 2934

E-mail: minreg@treasury.gov.za

mary.marumo@treasury.gov.za

marlon.geswint@treasury.gov.za

Mashudu.Masutha@treasury.gov.za

cindy.august@treasury.gov.za

SERVICE BY EMAIL

AND TO:

**THE MINISTER OF NATIONAL DEPARTMENT
OF HUMAN SETTLEMENTS, WATER AND SANITATION
SIXTH RESPONDENT**

185 Francis Baard Street

Pretoria

Gauteng Province

Tel: 012 336 7500

Fax: 012 336 8664

E-mail: Francois.hugo@dhs.gov.za

Ndivhuyo.mabaya@dhs.gov.za

SERVICE BY EMAIL

AND TO:

THE STATE ATTORNEY, PRETORIA

316 Thabo Sehume Street

Pretoria Central

Pretoria

Gauteng Province

E-mail: SMzozoyana@justice.gov.za

TRamohlale@justice.gov.za

ZNhlayisi@justice.gov.za

TiPillay@justice.gov.za

VDhulam@justice.gov.za

SERVICE BY EMAIL

AND TO:

THE STATE ATTORNEY, MAHIKENG

1st Floor, East Gallery

Mega City Complex

Corner Sekame Road and Dr James Moroka Drive

Mmbatho

North West Province

E-mail: MMotshabi@justice.gov.za



SERVICE BY EMAIL

AND TO:

NGAKA MODIRI MOLEMA DISTRICT MUNICIPALITY

SEVENTH RESPONDENT

1st Floor, East Gallery

Mega City Complex

Corner 1ST Avenue and Carrington Street

Mmbatho

North West Province

Pretoria

Gauteng Province

E-mail: SMzozoyana@justice.gov.za

TRamohlale@justice.gov.za

ZNhlayisi@justice.gov.za

TiPillay@justice.gov.za

VDhulam@justice.gov.za

SERVICE BY EMAIL

AND TO:

THE STATE ATTORNEY, MAHIKENG

1st Floor, East Gallery

Mega City Complex

Corner Sekame Road and Dr James Moroka Drive

Mmbatho

North West Province

E-mail: MMotshabi@justice.gov.za

SERVICE BY EMAIL

AND TO:

NGAKA MODIRI MOLEMA DISTRICT MUNICIPALITY

SEVENTH RESPONDENT


1st Floor, East Gallery

Mega City Complex

* Corner 1st Avenue and Carrington Street

Mmbatho

North West Province


11:52
28-05-2021

AND TO:

RATLOU LOCAL MUNICIPALITY

TENTH RESPONDENT

Delareyville Road

Next to Setlagole Library

Stella

North West Province

E-mail: MMotshabi@justice.gov.za

info@ratlou.gov.za

SERVICE BY EMAIL

AND TO:

THE PREMIER: NORTH WEST PROVINCE

ELEVENTH RESPONDENT

Garona Building

South Wing

3rd Floor

Dr James Moroka Drive

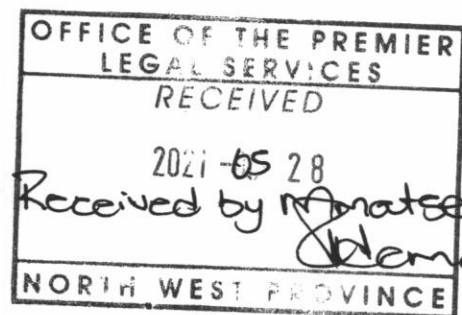
Mmbatho

North West Province

E-mail: MMotshabi@justice.gov.za

vngesi@nwpg.gov.za

MGasemene@nwpg.gov.za



SERVICE BY EMAIL

**IN THE HIGH COURT OF SOUTH AFRICA
(NORTH WEST DIVISION, MAHIKENG)**

CASE NO.: _____/2021

In the application between:

SAKELIGA NPC

Applicant

and

SEDIBENG WATER BOARD

1st Respondent

**THE MEMBER OF THE EXECUTIVE
COUNCIL: NORTH WEST PROVINCE:
CO-OPERATIVE GOVERNANCE, HUMAN
SETTLEMENT AND TRADITIONAL AFFAIRS**

2nd Respondent

**THE MEMBER OF THE EXECUTIVE COUNCIL:
NORTH WEST PROVINCE: FINANCE**

3rd Respondent

**THE MINISTER: NATIONAL DEPARTMENT
OF COOPERATIVE GOVERNANCE AND
TRADITIONAL AFFAIRS**

4th Respondent

Handwritten signature and initials in the bottom right corner of the page.

THE MINISTER OF FINANCE

5th Respondent

THE MINISTER: NATIONAL DEPARTMENT OF
HUMAN SETTLEMENTS, WATER AND SANITATION

6th Respondent

NGAKA MODIRI MOLEMA DISTRICT MUNICIPALITY

7th Respondent

DITSOBOTLA LOCAL MUNICIPALITY

8th Respondent

MAHIKENG LOCAL MUNICIPALITY

9th Respondent

RATLOU LOCAL MUNICIPALITY

10th Respondent

THE PREMIER: NORTH WEST PROVINCE

11th Respondent

FOUNDING AFFIDAVIT

I, the undersigned,

TOBIAS VIVIAN ALBERTS

do hereby make oath and state the following:

- 1 I am a major male and I am the legal officer of Sakeliga NPC, with its offices at Building A, 5th Floor, Loftus Park, 402 Kirkness Street, Arcadia, Pretoria, Gauteng Province.



- 2 The applicant has duly resolved to institute this application. I attach hereto marked annexure **X1** a delegation and resolution confirming the required authority represent the applicant in these proceedings.
- 3 The facts set out in this affidavit fall within my personal knowledge, unless the contrary appears from the context hereof, and are true and correct.
- 4 To the extent that I make legal submissions in this affidavit, I do so on the advice of the applicant's legal representatives.

JURISDICTION

- 5 This Court has jurisdiction to adjudicate upon this application as all the affected municipalities are situated within this Court's area of jurisdiction and the whole cause of action arose within this Court's area of jurisdiction.
- 6 The relief sought pertains to matters that occur in and will directly affect all persons within this Court's area of jurisdiction.

THE PARTIES

THE APPLICANT

- 7 The applicant is **SAKELIGA NPC**, a non-profit company duly registered and incorporated in terms of the statutes of the Republic of South Africa under registration number 2012/043725/08, with its principal place of business situated at Building A, 5th Floor, Loftus Park, 402 Kirkness Street, Arcadia, Pretoria, Gauteng Province.
- 8 The applicant is a public interest organisation with a supporter and donor base of more than 17 000 businesspeople, companies and business organisations and a network of more than 40 000 subscribers in South Africa.



- 9 Within the municipal areas of the seventh to tenth respondent municipalities, the applicant has 50 members and business owners.
- 10 The applicant was established in 2011 and was incorporated and registered as a non-profit company in terms of the Companies Act, No. 71 of 2008, in 2012. The applicant's main objective is to protect constitutional rights, the constitutional order, the rule of law, free-market principles and to promote a just and sustainable business environment within the Republic of South Africa.
- 11 To this end, the applicant lobbies to promote a free market and economic prosperity to create a favourable business environment in the interest of its supporters and the interest of the common good. In order to give effect to its main object, it also provides support to its supporters and the public at large, which support includes legal support. This application is evidence of such support.
- 12 Further, to achieve the applicant's objectives and to perform its functions and mandate, entails as an ancillary object to act in the interest of its supporters and members of the public to protect their business interests and other constitutional rights.
- 13 The aforesaid is also evident from an extract of the memorandum of incorporation of the applicant which extract I attach hereto and mark annexure X2. I deem it apposite to draw this Honourable Court's attention to clause 4 of the memorandum of incorporation, which sets out in more detail the objects, ancillary objects, and powers of the applicant. I request this Court to incorporate the content thereof herein as if expressly set out. I do not attach a full copy of the memorandum of incorporation to these papers in order not to unnecessarily prolix the application. However, the applicant will, at the request of any of the respondents, make the full memorandum of incorporation available to such respondent requesting it.



- 14 The applicant furthermore has the necessary standing to approach this Honourable Court in terms of section 38 of the Constitution of the Republic of South Africa, 1996 (the "**Constitution**"). The applicant is acting in the public interest (section 38 (d)), and on behalf of the residents of the seventh to tenth respondent municipalities (section 38 (c)), which also include the applicant's members and supporters who reside and/or conduct business within the seventh to tenth respondent municipalities (section 38 (e)).

THE RESPONDENTS

- 15 The **first respondent** is the **SEDIBENG WATER BOARD**, a state-owned national public entity in terms of Schedule 3, Part A of the Public Finance Management Act 1 of 1999 and constitutes a water board established in terms of section 29 of the Water Services Act 108 of 1997 with primary address at Delmay Street, Hartswater, Northern Cape. The first respondent also has as a primary office for its activities in the North West Province, a business address at 132 University Drive, Mmabatho, Mahikeng, North West Province.
- 16 The **second respondent** is the **MEMBER OF THE EXECUTIVE COUNCIL: NORTH WEST PROVINCE FOR COOPERATIVE GOVERNANCE, HUMAN SETTLEMENTS AND TRADITIONAL AFFAIRS** cited herein in his/her official capacity as the provincial executive responsible for *inter alia* matters pertaining to cooperative governance in the North West Province ("**COGTA MEC**"). To the best of my knowledge, the present COGTA MEC is Ms Boitumelo Moiloa, who is the acting MEC, with address at NWDC Building, situated at the corner of Provident House and University Drive, Mmabatho, North West Province.
- 17 The **third respondent** is the **MEMBER OF THE EXECUTIVE COUNCIL: NORTH WEST PROVINCE FOR FINANCE** cited herein in his/her official capacity as the provincial executive responsible for matters pertaining finance in the North West Province ("**Finance MEC**"). To the best of my knowledge, the present MEC is Ms



Motlalepula Ziphora Rosho, with address at Garona Building, Second Floor, East Wing, Corner James Moroka and University Drive, Mmabatho, North West Province.

- 18 The **fourth respondent** is the **MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS** (hereinafter referred to as "COGTA"), presently Dr. Nkosazana Clarice Dlamini-Zuma, cited herein in her official capacity, as the executive head of the National Department of Cooperative Governance and Traditional Affairs, with address at 87 Hamilton Street, Arcadia, Pretoria, Gauteng Province.
- 19 The **fifth respondent** is the **MINISTER OF FINANCE**, presently Mr Tito Titus Mboweni, who is cited herein in his official capacity as the executive head of the National Department of Finance and National Treasury, with address at 40 Church Square, Old Reserve Bank Building, 2nd Floor, Pretoria, Gauteng Province.
- 20 The **sixth respondent** is the **MINISTER OF HUMAN SETTLEMENTS, WATER AND SANITATION**, presently Ms Lindiwe Nonceba Sisulu, who is cited herein in her official capacity as the executive head of the National Department of Human Settlements, Water and Sanitation, with address at 185 Francis Baard Street, Pretoria, Gauteng Province.
- 21 In respect of the second to sixth respondents (as well as the eleventh respondent stated below), this application shall also, in as far as it is possible, be served at:
- 21.1 The State Attorney – Pretoria at 316 Thabo Sehume Street, Pretoria Central, Pretoria, Gauteng Province, who represents the fourth to sixth respondents joined in this application.
- 21.2 The State Attorney – Mahikeng at 1st Floor, East Gallery, Mega City Complex, Corner Sekame Road and Dr James Moroka Drive, Mmabatho, North West Province, who represents the second, third and eleventh respondents joined in this application.

A handwritten signature in black ink, appearing to be 'J.M.A.' followed by a stylized flourish.

- 22 The **seventh respondent** is the **NGAKA MODIRI MOLEMA DISTRICT MUNICIPALITY**, a district municipality established in terms of the Local Government: Municipal Structures Act, No. 117 of 1998 (hereinafter referred to as the "**Structures Act**"), read with Section 155 of the Constitution, which has its address at the corner of Carrington street and 1st Avenue, Industrial Site, Mafikeng, North West Province
- 23 The **eighth respondent** is the **DITSOBOTLA LOCAL MUNICIPALITY**, a municipality established in terms of the Structures Act, read with Section 155 of the Constitution, which has its address at Civic Centre, Corner Nelson Mandela and Transvaal Streets, Lichtenburg, North West Province.
- 24 The **ninth respondent** is the **MAHIKENG LOCAL MUNICIPALITY**, a municipality established in terms of the Structures Act, read with Section 155 of the Constitution, which has its address at Corner University Drive & Hector Peterson Street, Mmabatho, North West Province.
- 25 The **tenth respondent** is the **RATLOU LOCAL MUNICIPALITY**, a municipality established in terms of the Structures Act, read with Section 155 of the Constitution, which has its address at Delareyville Road, Next to Setlagole Library, Stella, North West Province.
- 26 The **eleventh respondent** is the **PREMIER OF THE NORTH WEST PROVINCE** cited herein in his official capacity as the executive head of the North West Provincial Government. To the best of my knowledge, the present Premier is Prof Job Mokgoro, with address at Garona Building, Second Floor, East Wing, Corner James Moroka and University Drive, Mmabatho, North West Province.
- 27 The second to eleventh respondents are cited herein interested parties and no relief is sought against them, save in the event that they oppose the relief sought in this



application, in which event, the applicant shall seek a costs order against them as prayed for in the notice of motion.

PURPOSE OF APPLICATION

28 In this application, the applicant seeks an *interim* interdict restraining the first respondent from implementing its decision to interrupt and/or disconnect the supply of water and/or bulk water services, as well as all operational and maintenance services relating to the supply of water and/or bulk water, to the seventh, eighth, ninth, and tenth respondents (the "**decision**"), pending the outcome of Part B and, ultimately, Part C of the notice of motion in this application.

29

30

THE DECISION

31 The events that gave rise to this application occurred on 26 May 2021 at approximately 15h00 when the applicant became aware of the decision of the first respondent, which is dated 25 May 2021, and communicated via notice to employees attached hereto as annexure X3 (the "**employee notice**").

32 In the employee notice, addressed to ALL STAFF of the first respondent in the MAHIKENG REGION, the first respondent informed and instructed its employees as follows:

Following unproductive oral and written engagements with Ngaka Modiri Molema District Municipality to service their ever-growing debt for the Operations and Maintenance service by Sedibeng Water.



Sedibeng Water has taken a firm decision to suspend all the Operations and Maintenance services to the municipality, until the district municipality change their posture on their refusal to pay for the afore mentioned services. Sedibeng Water cannot continue to offer services for free at the detriment of its financial health.

You are therefore directed to suspend all Operations and Maintenance services at Lehurutshe, Mahikeng and Ratlou Local Municipalities, as of the 1st June 2021. Further suspension of services for Bulk Water Supply must be effected at Ditsobotla Local Municipality's Itsoseng Plant, effective from 1st July 2021.

This enforcement shall remain in place until further notice or when directed otherwise.

(My emphasis)

- 33 Even though it is difficult to determine the exact extent of the suspension of services, the above makes it clear that the first respondent intends to:
- 33.1 Terminate operational and maintenance services to the seventh to tenth respondents from 1 June 2021; and
- 33.2 Terminate the supply of water and bulk water to the eight respondent on 1 July 2021.
- 34 Upon learning of the decision communicated in the employee notice, the applicant immediately instructed the applicant's attorneys of record, Kriek Wassenaar and Venter Inc. to investigate the matter.
- 35 In order to verify whether the decision was accurate and would effectively result in the termination of the supply of water to the local residents and business who reside and



operate within the affected areas of the seventh to tenth respondents, Mr Peter Wassenaar of the applicant's attorneys on 27 May 2021 at 15h53 contacted Mr Sibongiseni Mbadamana, being the author of the employee notice and the regional manager of the first respondent, in order to enquire about the first respondent's decision. A transcript of the conversation between Mr Wassenaar and Mr Mbadamana is attached hereto and marked X4.

36 During the conversation, Mr Mbadamana of the first respondent confirmed:

36.1 That the decision to interrupt and/or disconnect the supply of water and/or bulk water services as well as all operational and maintenance services relating to the supply of water and/or bulk water to the seventh, eighth, ninth, and tenth respondents – as per the employee notice of 25 May 2021 – was correct and authentic;

36.2 That the decision was taken due to the purported failure by affected parties, which purportedly includes the second, fourth and sixth respondents as well as the seventh to tenth respondents, to respond to the first respondent's demands. In this regard the first respondent stated:

No, they know! My brother, they know or they ... Remember, we can just take this decision without doing the writing. Correspondences have been sent to everybody who was copied, COGTA, MEC, the Department of Water and Sanitation. So everybody's aware of this. They've decided to keep quiet no and not respond to our correspondences. So that's why we are where we are now for we wanted to sit around the table so that we can have a way forward once. It's not like now we want people not to have water. We understand its their constitutional right. So we cannot just to,do this, but now we expect to, to execute this constitutional right. If we are not being paid for the service.

36.3 It is further apparent from Mr Wassenaar's discussion with Mr Mbadamana:



- 36.4 That the first respondent did not follow any public participation process in order to allow persons affected by the decision, an opportunity to engage with the first respondent or in order to make submissions before the making of the decision;
- 36.5 That the first respondent has not attempted to approach the courts for relief against the second to tenth respondents, or to seek the court's sanction for its decision; and
- 36.6 That the decision is taken *in terrorem* with the intention of compelling the sixth to tenth respondents to pay their arrear debts and with a flagrant disregard of the manner in which such decision will affect the people and businesses who reside in the area and who depend on the first respondent for the provision of water.
- 37 Mr Wassenaar implored the first respondent to withdraw the decision and to follow the proper processes in terms of the Promotion of Administrative Justice Act 3 of 2000 and the Intergovernmental Relations Framework Act 13 of 2005. Unfortunately, Mr Mbadamana was resolute and refused to do so.
- 38 Subsequent to the telephonic conversation and the refusal of the first respondent to withdraw the decision, the applicant's attorneys on 26 May 2021 forwarded a formal letter of demand to the first respondent, requiring that they withdraw their decision by no later than 10h00 on 27 May 2021. A copy of the email is attached hereto as annexure X5.
- 39 As at time of deposing to this affidavit, no response to the aforementioned demand has been received by Mr Wassenaar.
- 40 It is important to note that the decision has not yet been formally communicated to the public. It has only, to the knowledge of the applicant, been communicated to the employees of the first respondent and, apparently, to some of the respondents.

A handwritten signature in dark ink, appearing to be 'JMA', followed by a long horizontal stroke extending to the right.

- 41 The entire dispute leading up to the decision of the first respondent has played out at intergovernmental level and represents a complete failure of co-operative governance.
- 42 Members of the public, who will be most affected by the decision, is to a large extent still in the dark. Yet it is they who stand to suffer as a result of the dispute between the governmental departments and organs of state.

SALIENT FEATURES OF APPLICATION

- 43 In this application, the applicant seeks *inter alia* urgent interim relief pending the finalisation of its application to review the first respondent's decision (Part C). The Honourable Court also has the power to grant a just and equitable remedy in terms of section 172(1)(b) of the Constitution and in terms of section 8(1) of PAJA.
- 44 The decision of the first respondent is however also illustrative of the total failure by organs of state to utilise the courts as well as the existing legislative and constitutional mechanisms available to them in order to address and resolve their disputes and financial inefficiencies – as is their constitutional duty.
- 45 Most importantly, in relation to the impact of first respondent's decision, this application seeks to place the focus on the residents and businesses residing in the area of seventh to tenth respondents, where it ought rightly to be. Instead of co-operating and working towards a resolution, the respondents disregard the fact that their primary purpose is to serve these communities. In disregard of that purpose, the respondents seek to utilise these communities as pawns in the inter-governmental dispute.
- 46 It is the affected communities who suffer from the invasive, unilateral and unlawful decision-making of the first respondent.
- 47 The decision itself will however not only have a direct adverse impact on the quality of life to those residents who currently receive water from the reticulation networks of the



seventh to tenth respondents which are supplied, operated and maintained by the first respondent. The decision will also have a knock-on effect on the health and safety of residents and the economy of the already struggling municipalities.

- 48 There is simply no basis on which the decision can be justified.
- 49 To date, the decision has not been communicated to the public who will be directly affected by the decision. Even if such a notice is or was given, there is no constitutional or legal basis for depriving the public of a basic resource such as water.
- 50 The decision (and this application) does not relate to specific non-paying end-users who are refused access to more than the prescribed minimum daily domestic supply of water. The decision is indiscriminate and seeks to deprive on a blanket basis the public at large of the totality of sustainable supply of water, regardless of whether it is in respect of the prescribed minimum daily domestic supply or paid consumption.
- 51 The simple truth is that people cannot live without water.
- 52 The first respondent, instead of approaching the court for relief, is dealing with its payment dispute with the seventh to tenth respondent municipalities as if those transactions constituted a mere commercial contractual relationship. Public contracts between organs of state, however, directly affect fundamental constitutional rights and service delivery. Those disputes, if not resolved at an intergovernmental level, require the intervention of the court.
- 53 It is not proper for the first respondent to merely repudiate its public duties.
- 54 It is submitted that the threatened conduct of the first respondent to proceed to interrupt or suspend the supply water and/or bulk water services as well as all operational and maintenance services relating to the supply of water and/or bulk water to the seventh, eighth, ninth, and tenth respondents is illegal and falls to be interdicted.



- 55 It also falls hopelessly short of the requirements of the Promotion of Administrative Justice Act 3 of 2000. These submissions will be developed below.
- 56 The interruption or termination of the supply of water, be it as a result of a termination of the supply of bulk water or be it as a result of the first respondent terminating its operational management and maintenance of infrastructure, can result in both a humanitarian as well as an economic crisis in the already struggling economies of the seventh to tenth respondent municipalities.
- 57 The first respondent has, at best, given six calendar days' notice of the impending termination of the operational and maintenance services to the water reticulation networks of the seventh to tenth respondent municipalities.
- 58 In this regard, I specifically wish to point out the following:
- 58.1 In the seventh to tenth respondent municipalities, the water reticulation networks already require specialised operational management to operate under the best of circumstances. The fact that the first respondent, and not the respective municipalities, is currently operating these networks is a clear testimony of that fact. If the first respondent summarily withdraws, it will result in infrastructure breakdowns and interruptions in the affected communities;
- 58.2 The water supply networks, especially the older parts thereof, can easily break down if persons with the necessary expertise do not manage them;
- 58.3 The applicant submits that even if the first respondent were allowed to terminate its services to the seventh to the tenth respondent (which I deny), the termination under these circumstances would result in the municipalities immediately being in breach of their constitutional duty to supply water to its residents;



- 58.4 The Water Services Act 108 of 1997 ("**WSA**") regulates the service areas of water boards such as the first respondent. Unless the sixth respondent, as the designated Minister in terms of the WSA, withdraws the service area designation of the first respondent, then it might technically be impossible for the seventh to tenth respondent municipalities to find an alternative supplier.
- 59 The water reticulation network is also a necessary part of the sewage and sanitation network. A breakdown of sewage and sanitation networks can have a massive effect on public health. It will affect all sectors of society, including business, schools, other state departments and even the judiciary. Most importantly, it will have a catastrophic effect on the provision of health care services and hospitals in the area – all in the midst of the COVID-19 pandemic.
- 60 I submit that the first respondent's decision affects a broad cross-section of fundamental rights, including:
- 60.1 The right to administrative justice in terms of section 33 of the Constitution, read together with the provisions of PAJA;
- 60.2 The right to be provided with essential municipal services in the form of water supply for personal and domestic use;
- 60.3 The infringement of constitutional rights to dignity, i.e. (section 10), the practice of a trade occupation or profession (section 22), rights to housing and property, (sections 25 and 26 of the Constitution), the right to health care services (section 27), and water (section 27(1)(b)); and
- 60.4 It furthermore infringes the principle of legality and the rule of law for reasons stated further herein.



RELEVANT STATUTORY PROVISIONS

- 61 The statutory and constitutional provisions referred to further herein are not exhaustive and the applicant reserves its right to deal with such statutory provisions and constitutional provisions in more detail during argument. Therefore, the applicant confines itself herein to an overview of the relevant statutory and constitutional provisions.
- 62 The distribution and reticulation of water by municipalities is one of the most basic and important municipal services.
- 63 The obligations borne by a local government to provide basic municipal services are sourced in the Constitution and various statutes. The overarching constitutional provisions are sections 152(1) and 152(2) of the Constitution, read with section 156 and Schedule 4, part B.
- 64 The provision of access to water is a fundamental human right specifically and the state is specifically mandated to take steps to progressively provide access thereto in terms of section 27 of the Constitution.
- 65 The WSA places a duty on all spheres of government to meet the basic water needs of all the inhabitants of South Africa.
- 66 In terms of the WSA:
- 66.1 municipalities, whether district or local, are designated as 'water service authorities' (section 1);
- 66.2 all persons have a right to basic water and sanitation. This is the joint duty of water institutions (which, by definition, includes municipalities as 'water service authorities' and water boards such as the first respondent) to provide basic water and sanitation services to the public (section 1 read with section 3);



- 66.3 basic water services (which are required for public hygiene and to sustain health) enjoy preference over any other supply of water (section 1 read with section 5);
- 66.4 it is the primary duty of a water board, such as the first respondent, to supply water service to water service authorities within its service areas (section 29). Above all else, a water board must prioritise its primary duty as aforementioned (section 32);
- 66.5 in the event of a water service authority failing in its duties under the WSA, then the sixth respondent may, in terms of section 63 of the WSA, call for intervention in the water service authority in accordance with section 139 of the Constitution. Under such circumstances, the sixth respondent may compel the water service authority to comply with its obligations under the WSA, which includes its obligations to pay the water boards (section 63(4)); and
- 66.6 all organs of state are bound by the provisions of the WSA (section 83).
- 67 The provision of such services must further be viewed in the context of framework of municipal law and statutes. The applicant shall, in the course of argument at the hearing of this matter, refer the court to the relevant statutory provisions not specifically stated herein.
- 68 Despite numerous avenues open to the first respondent to resolve its dispute with the affected municipalities, it is not known what steps the first respondent has taken or, if such steps have failed, why the first respondent has not approached a court as an option of last resort.
- 69 It is clear that in this case, the relevant statutory provisions are being circumvented by the first respondent in its unlawful campaign to exact payment from such municipalities.



GROUND OF REVIEW IN TERMS OF PAJA

70 The relief sought in Part C of the application is sought in the interest of the *prima facie* rights of the applicants and the residents, which have been infringed. In terms of the requirements of an *interim* interdict which is sought in this application, the relief sought is based on the following grounds:

70.1 The decision of the first respondent amounts to administrative action by an organ of state, which adversely affects the rights of persons and which has a direct external legal effect.

70.2 The decision is unconstitutional and unlawful, viewed against the constitutional principles of cooperative governance and related legislation, and other available remedies in terms of the MFMA and against the broader context and purpose of Water Services Act 108 of 1997.

70.3 No prior notice was given by the first respondent to alert the public to its intended decision, and no opportunity has been granted to affected parties to make submissions to it.

70.4 The short notice period of the intention to terminate or suspend the supply of water and/or bulk water (and related operational and maintenance services) is unreasonable and unfair and adversely affects the rights of customers and end-users of water in the municipal areas of the seventh to tenth respondent municipalities.

70.5 The action is therefore procedurally unfair in terms of section 6(2)(c) of PAJA.

70.6 Mandatory and material procedures and conditions prescribed by legislation were not complied with by the first respondent. Again, in this regard, reference is made to the provisions of the Water Services Act 108 of 1997, principles of



co-operative governance and the MFMA already referred to. In this regard the action was most probably also materially influenced by an error of law or contravenes the law or not authorised by the empowering provision. This renders the action of the first respondent reviewable in terms of section 6(2)(b), 6(2)(d) and 6(2)(f)(i) of PAJA.

70.7 The failure to pursue alternative remedies, as already mentioned, amounts to a failure to take relevant considerations into account or amounts to a lack of consideration of relevant consideration and which renders the action reviewable in terms of section 6(2)(e)(iii) of PAJA.

70.8 The decisions infringe on the principle of proportionality and is unreasonable, unless less restrictive remedies and alternative remedies, as already mentioned before with reference to alternative dispute resolution or application of the principles of co-operative governance are resorted to, and therefore renders the action reviewable under section 6(2)(h) of PAJA.

70.9 The failure by the first respondent to follow other alternatives and less restrictive and less draconian measures supports the conclusion that the limitation of the Bill of Rights is not reasonable and justifiable considering section 36(1) of the Constitution.

REQUIREMENTS FOR AN INTERIM INTERDICT

Prima Facie Right:

71 It is submitted that the applicant has established a *prima facie* right, based on sections 10, 11, 18, 22, 24, 27 and 33 of the Constitution and the various statutes enacted by Parliament intended to give effect to these rights.



- 72 The applicant seeks to protect these rights in terms of section 38 of the Constitution, not only in the interests of its own members who will be affected in the area, but also the ordinary residents who will be affected by the first respondent's decision.
- 73 There are real people who will be without water. In this regard, the applicant will attach supporting affidavits of certain individuals residing in the municipal areas of the seventh to the tenth respondent. These are but a select amount of the whole of the people who will be affected by the decision and in whose interest this application is brought.
- 74 The applicant further seeks to protect the rights in the interest of the end-users of water services who have paid and continue to pay for the provision of water services in the affected municipalities but stand to be cut off together with the rest of the communities in the affected municipalities.
- 75 The applicant, and those whose interests and rights it seeks to protect, also has a legitimate expectation that organs of state will comply with the principles of cooperative government and not merely seek to take the law into their own hands as the first respondent intends to do.

Irreparable Harm

- 76 As the element most necessary for survival, it is without any exaggeration that I state that without water, people can and will die.
- 77 Without the first respondent's operation and maintenance services rendered to the water reticulation networks, those networks will breakdown. The most immediate effect of the breakdown in the water supply network is that people will be left without potable water to drink or bathe. Personal hygiene will suffer.
- 78 However, the knock-on effect in such a breakdown goes further. It may damage the frail and limited water supply network that exists which will have to be replaced. Not only will



this be regressive to the constitutional imperatives placed on the state, but it will have dire effects on the local business and communities in the area which will be unable to function and will, in all likelihood, shut down.

- 79 It is submitted that there is a well-grounded apprehension of irreparable harm in the *interim*, if the *interim* relief is not granted and the ultimate relief is eventually granted.
- 80 I have already referred to the envisaged harm in respect of businesses and other individual interests which the applicants seek to protect.
- 81 It goes without saying that the sole intention of the first respondent's decision is to cause damage in order to spark a reaction out of the seventh to tenth respondents.
- 82 It is further submitted that this harm and prejudice is obvious as all forms of life are dependent on water. It is further likely to affect the sewage and sanitation networks and presents a very real public health issue.

Balance of Convenience

- 83 It is further submitted that the balance of convenience favours the granting of the *interim* interdicts. Whatever disputes the first respondent has with the seventh to tenth respondents must be sorted out without any restriction, termination or other interruption of water supply to the people in the affected areas.
- 84 Other avenues are still open to the first respondent in terms of inter alia the Municipal Finance Management Act and the principles of co-operative governance in order to secure payment.

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No alternative remedy

- 85 The applicant, its members and the public residing in the municipal areas of the seventh to tenth respondent municipalities have no other satisfactory remedy at its disposal.

URGENCY

- 86 To the best of my knowledge, the decision of the first respondent has not been made public. The applicant only became aware of the decision late on the afternoon of 26 May 2021 when a copy of the employee notice dated 25 May 2021 was procured.
- 87 The applicant via its attorneys attempted to resolve the matter directly with the first respondent and without the need for litigation. However, it is clear that the first respondent is well-aware of its constitutional duties but is nevertheless intent on implementing its decision and was unwilling to comply with our requests.
- 88 Notwithstanding the demand on 26 May 2021, the first respondent has failed to withdraw the decision.
- 89 There was no delay on the part of the applicant.
- 90 The interruption of the supply of water, bulk water and related services takes effect on **1 June 2021**, with an apparent total termination of bulk water supply to the eight respondents on 1 July 2021.
- 91 The termination of such services will continue without reprieve unless an urgent interdict is obtained against the first respondent.
- 92 This conduct of the first respondent forces the applicant to approach the Court on an extremely urgent basis. The applicant cannot sit idly by as the first respondent's unlawful conduct threatens lives and livelihoods.



- 93 However, the applicant is mindful of the need to give all respondents a reasonable opportunity to oppose this application.
- 94 The notice of motion has therefore been structured so as to give the respondents that opportunity, with Part B to be heard in due course and before the implementation of the decision in respect of 1 July 2021, and Part C of the application to be adjudicated in the normal course.
- 95 The applicants have no other option, as a result of the urgency created by the first respondent, but to approach the Court on this urgent basis and cannot obtain such *interim* relief in the ordinary course.
- 96 With no indication at this stage that the seventh to tenth respondents will be able or in a position to make satisfactory arrangements with the first respondent, the first respondent is clearly determined to proceed with the interruption of the supply of water and to the extent as set out in the employee notice. This could potentially continue for the entire period until Part C of this application is heard. There is therefore no substantial redress in the *interim* other than to seek an *interim* interdict on an urgent basis. If the matter is not dealt with as a matter of urgency, the potential harm to residents, businesses and society at large could be devastating and/or seriously detrimental.

SERVICE OF THE APPLICATION IN THE LIGHT OF THE URGENCY

- 97 The applicants' attorneys have ascertained e-mail addresses of senior persons in the employ of the respective respondents and which addresses. They appear in the notice of motion. Insofar as it was possible to do so under the severe time constraints, the copies of the applications will also be delivered by hand to the other respondents. A copy of the application will also be forwarded by e-mail to the municipal managers of the seventh to tenth respondents.

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- 98 To the extent that it may be necessary, the applicant's attorney of record will produce a service affidavit in confirmation of service to be effected in this manner for purposes of the urgent application.

COSTS

- 99 The applicant prays for costs to be paid by the first respondent.
- 100 It is clear from the facts that the first respondent has simply ignored the relevant legislation in order to make the decision. Notwithstanding the fact that the applicant's attorneys attempted to resolve the matter without litigation on 26 May 2021, the first respondent has failed to heed the reasonable demands of the applicant.
- 101 When confronted with the issue of public participation, the first respondent admitted that it had not complied with PAJA. In spite of being made aware of this requirement and the requirements to settle disputes between organs of state without prejudicing the rights of the public, the first respondent persists with the implementation of its unlawful decision.
- 102 The applicant is a non-profit organisation that relies on donations from the public to operate. Furthermore, the applicant seeks to vindicate fundamental rights in the interest of the general public affected by the decision. There is no reason under these circumstances why the applicant should be left out of pocket in its attempt to compel the first respondent to comply with the Constitution and relevant legislation.
- 103 It is submitted that a cost order on the scale as between attorney and client is warranted.

CONCLUSION

- 104 In the circumstances, the applicant prays for the relief on an urgent basis in terms of the notice of motion.

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TV ALBERTS

THUS SWORN AND SIGNED AT Pretoria ON THIS 27th DAY OF MAY 2021, BEFORE ME, COMMISSIONER OF OATHS, THE DEPONENT HAVING ACKNOWLEDGED THAT HE UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT, HAS NO OBJECTION IN TAKING THE OATH AND REGARDS THE OATH AS BINDING ON HIS CONSCIENCE AFTER COMPLYING WITH THE REQUIREMENTS OF GOVERNMENT NOTICE R1258, DATED 21 JULY 1972, AS AMENDED.

BEFORE ME:


COMMISSIONER OF OATHS

NAME:

CAPACITY:

ADDRESS:

DENIS PATRICK LEAHY
Commissioner of Oaths
Practising Attorney (RSA)
Parc Nouveau Building 2nd Floor
225 Veale Street, Brooklyn, Pretoria
Tel: 012 346 4243

SAKELIGA NPC
REG: 2012/043725/08

DELEGATION OF AUTHORITY

I the undersigned

PIETER JACOBUS LE ROUX

hereby in terms of paragraph 5 of the resolution of the Sakeliga NPC board of directors dated 26 November 2019, delegate to **TOBIAS VIVIAN ("TIAN") ALBERTS**, the following powers and authority:

- 1) the authority to authorise the Company to institute, defend and / or to participate in any legal proceedings, which includes but is not limited to appeals and/or reviews of any matter, and/or the right to have the Company appear, argue, act, support and/or oppose any matter before any State authority or judicial body, as is set out in the Company's objectives –
- 2) the authority to represent the Company in all matters referred to in paragraph 1) above, and to sign any document on behalf of and in the name of the Company as its lawful representative.
- 3) the authority to incur costs on behalf of the Company and to appoint, instruct and direct attorneys, experts and/or consultants to assist the Company with any matters relating to paragraph 1) above.

Signed at Pretoria on 27 May 2021



PIETER JACOBUS LE ROUX – CEO



SAKELIGA NPC
REG: 2012/043725/08

EXTRACTS OF MINUTES OF MEETING OF DIRECTORS HELD AT CENTURION ON 26 NOVEMBER 2019

PRESENT:	NAME: -	CAPACITY
	ANDRIES BRINK	DIRECTOR
	DAVID JAKOBUS DE VILLIERS	DIRECTOR
	BERNARD DU PLESSIS	DIRECTOR
	CHRISTIAAN PHILIPPUS LERM	DIRECTOR
	MARIO BRONN PRETORIUS	DIRECTOR
	NICOLAAS HOUGH VLOK	DIRECTOR / CHAIRMAN
	PIETER JACOBUS LE ROUX	DIRECTOR / CEO

RESOLVED:

- 1) That the Board hereby delegates to the Company's chief executive officer (CEO), **PIETER JACOBUS LE ROUX**, the authority to authorise the Company to institute, defend and / or to participate in any legal proceedings (whether as a party or *amicus curiae*), which includes but is not limited to appeals and/or reviews of any matter, and/or the right to have the Company appear, argue, act, support and/or oppose any matter before any State authority or judicial body, as is set out in the Company's objectives.
- 2) The Board hereby authorises the CEO to represent the Company in all matters referred to in paragraph 1) above, and to sign any document on behalf of and in the name of the Company as its lawful representative.
- 3) The CEO is furthermore duly authorised to incur costs on behalf of the Company and to appoint, instruct and direct attorneys, experts and/or consultants to assist the Company with any matters relating to paragraph 1) above.
- 4) The CEO is hereby granted all necessary powers to take any such further steps and to do all further necessary things on behalf of the Company in order to give effect to paragraphs 1) to 3) above.
- 5) The CEO may, within the sole discretion of the CEO, delegate all or some of his functions in terms of paragraphs 1) to 4) above to any such employees or agents of the Company as the CEO deems meet.

CERTIFIED AT CENTURION ON 26 November 2019.


NICHOLAAS HOUGH VLOK
CHAIRMAN OF THE BOARD





REPUBLIEK VAN SUID-AFRIKA
MAATSKAPPYEWET, 71 VAN 2008

AKTE VAN OPRIGTING VAN 'N MAATSKAPPY SONDER
WINSOOGMERK MET LEDE

SAKELIGA NPC
REG: 2012/043725/08
(hierna die "Maatskappy" genoem)

Hierdie Akte van Oprigting ("Akte") is behoorlik aanvaar by wyse van 'n
Spesiale Resolusie van Direkteure kragtens
die Maatskappywet 71 van 2008 ("die Wet") tydens
'n vergadering van die Direksie gehou te PRETORIA
op 28 Mei 2019 2019 en is vir identifikasiedoeleinde
deur die Voorsitter van die Direksie onderteken.

Kragtens artikel 16(9)(b)(i) van die Wet
sal hierdie Akte van krag kom met die liassering daarvan.


VOORSITTER







SAKELIGA

teenstrydigheid effektiewelik aan te spreek, en

- 3.3.3. Die aksies neem wat binne hul uitsluitlike diskresie nodig is om die oortreding, botsing en/of teenstrydigheid aan te spreek, wat insluit maar nie beperk is tot die voorstel van wysigings tot die Akte en die belê van 'n spesiale Ledevergadering ten einde daardie wysigings goed te keur.

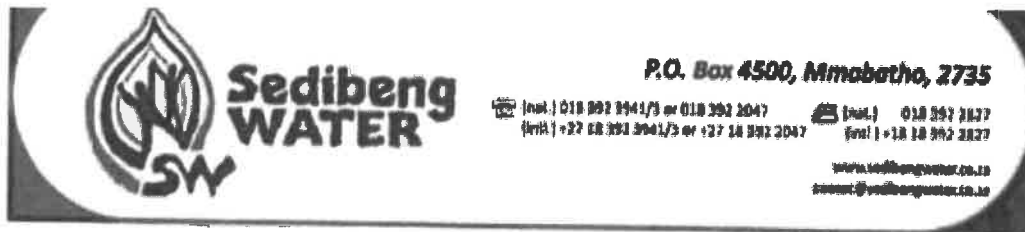
4. DOELSTELLINGS EN MAGTE VAN DIE MAATSKAPPY

- 4.1. Ter nakoming van artikel 1 van bylaag 1 tot die Wet, verklaar die Maatskappy hiermee die volgende hoofdoelstellings:
- 4.1.1. Die bevordering van konstitusionele orde, vryemarkbeginsels en 'n kapitaalkragtige, regverdige, en volhoubare sake-omgewing in die Republiek;
- 4.1.2. Die skepping van 'n selfstandige sakegemeenskap in die Republiek;
- 4.1.3. Die behoud van eiendomsreg, holisties gesien, ooreenkomstig die Grondwet van die Republiek;
- 4.1.4. Om, sonder inperking, bydraes en skenkings te doen tot die Helpende Hand Beursfonds en/of die Solidariteit Helpende Hand NPC;
- 4.1.5. Om kollektief namens Lede, ondersteuners en die publiek met Owerhede te onderhandel en verhoudinge met Owerhede asook plaaslike, nasionale en internasionale instansies en persone te beding te einde die doelstellings van die Maatskappy te bevorder;
- 4.2. Die Maatskappy verklaar hiermee die volgende aanvullende doelstellings, maar sonder inperking van die algemene aard van die Maatskappy hoofdoelstellings:
- 4.2.1. Om as 'n openbare sakewaghond wat fokus op die regte en belange van sy Lede, ondersteuners en lede van die publiek in die algemeen, op te tree;
- 4.2.2. Om ondersoek in te stel oor gevalle waar die regte van Lede, ondersteuners asook die publiek oor die algemeen, geskend en/of ingeperk word, en om waar nodig ook op te tree ten einde daardie regte te beskerm of te bevorder.
- 4.3. Die volgende magte word ook, sonder inperking van die algemene magte van die Maatskappy soos uitgeoefen Direksie kragtens die Wet, aan die Maatskappy verleen:
- 4.3.1. Om deur selfregulering en privaat institusionele infrastruktuur 'n alternatiewe

Handwritten signatures and a stamp. The stamp is a small square with the number 8 inside. There are several handwritten marks, including what appears to be a signature 'FMA' and other scribbles.



- sake-omgewing te skep waarbinne ekonomiese aktiwiteit voortgesit kan word;
- 4.3.2. Om die Maatskappy se Lede, ondersteuners en lede van die publiek in die uitoefen van hul belange en regte, hetsy op plaaslike, nasionale of internasionale vlak, by te staan, te adviseer, te ondersteun en/of te verteenwoordig.
 - 4.3.3. Om die publiek oor die algemeen by te staan met die bevordering van hul regte op 'n plaaslike, nasionale en internasionale vlak;
 - 4.3.4. Om 'n vrye, onafhanklike en goedgunstige sake-omgewing in die Republiek te beskerm, stimuleer en waar nodig te skep;
 - 4.3.5. Om regsgedinge in te stel, daartoe toe te tree, om sake te opponeer en/of te verdedig, om as *amicus curiae* in sake op te tree, deel te neem aan appèlle, hersienings, en om voor enige Owerheid te verskyn, submissies te maak, te argumenteer, op te tree, teen te staan en/of te ondersteun.
 - 4.3.6. Om met die Owerhede, politieke partye, lede van die sakewêreld, die media asook enige ander lid van die publiek te kommunikeer, te onderhandel, in te debat te tree en om ook waar nodige daardie persone en/of instansies te voorsien met voorstelle, verhoë, submissies, verslae, argument en/of inligting.
 - 4.3.7. Om navorsing ter bevordering van hierdie doelstellings te doen asook om inligting in te samel, statistiek op te bou, te verwerk en te publiseer;
 - 4.3.8. Om onafhanklike regsadvies oor enige saak wat enige doelstelling van hierdie Akte raak, te bekom en waar nodig om ook regsverteenvoordiging aan te stel om die Maatskappy te verteenwoordig in die bevordering van hierdie doelstellings.
 - 4.3.9. Om met ander organisasies of persone met soortgelyke doelstellings te onderhandel, ooreenkomste te sluit, projekte te hardloop, sake te bevorder, befondsing te voorsien, befondsing te ontvang, ondersteuning te bied en/of te affilieer.
 - 4.3.10. Om deel te neem in die bestuur, beheer of aktiwiteite van enige ander organisasie wat soortgelyke doelstellings as die van die Maatskappy het en om in hulle te belê, belange te bekom en/of om vennootskappe of samewerkingsooreenkomste met hulle aan te gaan.
 - 4.3.11. Om enige persoon of organisasie te vergoed vir hul dienste gelewer aan of



GENERAL NOTICE

ATTENTION: ALL STAFF – MAHIKENG REGION

DATE: 25 MAY 2021

SUBJECT: NON-PAYMENT AND SUSPENSION OF OPERATION AND MAINTENANCE SERVICES IN NGAKA MODIRI MOLEMA DISTRICT MUNICIPALITY

The above subject refers.

Following unproductive oral and written engagements with Ngaka Modiri Molema District Municipality to service their ever-growing debt for the Operations and Maintenance service by Sedibeng Water.

Sedibeng Water has taken a firm decision to suspend all the Operations and Maintenance services to the municipality, until the district municipality change their posture on their refusal to pay for the afore mentioned services. Sedibeng Water cannot continue to offer services for free at the detriment of its financial health.

You are therefore directed to suspend all Operations and Maintenance services at Lehurutshe, Mahikeng and Ratlou Local Municipalities, as of the 1st June 2021. Further suspension of services for Bulk Water Supply must be effected at Ditsobotla Local Municipality's Itsoseng Plant, effective from 1st July 2021.

This enforcement shall remain in place until further notice or when directed otherwise.

Issued by


MR SIBONGISENI MBADAMANA – Pr Tech Eng
REGIONAL MANAGER - MAHIKENG

DATE: 25/05/2021



Transcription of Telephone Conversation - Sedibeng Water 2021/05/27

Wednesday 26 May 2021 15h53 • 12:12min

SPEAKERS

Sibongiseni Mbadamana, Peter Wassenaar

Peter Wassenaar

Mr. Mbadamana. How are you? My name is Peter Wassenaar. I'm calling from Kriek Wassenaar and Venter attorneys.

Sibongiseni Mbadamana

From?

Peter Wassenaar

KWV attorneys.

Sibongiseni Mbadamana

KWV attorneys?

Peter Wassenaar

Yes. It is regarding a notice you've sent out on 25 May regarding the municipality of, um, Ngaka Modiri mo ...

Sibongiseni Mbadamana

Ngaka?

Peter Wassenaar

Yes, I represent Sakeliga NPC. It's a nonprofit organization. We've got members...

Sibongiseni Mbadamana

You represent who?

Peter Wassenaar

Sakeliga NPC.

Sibongiseni Mbadamana

Okay.



Peter Wassenaar

Its a nonprofit organization, we focus on constitutional litigation in cases, we are busy with a case against the Ditsobotla district municipality, which is included within the Ngaka. And you'll notice to discontinue the supply of water is, has been brought under our attention because we are currently bringing an application against the mec. This application will also be served on your offices as an interested party. We're not seeking relief against you, in order to place these municipalities under administration, exactly because of their non payment of the water boards and the non payment of Eskom.

Sibongiseni Mbadamana

Okay.

Peter Wassenaar

Now, your letter of 25 May, has been brought under my attention this afternoon because of the impact it will have on the residence. I just want to check with you To what extent do you intend to terminate supply to the Ditsobotla community?

Sibongiseni Mbadamana

To what extent?

Peter Wassenaar

Yes, are you going to terminate supply on one or what do you see here, 1 July?

Sibongiseni Mbadamana

Ja from the first of July. Because we didn't want to jsut have a total, um ,a total shutdown.

Peter Wassenaar

Yes.

Sibongiseni Mbadamana

From first of June, we are actually suspending the service in these areas that I've mentioned there, the [inaudible] which is under [inaudible] and some of the areas then, then areas and villages around Mafikeng and also, um, villages which, all those areas under the powers of Ngaka Modiri Molema in terms of the Water Services Act. So now....

Peter Wassenaar

So now my problem is. Sorry for interrupting you, because I want to get to the point not to waste your time.

Sibongiseni Mbadamana

No problem.



Peter Wassenaar

My problem is and water service delivery is a constitutional right. And these municipalities are reliant on your process, ag on your system. I want to know did you follow the intergovernmental procedures for conflict resolution? Has this been referred to COGTA.... the MEC COGTA, the Minister of COGTA?

Sibongiseni Mbadamana

No, they know! My brother, they know or they ... Remember, we can just take this decision without doing the writing. Correspondences have been sent to everybody who was copied, COGTA, MEC, the Department of Water and Sanitation. So everybody's aware of this. They've decided to keep quiet no and not respond to our correspondences. So that's why we are where we are now for we wanted to sit around the table so that we can have a way forward once. It's not like now we want people not to have water. We understand its their constitutional right. So we cannot just to,do this, but now we expect to, to execute this constitutional right. If we are not being paid for the service.

Peter Wassenaar

Ja wel...

Sibongiseni Mbadamana

Thats were we are.

Peter Wassenaar

That is the crisis and we support the services companies of the state. Because we agree that you need to be paid, but our problem is not the the end consumers being used as a bargaining chip in the hands of the state whereas because you are a public entity in terms of the Public Finance Act.

Sibongiseni Mbadamana

Agree.

Peter Wassenaar

Now the state is, the state is not cooperating with its own bodies. Now the public needs to suffer. Now we need to make a plan here. The problem is twofold here. Firstly, I just want to check. Did you have a public participation process before taking your decision of 25 May because ...

Sibongiseni Mbadamana

No!

Peter Wassenaar

Okay, because then the decision is unlawful and improper and it will be set aside in terms of the Administrative Justice Act.... Promotion of Administrative Justice Act. So I already hold instructions. If we cannot resolve this today, to bring an application tomorrow urgent application in the Mafikeng court to set aside your decision of 25 May pending review of the of the decision by the High Court. I would like to avoid that. But that does require that we come to some resolution today. The second point here is that if we are able to support you in any way in dealing with the municipality, and even the district municipality, we can do so from civil society side. But if if government isn't, and in, which includes the total body of



government, including your your your your company, if they do not cooperate with the public, here, then we would need to go to court. And I already hold, like I said instructions to go to court tomorrow. We are busy drafting the notice of demand, which I will also provide you a copy with in regards to the Sedibeng decision. I would implore you to to review your decision and to follow at least then the PAJA process of public participation. Failing thereto, you will have no foot to stand on in court. Secondly, I would like to refer you to the Supreme Court of Appeal. There's that judgment in the Resilient matter against Eskom where the court found that the state organs and public entities cannot use the public as the as a bargaining chip in resolving these issues. They need to actually approach the court for [inaudible]

Sibongiseni Mbadamana

No, I hear you but the point is here. It really doesn't help in my view to want to force someone to provide a thing if there is nothing to provide the service. So if anyone is gonna be able to provide funds for us to provide the service and that's well and good. So I think from your side... You said your name is? So that I can write it down.

Peter Wassenaar

It's Peter Wassenaar.

Sibongiseni Mbadamana

No, you are too fast. Sorry sir can you spell for me.

Peter Wassenaar

W a s s e n a a r. Sorry, w a s s e n a a r.

Sibongiseni Mbadamana

Oh, e n a a r. Wassenaar?

Peter Wassenaar

Yes.

Sibongiseni Mbadamana

Okay. And then you are from which company?

Peter Wassenaar

KWV attorneys.

Sibongiseni Mbadamana

KWV attorney?

Peter Wassenaar

Yes.

Sibongiseni Mbadamana

And then. So you are, you are [inaudible] representing the community? You are not sent by Ngaka or ...

Peter Wassenaar

No, I'm not. I don't represent the state. I represent the businesses in the community who already suffering with these municipalities. So we have we have total, we totally understand your crisis. Now our problem here is that this is actually in terms of the Constitution, in terms of section 139 of the Constitution and also the finance provisions in terms of Public Finance Act. This is a problem for provincial and national government to solve. But your your waterboard cannot merely come now and turn off the taps because of your, them failing to do their duty to give you the money you need. Now ...

Sibongiseni Mbadamana

No. Okay, no, I think Mr Wassenaar. Its okay. Do what you feel think is right from your side to do and then we'll take it from there.

Peter Wassenaar

Okay. So we are not, you are not willing to discuss the matter then. I understand. I will then accordingly be serving urgent papers without further notice to you. I will be... which offices do need I serve it on? Because I see you've got in Hartswater and Botaville offices. Where can we serve papers? Where are you situated?

Sibongiseni Mbadamana

Me I'm here in [inaudible], 132 University Drive Mmabatho. But our head offices is in Bothaville [inaudible]. From the region I'm sitting here in the regional office.

Peter Wassenaar

[inaudible] Okay and then your email adress sir?

Sibongiseni Mbadamana

My email address is mbadamanas, [inaudible].. you gonna email it?

Peter Wassenaar

Its just a demand letter, I am stil gonna send you a demand. Its mbadamanas at?

Sibongiseni Mbadamana

At gmail.com. My surname and my initial at gmail.com.

Peter Wassenaar

Yes. I've got your surname as to that your letter. So, I thank you for your time. We'd like to implore you to engage with my client. I'll send you the letter and so that we can actually assist you in dealing with this dispute in government levels. But in as far as your resolution not to provide water, and that will not stand the scrutiny of the courts. It will only result in large, massive cost orders being occurred against your company. But in that regard, I will deal with it in our letter of demand. Again, thank you for your time.

Sibongiseni Mbadamana

[inaudible]

000053

Peter Wassenaar
Thank you. Babbaye

A handwritten signature in black ink, appearing to be 'P. Wassenaar', with a large, stylized flourish or initial 'A' written below it.



000054

Annexure X5

KRIEK WASSENAAR & VENTER ING
Prokureurs • Aktevervaardigers • Attorneys • Conveyancers

Ons verw: PJ Wassenaar/es/ QB0861

U verw:

26 May 2021

**SEDIBENG WATER
MAHIKENG**

URGENT

By email: ceosec@sedibengwater.co.za
amassyn@sedibengwater.co.za
annelinebotes@sedibengwater.co.za
ssithole@sedibengwater.co.za
kvallatt@sedibengwater.co.za
pnkwale@sedibengwater.co.za
nfulatela@sedibengwater.co.za
eratsh9tanga@sedibengwater.co.za
mbadamanas@gmail.com

Sir / Madam

SAKELIGA NPC / SEDIBENG WATER

**IN RE: NOTICE TO DISCONTINUE WATER SERVICE TO NGAKA MODIRI MOLEMA DISTRICT
MUNICIPALITY AND OTHERS DATED 25 MAY 2021**

1. We refer to the telephone conversation between your Mr Mbadamana and writer on 26 May 2021. We act on instructions of Sakeliga NPC ("Sakeliga").
2. Writer confirms that during our telephonic conversation, he attempted to engage with your organisation regarding your decision of 25 May 2021 to terminate the supply of *operational and maintenance* services to the Ngaka Modiri Molema District Municipality, Ditsobotla Local Municipality, Mahikeng Local Municipality and Ratlou Local Municipality. A copy of the decision our client received this afternoon is attached hereto as annexure **AA1**.
3. Our client represents various businesses and residents who reside and conduct business in the municipal areas of Mahikeng Local Municipality, Ratlou Local Municipality and Ditsobotla Local

www.kwv-inc.com

(t) (+27) 12 756 7566 • (f) (+27) 86 596 8799 (a) 3rd Floor, HB Forum Building, 13 Stamvrug Road, Val de Grace, Pretoria 0184
(p) Postnet Suite # A7, Privaatsak / Private Bag X592, Silverton, 0127 • BTW Reg: 4020260685



Direkteure/ Directors: Johan Kriek (B Proc, LLM), Péter Johannes Wassenaar (LLB)
Bygestaan deur/assisted by Tertlia Johanna Wassenaar (LLB), Kayla Oosthuizen (LLB);
Konsultante / Consultants: Catherina Elizabeth Pienaar (BA, BCur, LLB, LLM, PhD), Sylvia Adriana Venter (LLB)
• Reg: 2012/030418/21
DocDate 20210507

Municipality. These residents will be directly affected by your decision to terminate the supply of *operational and maintenance* services.

4. During our conversation writer questioned to what extent a public participation process had been followed before the making of your decision, to which your Mr Mbadamana confirmed that you did not. We confirm that writer informed you that your organisation, as a national public entity in terms of schedule 3 part A in terms of the Public Finance Management Act 1 of 1999, is required to follow the prescripts of the Promotion of Administrative Justice Act 3 of 2000 before taking an administrative decision such as your impugned decision of 25 May 2021.
5. Our Mr Wassenaar also informed your offices that all organs of state and public entities are bound to the principles of co-operative governance as set out in section 41 of the Constitution as read with the Intergovernmental Relations Framework Act 13 of 2005. In this regard your Mr Mbadamana responded that your offices have *sent letters* to the Department of Water and Sanitation as well as the respective municipalities, and that *everybody is aware* of your decision and that your organisation wanted to *sit around the table* but that they failed to respond.
6. In this regard we informed your offices that you are in fact required to approach the court to settle your dispute with the municipalities before drastic measures which will prejudice the public, such as the one your offices have undertaken, are undertaken. In terms of section 41 of the Constitution read with the Intergovernmental Relations Framework Act 13 of 2005, you are required to take remedial action to avoid disputes of this nature. When writer enquired whether you have solicited the assistance of the Minister of Cooperative Governance and Traditional Affairs or the MEC for Cooperative Governance in the North West, your office merely avoided the question.
7. It is clear that your offices have failed to follow a proper process in terms of both the Intergovernmental Relations Framework Act 13 of 2005 as well as the Promotion of Administrative Justice Act 3 of 2000.
8. Lastly, our offices informed you that government, which includes your organisation as a national public entity, has a constitutional duty in terms of section 27 (1) (b) to provide the public with sufficient water. Accordingly, our offices informed you of your duty to approach the court before taking any decision which would result in government acting in contravention of its constitutional duties towards the public.



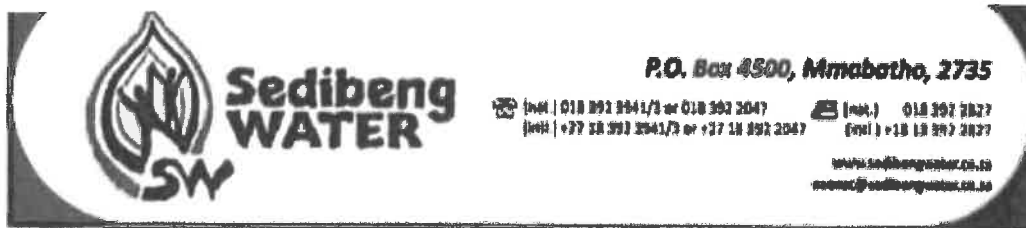
9. It is accordingly clear that your decision of 25 May 2021 is unlawful and furthermore in breach of section 27 (1) (b) of the Constitution.
10. **Our client therefore requires that you provide the following by no later than 10h00 on 27 May 2021:**
- 10.1 **A written withdrawal of your decision of 25 May 2021;**
- 10.2 **An undertaking that you will provide written instructions to all staff and contractors of Sedibeng Water to continue with the supply of bulk water, operational and maintenance services to Ngaka Modiri Molema District Municipality, Ditsobotla Local Municipality, Mahikeng Local Municipality and Ratlou Local Municipality, which instruction must be communicated by no later than close of office on 28 May 2021;**
11. Failing receipt of a written undertaking to comply with the demands set out in paragraph 10 above, our client will approach the High Court on an urgent basis in order to, *inter alia*, obtain an interdict prohibiting your offices from terminating the supply of bulk water, operational and maintenance services to the affected municipalities. In such an event, and specifically seeing our attempts to resolve the issue without approaching the courts, our client will be applying for a special punitive cost order as between attorney and client.
12. We implore you to withdraw your decision and await your response by 10h00 tomorrow.

Yours sincerely,



KRIEK WASSENAAR & VENTER ING
PÉTER WASSENAAR – DIREKTEUR / DIRECTOR
(f) 086 596 8511
(e) peter@kriekprun.co.za
Elektronies geteken
Electronically signed





GENERAL NOTICE

ATTENTION: ALL STAFF – MAHIKENG REGION

DATE: 25 MAY 2021

SUBJECT: NON-PAYMENT AND SUSPENSION OF OPERATION AND MAINTENANCE SERVICES IN NGAKA MODIRI MOLEMA DISTRICT MUNICIPALITY

The above subject refers.

Following unproductive oral and written engagements with Ngaka Modiri Molema District Municipality to service their ever-growing debt for the Operations and Maintenance service by Sedibeng Water.

Sedibeng Water has taken a firm decision to suspend all the Operations and Maintenance services to the municipality, until the district municipality change their posture on their refusal to pay for the afore mentioned services. Sedibeng Water cannot continue to offer services for free at the detriment of its financial health.

You are therefore directed to suspend all Operations and Maintenance services at Lehurutshe, Mahikeng and Ratlou Local Municipalities, as of the 1st June 2021. Further suspension of services for Bulk Water Supply must be effected at Ditsobotla Local Municipality's Itsoseng Plant, effective from 1st July 2021.

This enforcement shall remain in place until further notice or when directed otherwise.

Issued by


MR SIBONGISENI MBADAMANA – Pr Tech Eng
REGIONAL MANAGER - MAHIKENG

DATE: 25/05/2021

Elbie Swanepoel

From: Peter Wassenaar
Sent: 26 May 2021 18:04
To: ceosec@sedibengwater.co.za; amassyn@sedibengwater.co.za;
annelinebotes@sedibengwater.co.za; ssithole@sedibengwater.co.za;
kvallatt@sedibengwater.co.za; pnkwale@sedibengwater.co.za;
nfulatela@sedibengwater.co.za; eratsh9tanga@sedibengwater.co.za
Cc: mbadamanas@gmail.com; Rohann Eloff; Tian Alberts
Subject: URGENT APPLICATION DEMAND - SAKELIGA NPC / SEDIBENG WATER
Attachments: Sedibeng Water sent 20210526.pdf

Sir / Madam

Kindly see the attached letter for your **URGENT ATTENTION**.

Yours faithfully / Die uwe



Pèter Wassenaar
Kriek Wassenaar & Venter Ing
Direkteur / Director

- (t) (+27) 12 803 4719 (c) 0829204474
- (a) Third Floor, HB Forum Building, 13 Stamvrug Street, Val de Grace, Pretoria
- (p) Postnet Suite # A7, Privaatsak / Private Bag X592, Silverton, 0127 • BTW Reg: 4020260685 • Reg: 2012/030418/21



KRIEK WASSENAAR & VENTER
Prokureur • Advokaat • Advokaat • Advokaat

IN THE HIGH COURT OF SOUTH AFRICA
(NORTH WEST DIVISION, MAHIKENG)

CASE NO.: _____/2021

In the application between:

SAKELIGA NPC

Applicant

and

SEDIBENG WATER BOARD

1st Respondent

THE MEMBER OF THE EXECUTIVE

COUNCIL: NORTH WEST PROVINCE:

COOPERATIVE GOVERNANCE, HUMAN

SETTLEMENT AND TRADITIONAL AFFAIRS

2nd Respondent

THE MEMBER OF THE EXECUTIVE COUNCIL:

NORTH WEST PROVINCE: FINANCE

3rd Respondent

THE MINISTER: NATIONAL DEPARTMENT

OF COOPERATIVE GOVERNANCE AND

TRADITIONAL AFFAIRS

4th Respondent

THE MINISTER OF FINANCE

5th Respondent

THE MINISTER: NATIONAL DEPARTMENT OF
HUMAN SETTLEMENTS, WATER AND SANITATION

6th Respondent

NGAKA MODIRI MOLEMA DISTRICT MUNICIPALITY

7th Respondent

DITSOBOTLA LOCAL MUNICIPALITY

8th Respondent

MAHIKENG LOCAL MUNICIPALITY

9th Respondent

RATLOU LOCAL MUNICIPALITY

10th Respondent

THE PREMIER: NORTH WEST PROVINCE

11th Respondent

SUPPORTING AFFIDAVIT

I, the undersigned,

PETER JOHANNES WASSENAAR

do hereby declare under oath as follows:

1. I am a major male attorney and director of the firm KRIEK WASSENAAR & VENTER INC, 13 Stamvrug Avenue, Pretoria, Gauteng.
2. I am the applicant's attorney of record.



3. The contents of this affidavit fall within my personal knowledge and is both true and correct.
4. I have read the founding affidavit of **TV ALBERTS**, and confirm that the contents thereof is both true and correct in as far as it relates to me.


PETER JOHANNES WASSENAAR

I HEREBY CERTIFY THAT THE DEPONENT HAS ACKNOWLEDGED:

- (a) he knows and understands the contents of this affidavit;
- (b) he has no objection to taking an oath;
- (c) he considers the oath to be binding on his conscience.

THUS signed and sworn before me, at Pretoria on this the 27 day **May 2021**, the Regulations contained in Government Notice No. R1648 of 19 August 1977 (as amended) having been fully complied with.


COMMISSIONER OF OATHS,

FULL NAMES:

BUSINESS ADDRESS:

DESIGNATION:

AREA / OFFICE:

DENIS PATRICK LEAHY
Commissioner of Oaths
Practising Attorney (RSA)
Parc Nouveau Building 2nd Floor
25 Veale Street, Brooklyn, Pretoria
Tel: 012 346 4243

IN THE HIGH COURT OF SOUTH AFRICA

(NORTH WEST DIVISION, MAHIKENG)

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SAKELIGA NPC

Applicant

and

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COOPERATIVE GOVERNANCE, HUMAN

SETTLEMENT AND TRADITIONAL AFFAIRS

2nd Respondent

THE MEMBER OF THE EXECUTIVE COUNCIL:

NORTH WEST PROVINCE: FINANCE

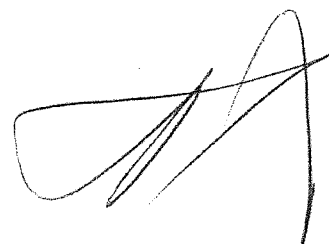
3rd Respondent

THE MINISTER: NATIONAL DEPARTMENT

OF COOPERATIVE GOVERNANCE AND

TRADITIONAL AFFAIRS

4th Respondent

A handwritten signature in black ink, consisting of a large, stylized 'A' shape with a horizontal line crossing it.

THE MINISTER OF FINANCE	5th Respondent
THE MINISTER: NATIONAL DEPARTMENT OF HUMAN SETTLEMENTS, WATER AND SANITATION	6th Respondent
NGAKA MODIRI MOLEMA DISTRICT MUNICIPALITY	7th Respondent
DITSOBOTLA LOCAL MUNICIPALITY	8th Respondent
MAHIKENG LOCAL MUNICIPALITY	9th Respondent
RATLOU LOCAL MUNICIPALITY	10th Respondent
THE PREMIER: NORTH WEST PROVINCE	11 th Respondent

SUPPORTING AFFIDAVIT

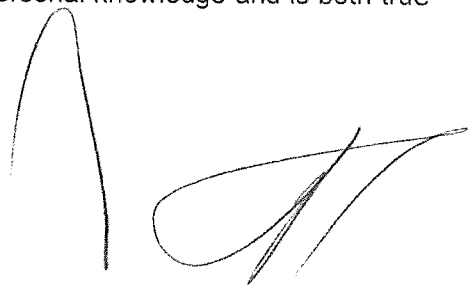
I, the undersigned,

IGNATIUS TALJAARD

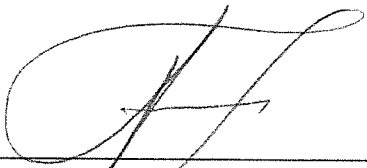
(ID NO: 600516 5031 082)

do hereby declare under oath as follows:

1. I am a major male businessman residing at 59 & 61 Molopo Road, Mafikeng, North West Province.
2. The contents of this affidavit fall within my personal knowledge and is both true and correct.



3. I am the owner of Natie Taljaard Enterprises CC t/a Buffalo Park Lodge which is situated within the area of the Mahikeng Local Municipality.
4. My business is situated in the Mahikeng Local Municipality and I conduct my business within the Municipality's area. As a business owner the suspension of the supply of water would have a severe effect on my business. I will be unable to rent out rooms in the lodge due to the lack of water supply. I will be severely prejudiced by the disruption of water supply.
5. I have read the founding affidavit of **TOBIAS VIVIAN ALBERTS**, which I support, and confirm that the content thereof is both true and correct in as far as it relates to me.



IGNATIUS TALJAARD

I HEREBY CERTIFY THAT THE DEPONENT HAS ACKNOWLEDGED:

- (a) he knows and understands the contents of this affidavit;
- (b) he has no objection to taking an oath;
- (c) he considers the oath to be binding on his conscience.

THUS signed and sworn before me, at Mahikeng on this the 27th day **May 2021**, the Regulations contained in Government Notice No. R1648 of 19 August 1977 (as amended) having been fully complied with.



COMMISSIONER OF OATHS

FULL NAMES:

BUSINESS ADDRESS:

DESIGNATION:

AREA / OFFICE:

REINHARDT VAN ROOYEN
COMMISSIONER OF OATHS
PRACTISING ATTORNEY
9 PROCTOR AVE, MAHIKENG, 2745
PROVINCE OF THE NORTH WEST

IN THE HIGH COURT OF SOUTH AFRICA

(NORTH WEST DIVISION, MAHIKENG)

CASE NO.: _____/2021

In the application between:

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and

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THE MEMBER OF THE EXECUTIVE

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COOPERATIVE GOVERNANCE, HUMAN

SETTLEMENT AND TRADITIONAL AFFAIRS

2nd Respondent

THE MEMBER OF THE EXECUTIVE COUNCIL:

NORTH WEST PROVINCE: FINANCE

3rd Respondent

THE MINISTER: NATIONAL DEPARTMENT

OF COOPERATIVE GOVERNANCE AND

TRADITIONAL AFFAIRS

4th Respondent



P.L.M.

THE MINISTER OF FINANCE	5th Respondent
THE MINISTER: NATIONAL DEPARTMENT OF HUMAN SETTLEMENTS, WATER AND SANITATION	6th Respondent
NGAKA MODIRI MOLEMA DISTRICT MUNICIPALITY	7th Respondent
DITSOBOTLA LOCAL MUNICIPALITY	8th Respondent
MAHIKENG LOCAL MUNICIPALITY	9th Respondent
RATLOU LOCAL MUNICIPALITY	10th Respondent
THE PREMIER: NORTH WEST PROVINCE	11 th Respondent

SUPPORTING AFFIDAVIT

I, the undersigned,

LUMKA VICTORIA M'BELLE

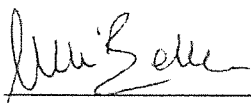
(ID NO: 581227 0913 083)

do hereby declare under oath as follows:

1. I am a major female and a member of the Mafikeng Rate Payers Association residing at Unit 13, 4967 Lorwana Close, Mmabatho, North West Province.
2. The contents of this affidavit fall within my personal knowledge and is both true and correct.



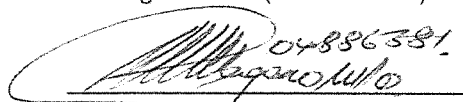
3. I am a permanent resident in the Mahikeng Local Municipality, which bears responsibility over the town of Mmbatho, North West Province.
4. As a permanent resident the suspension of the supply of water would have a severe effect on my household and other residents of the municipality. I will be severely prejudiced by a disruption of water supply.
5. I have read the founding affidavit of **TOBIAS VIVIAN ALBERTS**, which I support, and confirm that the content thereof is both true and correct in as far as it relates to me.


 LUMKA VICTORIA M'BELLE

I HEREBY CERTIFY THAT THE DEPONENT HAS ACKNOWLEDGED:

- (a) she knows and understands the contents of this affidavit;
- (b) she has no objection to taking an oath;
- (c) she considers the oath to be binding on his conscience.

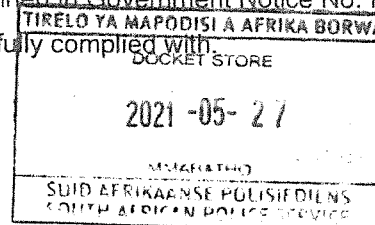
THUS signed and sworn before me, at MMABATHO on this the 27 day May 2021, the Regulations contained in Government Notice No. R1648 of 19 August 1977 (as amended) having been fully complied with.


 04886381

COMMISSIONER OF OATHS

FULL NAMES: P.L. MACATO

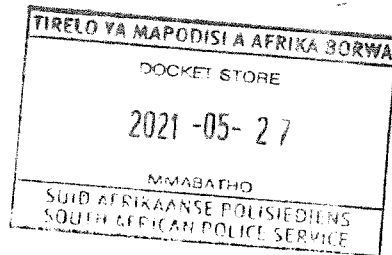
PATRICK LEUY MACATO





P.L.M.

BUSINESS ADDRESS: 105 BATUMABING STREET MMABATHO 8AAS.
DESIGNATION: POLICE WARRANT OFFICER.
AREA / OFFICE: MOLOPO 1 MMABATHO.



CL

P.L.M.

IN THE HIGH COURT OF SOUTH AFRICA
(NORTH WEST DIVISION, MAHIKENG)

CASE NO.: _____/2021

In the application between:

SAKELIGA NPC

Applicant

and

SEDIBENG WATER BOARD

1st Respondent

**THE MEMBER OF THE EXECUTIVE
COUNCIL: NORTH WEST PROVINCE:
COOPERATIVE GOVERNANCE, HUMAN
SETTLEMENT AND TRADITIONAL AFFAIRS**

2nd Respondent

**THE MEMBER OF THE EXECUTIVE COUNCIL:
NORTH WEST PROVINCE: FINANCE**

3rd Respondent

**THE MINISTER: NATIONAL DEPARTMENT
OF COOPERATIVE GOVERNANCE AND
TRADITIONAL AFFAIRS**

4th Respondent

15/03/21

THE MINISTER OF FINANCE	5th Respondent
THE MINISTER: NATIONAL DEPARTMENT OF HUMAN SETTLEMENTS, WATER AND SANITATION	6th Respondent
NGAKA MODIRI MOLEMA DISTRICT MUNICIPALITY	7th Respondent
DITSOBOTLA LOCAL MUNICIPALITY	8th Respondent
MAHIKENG LOCAL MUNICIPALITY	9th Respondent
RATLOU LOCAL MUNICIPALITY	10th Respondent
THE PREMIER: NORTH WEST PROVINCE	11 th Respondent

SUPPORTING AFFIDAVIT

I, the undersigned,

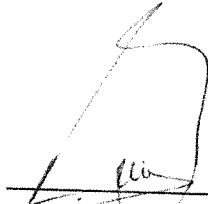
WILLEM JACOBUS BEKKER

do hereby declare under oath as follows:

1. I am a major male pensioner residing at 22 4th Avenue, Lichtenburg, North West Province.
2. The contents of this affidavit fall within my personal knowledge and is both true and correct.

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EB

3. I am a permanent resident in the Ditsobotla Local Municipality, which bears responsibility over the town of Lichtenburg, North West Province.
4. As a permanent resident the suspension of the supply of water would have a severe effect on my household and other residents of the municipality. I will be severely prejudiced by a disruption of water supply.
5. I have read the founding affidavit of **TOBIAS VIVIAN ALBERTS**, which I support, and confirm that the content thereof is both true and correct in as far as it relates to me.



WILLEM JACOBUS BEKKER

I HEREBY CERTIFY THAT THE DEPONENT HAS ACKNOWLEDGED:

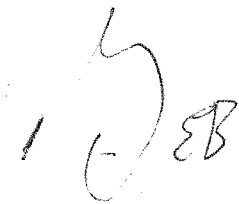
- (a) he knows and understands the contents of this affidavit;
- (b) he has no objection to taking an oath;
- (c) he considers the oath to be binding on his conscience.

THUS signed and sworn before me, at Lichtenburg on this the 27 day **May 2021**, the Regulations contained in Government Notice No. R1648 of 19 August 1977 (as amended) having been fully complied with.



COMMISSIONER OF OATHS

FULL NAMES: Dr. E. Brunsden




BUSINESS ADDRESS: 18 6th Avenue, Litchburg, 2740

DESIGNATION: BD 29996

AREA / OFFICE: Lichtenburg



 Nieuwlands, Gereformeerde Kerk
Lichtenburg-Os
Postbus 1004
2740 Lichtenburg
Tel: (0144) 2-2242
01863 22242

10B

IN THE HIGH COURT OF SOUTH AFRICA

(NORTH WEST DIVISION, MAHIKENG)

CASE NO.: _____/2021

In the application between:

SAKELIGA NPC

Applicant

and

SEDIBENG WATER BOARD

1st Respondent

THE MEMBER OF THE EXECUTIVE
COUNCIL: NORTH WEST PROVINCE:
COOPERATIVE GOVERNANCE, HUMAN
SETTLEMENT AND TRADITIONAL AFFAIRS

2nd Respondent

THE MEMBER OF THE EXECUTIVE COUNCIL:
NORTH WEST PROVINCE: FINANCE

3rd Respondent

THE MINISTER: NATIONAL DEPARTMENT
OF COOPERATIVE GOVERNANCE AND
TRADITIONAL AFFAIRS

4th Respondent

THE MINISTER OF FINANCE	5th Respondent
THE MINISTER: NATIONAL DEPARTMENT OF HUMAN SETTLEMENTS, WATER AND SANITATION	6th Respondent
NGAKA MODIRI MOLEMA DISTRICT MUNICIPALITY	7th Respondent
DITSOBOTLA LOCAL MUNICIPALITY	8th Respondent
MAHIKENG LOCAL MUNICIPALITY	9th Respondent
RATLOU LOCAL MUNICIPALITY	10th Respondent
THE PREMIER: NORTH WEST PROVINCE	11 th Respondent

SUPPORTING AFFIDAVIT

I, the undersigned,

ARISTA-LOUISE ANNANDALE

(ID NO: 850428 0087 084)

do hereby declare under oath as follows:

1. I am a major female media official and researcher residing at 26 Akasia Street, Golf View, Mafikeng, North West Province.
2. The contents of this affidavit fall within my personal knowledge and is both true and correct.



3. I am a permanent resident in the Mahikeng Local Municipality, which bears responsibility over the town of Mahikeng, North West Province.
4. As a permanent resident the suspension of the supply of water would have a severe effect on my household and other residents of the municipality. I will be severely prejudiced by a disruption of water supply.
5. I have read the founding affidavit of TOBIAS VIVIAN ALBERTS, which I support, and confirm that the content thereof is both true and correct in as far as it relates to me.


 ARISTA-LOUISE ANNANDALE

I HEREBY CERTIFY THAT THE DEPONENT HAS ACKNOWLEDGED:

- (a) she knows and understands the contents of this affidavit;
- (b) she has no objection to taking an oath;
- (c) she considers the oath to be binding on his conscience.

THUS signed and sworn before me, at MAHIKENG on this the 27 day May 2021, the Regulations contained in Government Notice No. R1648 of 19 August 1977 (as amended) having been fully complied with.

[Handwritten signature]
[Handwritten initials]

COMMISSIONER OF OATHS

FULL NAMES:

ALBERTS VIVIAN *1957*

