FULL DISCLOSURE

THE TRUTH ABOUT CORPORATE ENVIRONMENTAL COMPLIANCE IN SOUTH AFRICA



Copyright 2015 Centre for Environmental Rights. All rights reserved.

Centre *for*
Environmental Rights
Advancing Environmental Rights in South Africa

EXECUTIVE SUMMARY

The Centre for Environmental Rights (CER) has conducted a baseline assessment of 20 listed South African companies with significant environmental impacts that have regularly appeared on the JSE's Socially Responsible Investment Index (SRI Index). The purpose of the assessment was to ascertain the extent of compliance by these companies with environmental laws, as well as the extent to which non-compliance with environmental laws was disclosed by these companies to their shareholders, between 2008 and 2014.

> *…many companies which have regularly been hailed as shining examples for their approach to managing environmental, social and governance factors have in fact committed serious breaches of environmental laws…*

Our findings are that many companies which have regularly been hailed as shining examples for their approach to managing environmental, social and governance factors have in fact committed serious breaches of environmental laws during the assessment period. In many cases, the information provided by these companies to their shareholders about their environmental impacts and non-compliances is either misleading, or so minimal as to make it impossible to verify claimed commitments to sound environmental management.

Significant conclusions drawn from the findings of *Full Disclosure* include the following:

1. Most assessed companies are not accurately disclosing the extent of their non-compliance with environmental laws to their shareholders.
2. Some assessed companies are actively misrepresenting their levels of compliance with environmental laws to their shareholders.
3. The manner in which listed South African companies are rated as good targets for "socially responsible investment" is wholly inadequate.
4. Investors, in particular South Africa's large institutional investors, are failing to recognise red flags in company reports and are not asking nearly enough, or the right, questions about the environmental compliance of the companies that they invest in.
5. South Africa's environmental compliance monitoring and enforcement system is not effective enough, due, inter alia to:
    - Authorisations that are difficult to monitor, and compliance inspections that take too long to finalise;
    - The fact that our enforcement regime does not allow regulators immediately and predictably to impose monetary penalties which accurately reflect the cost of environmental violations to society;
    - The culture of "engagement" between companies and regulators, and the widespread view in the private sector that compliance with environmental laws is a matter of "negotiation" with authorities, and a "process" to be completed at an indeterminate future date;
    - The ever-shrinking budget allocated to environmental compliance monitoring and enforcement activities;
    - The availability and active encouragement by regulators of a procedure for "ex post facto" authorisation of illegally commenced activities;
    - A general lack of respect by the private sector for the skills and expertise of environmental regulators;
    - The private sector position – often accepted by government – that transparency is "dangerous" because the release of information about environmental non-compliances and enforcement activities threatens the commercial interests of a company; and
    - The fact, for historical and political reasons, that environmental compliance by the mining sector is monitored and enforced by the Department of Mineral Resources, rather than the Department of Environmental Affairs.

All of the information used to conduct the assessment is publically available. The timeframe assessed is 2008 to 2014. We studied, where applicable, the Department of Environmental Affairs' National Environmental Compliance and Enforcement Reports (NECERs), published annually, the annual, integrated and sustainable development reports of the companies assessed, as well as various other sources of publicly available information such as statements to Parliament, media reports, academic studies and civil society reports.

We provided each company in the assessment with a month to respond to our findings, and 17 of the 20 companies assessed responded. Of these, Anglo American, AngloGold Ashanti, Gold Fields, Illovo, Mondi, Tongaat Hulett, Illovo, Sappi and Sasol provided detailed responses. African Rainbow Minerals challenged the CER's authority to conduct the baseline assessment. Exxaro, Merafe Resources and Harmony Gold did not respond.

> *South Africa would be much closer to achieving its oft-espoused commitment to "sustainable development" if it was shareholders, particularly our large institutional investors, and not civil society, that were asking these questions in the first place.*

For the most part, the responses emphasised the companies' commitment to improved environmental performance, and set out information about the steps taken and capital expenditure incurred to improve environmental performance and compliance. In some instances, much more detailed information was provided about the nature and impact of non-compliances identified in *Full Disclosure.* If this kind of information can be provided in response to a request from the CER, it is unclear why such information is not provided to shareholders in the first place. South Africa would be much closer to achieving its oft-espoused commitment to "sustainable development" if it was shareholders, particularly our large institutional investors, and not civil society, that were asking these questions in the first place.

In many instances, in the assessed company's responses, the concept of "environmental performance" was used interchangeably with, or substituted for, "environmental compliance". Improved environmental *performan*ce, such as achieving a reduction of water use or greater energy efficiency, can be a process, monitored and managed by each company individually. Environmental *compliance*, however, is a state in which all applicable environmental legal requirements are in fact fulfilled – not a state of "working towards" being fulfilled within an undefined future period.

Whilst improving environmental performance is a laudable aspiration for the future, complying with the law is, by definition, obligatory, not just in the future, but at all times. An investor may be forgiven for assuming, in the absence of information provided to the contrary, that such compliance may be taken as read, and that improving environmental performance happens over and above baseline legal compliance. The failure to distinguish between the two, coupled with the attitude espoused by many of the assessed companies that environmental compliance is a matter of "negotiation" between a company and the regulator, is a fundamental problem with corporate environmental management in South Africa.

Another view expressed by a worrying number of respondents is that findings of non-compliance constitute an "opinion" or "interpretation" of the EMIs, which must be "independently verified". No regulatory system in the world requires regulatory findings to be independently verified to be valid and enforceable, and that is not the legal position under South African environmental law. Yet companies use this – essentially a disregard for the technical expertise of EMIs and of compliance monitoring and enforcement officials in the DMR and DWS – to defend their unwillingness to accept violations and to embroil regulators in endless delays by challenging every finding of non-compliance.

> *Consequences of environmental violations may include plant shut-downs, the requirement for significant unplanned capital expenditure, and criminal fines.*

No-one would expect all of these large industrial concerns to have a perfect compliance track record. But when violations occur, they must be taken seriously; shareholders and the public must be told about the violations and what the actual or likely consequences of the violations are; and importantly, about what the company is doing to come into compliance as quickly as possible. These violations of environmental laws negatively impact the environment and the lives of South Africans each day, but also pose significant risks to the relevant companies' business. Consequences of environmental violations may include plant shut-downs, the requirement for significant unplanned capital expenditure, and criminal fines.

South Africa's asset managers, many of whom have adopted the Code for Responsible Investing in South Africa, have a responsibility to go beyond lip service in the integration of environmental, social and governance criteria into their investment decisions. Shareholders can help stem the damage, and contribute to a more sustainable private sector, by insisting on better corporate governance and greater disclosure of environmental violations.

ENFORCING THE LAW: the challenges undermining environmental compliance monitoring and enforcement in South Africa

Enforcement of the law is a vital component of any regulatory system.

> *Without the rule of law and compliance to promote social stability and legal certainty, firms are less willing to make the investments and to assume the risks that form the basis of market economy development… This lack of investment, in turn, can slow economic growth and deprive governments of resources needed to invest in education, social safety nets and sound environmental management, all of which are critical for sustainable development.*[1]
>
> *20% of the regulated population will automatically comply with any regulation, 5% will attempt to evade it, and the remaining 75% will be comply as long as they think that the 5% will be caught and punished.*[2]

Enforcement of environmental laws in South Africa was given a significant boost in 2005 with the establishment of the Environmental Management Inspectorate, popularly known as the "Green Scorpions". In a regulatory context where the lack of cooperation between government departments is frequently blamed for all ills, the Inspectorate is a real feat: its member institutions – the Department of Environmental Affairs, South African National Parks, Isimangaliso Wetland Park, all nine provincial environment departments, four provincial conservation agencies and even a few municipalities – all cooperate on the monitoring and enforcement of compliance with the National Environmental Management Act and its subsidiary laws covering protected areas, biodiversity, waste, air quality and coastal management. They share standard training, standard operating procedures, a logo and a newsletter, an annual EMI Lekgotla (national conference) and quarterly meetings. They also report results in a standard format into the annual National Environmental Compliance and Enforcement Report.

No complex institution operates perfectly, but the significant investment in the Inspectorate and hard work of the past ten years are starting to show meaningful results. By 2013-14, the 1915 designated EMIs were reporting annual figures that include 114 final notices and directives issued for violations, 78 convictions for environmental crimes, and criminal fines agreed in plea bargains of as high as R5 million.

> *…many environmental crimes and violations still go unpunished, and in the absence of effective deterrence, continue to be committed by companies.*

Yet despite all of this, many environmental crimes and violations still go unpunished, and in the absence of effective deterrence, continue to be committed by companies. This is powerfully demonstrated in *Full Disclosure: the truth about corporate environmental compliance in South Africa.* The reasons for this are many and varied, and require a broad range of interventions. Some of these are listed below.

Firstly, for historical and political reasons, the Environmental Management Inspectorate does not have a legal mandate over environmental compliance of mining operations, or for laws relating to water, as this is the purview of officials in the Department of Mineral Resources (DMR), and the Department of Water & Sanitation (DWS) respectively. Both these departments have declined the opportunity formally to participate in a single Environmental Management Inspectorate, therefore largely missing out on a decade of learning and networking painstakingly done by environment authorities. Both departments have, by comparison with environment authorities, invested negligibly in compliance and enforcement capacity, and this is reflected in their enforcement results (or absence thereof).

Unfortunately, we also see a trend in diminishing budgets for environment authorities' compliance and enforcement units. This inevitably means that fewer inspections can be conducted, inspection reports take longer to finalise, fewer notices and directives are issued, and fewer criminal convictions are secured.

> *If an enforcement response cannot be immediate and predictable, companies will continue to take risks with violations.*

Secondly, the way that authorisations are traditionally drafted by licensing authorities makes compliance monitoring very difficult, and the asymmetry of information between the operator of an industrial facility and the often relatively junior officials with limited technical expertise doing inspections across a range of different types of facilities makes it too easy for companies to avoid detection of violations, or to tie authorities up in lengthy and complex disputes about whether violations have in fact occurred. The reports on industrial compliance monitoring and enforcement in the National Environmental Compliance and Enforcement Reports demonstrate the lengthy periods – often years – that pass between an inspection and actual enforcement action. If an enforcement response cannot be immediate and predictable, companies will continue to take risks with violations.

The implications of these shortcomings are apparent from Full Disclosure in a number of different ways. One of these is the view expressed by some of the companies that the findings of non-compliance is no more than an "opinion" of the EMIs, and not independently verified. No regulatory system in the world requires regulatory findings to be independently verified to be valid and enforceable, and that certainly is not the legal position under South African environmental law. Yet companies use this – essentially a disregard for the technical expertise of EMIs and of compliance monitoring and enforcement officials in the DMR and DWS, to defend their unwillingness to accept violations and spend the resources to achieve compliance.

Another consequence of this is the approach among major companies evident in Full Disclosure that compliance is the subject of negotiation with authorities, and that compliance is a "process" towards what is really a utopian end result. Because findings of compliance are frequently complex and disputed, negotiation – allowing a company more time – is often an easier option for officials than decisive, confrontational enforcement. And while this tendency is evident from the National Environmental Compliance and Enforcement Reports published by the EMIs, anecdotally (since the DMR and DWS do not yet publish the results of their compliance monitoring and enforcement) the DMR and DWS are particularly well-known for this approach to compliance.

Thirdly, South African environmental laws still rely almost exclusively on criminal prosecution as the route to punishment for environmental violations. Criminal prosecution of environmental crimes is slow and difficult, particularly in an already overburdened criminal justice system. Criminal prosecution requires collecting evidence that will withstand the burden of proof required in criminal cases, namely beyond reasonable doubt. It also, crucially, requires the cooperation of both the South African Police Service and individual prosecutors in the National Prosecuting Authority, many of whom are not well-acquainted with environmental laws. It also requires judges and magistrates who are willing to impose maximum penalties for crimes that are often not, in our socio-political context, considered particularly serious.

Despite a significant increase in maximum criminal penalties for environmental crimes in the past 10 years (the maximum criminal penalty for some crimes in environmental law is now as much as R10 million or 10 years in prison), regional magistrates accustomed to seeing violent crime remain reluctant to impose maximum penalties for environmental crimes. South Africa is not alone in this – even in the United Kingdom, where conviction rates for environmental crimes exceed 90%, this problem occurs.

> *…empowering a regulatory authority…with the power to impose immediate monetary penalties that truly reflect the cost of those violations to society is the only way to incentivise greater compliance amongst South African corporates.*

Most international jurisdictions are therefore either in the process of shifting away, or have already undertaken the shift away from, criminal penalties to an administrative or civil penalty system for environmental violations. A criminal enforcement programme must always be retained for the most egregious and intentional of environmental crimes. But empowering a regulatory authority, or even an independent tribunal, with the power to impose immediate monetary penalties that truly reflect the cost of those violations to society is the only way to incentivise greater compliance amongst South African corporates.

One has only to consider the way in which the Competition Act has revolutionised corporate behaviour in relation to fair competition to understand the potential impact civil and administrative penalties could have on environmental compliance in South Africa.

Fourthly, environmental regulation in South Africa continues to be plagued by an inappropriate provision in the National Environmental Management Act (section 24G) that allows companies that have commenced activities without the required authorisation to obtain the authorisation after the fact. The procedure for ex post facto authorisation is quicker, and often cheaper, despite the fines imposed, than the application process for a proper authorisation. Most of these fines are too small even to require disclosure to shareholders, and certainly do not compensate for the time and profit gained by the violator through its illegal activity by by-passing the environmental impact assessment requirements, including the commissioning of expert studies and the required public participation processes. Even worse, because these fines are paid directly to government departments (in 2013/14 alone, R5 931 000 was paid to authorities in fines), in an environment where budgets are continuously decreased, the provision creates a perverse incentive for regulators to process as many of these after-the-fact applications as possible. This provision needs a fundamental overhaul.

> *There is still very limited transparency around compliance with environmental laws in South Africa.*

Fifthly, there is still very limited transparency around compliance with environmental laws in South Africa. Despite the 2014 Supreme Court of Appeal judgement against ArcelorMittal South Africa, a case in which the Vaal Environmental Justice Alliance was represented by the Centre for Environmental Rights, where the Supreme Court of Appeal acknowledged and confirmed obligations of South African corporates to report environmental impacts not only to the state, but also to affected communities and civil society, companies remain skittish about sharing information beyond their express reporting duties to the state. The only way to mitigate the impacts of the limited capacity within the state to verify those reports and to respond to reports of violations is to require companies to publish their impacts in an easy and accessible format that allows communities and civil society organisations publicly to hold those companies to account when government cannot.

In the current economic climate, when companies are cutting back on all expenditure that they consider to be “non-essential”, it is even more important for enforcement action to be swift and meaningful. Attempts to “save” costs on matters relating to environmental impacts – by cutting back on capital expenditure, by reducing environmental staff, and by reducing expenditure on appropriately qualified external environmental expertise, now means that serious environmental violations and incidents are more likely in the future. To ensure that the environmental regulatory system gives effect to the Constitutional environmental right, we need, at the very least:

- enough trained, experienced and resourced compliance inspectors and investigators in all relevant government departments;
- better quality and more monitorable authorisations;
- a comprehensive new system of administrative penalties for environmental violations, coupled with a complete overhaul of section 24G of the National Environmental Management Act;
- consistent, regular, integrated and public reporting of compliance and enforcement results; and
- far greater public transparency of licences and compliance data.

---

1. Zaelke, Stilwell and Young, 2005 (D Zaelke, M Stilwell and O Young “What Reason Demands: Making law Work for Sustainable Development: Chapter 1” in D Zaelke, D Kaniaru and E Kruzikova (eds) *Making Law Work: Environmental Compliance and Sustainable Development Vol 1 (2005)* at 45.
2. C Bowles “Promises to Keep: My Years in the Public Services, 1941-1969 (1971), quoted in D Zaelke, D Kaniaru and E Kruzikova (eds) *Making Law Work: Environmental Compliance and Sustainable Development Vol 1 (2005)* at 59.

GOVERNANCE CODES & SUSTAINABILITY INITIATIVES: credible indicators or more misdirection?

Sustainability guidelines, indices and governance codes espousing the "sustainability agenda" – for example the JSE's SRI Index, the King Code on Corporate Governance for South Africa, and the Global Reporting Initiative Guidelines – rely on a company's own assessment of its performance. They allow the companies themselves to decide what is and is not important, meaning that in many cases serious breaches of environmental laws are not mentioned, or are classified as being of "minor" importance. There appears to be little to no robust independent verification of the claims made by companies, as is evidenced by the fact that in many cases information clearly indicating that these companies are repeatedly in non-compliance with environmental laws is easily available in the public domain.

As the findings in *Full Disclosure* demonstrate, companies included on indices such as the SRI Index also often feature in the list of companies facing enforcement action, and sometimes criminal investigations, for contraventions of environmental laws, as reported in the Department of Environmental Affairs' annual National Environmental Compliance and Enforcement Reports. African Rainbow Minerals, ArcelorMittal South Africa, Exxaro, PPC, Sappi and Sasol are some examples.

It is clear that the major shareholders of these companies are failing to ask enough, if any, questions when red flags are raised about management of environmental risks and impacts. This is extremely concerning, particularly because many of South Africa's asset managers and institutional investors claim to be actively integrating "environmental, social and governance" criteria into their investment decisions and engagements with the companies that they invest in. South Africa's asset managers, many of whom have adopted the Code for Responsible Investing in South Africa, have an important role to play and a responsibility to go beyond lip service in the integration of environmental, social and governance criteria into investment decisions.

> *…while sustainability indices and governance codes promote the principle of the "triple bottom line" … in reality neither South Africa's private sector nor our stock exchange gives serious consideration to non-compliances with environmental laws.*

The CER's research confirms what many have already said about accolades such as inclusion on the JSE's SRI Index: while sustainability indices and governance codes promote the principle of the "triple bottom line" i.e. that companies should be concerned not only with profit and loss, but also with their social and environmental impacts, in reality neither South Africa's private sector nor our stock exchange gives serious consideration to non-compliances with environmental laws.

The criteria for inclusion on the JSE's SRI Index, for example, are exceptionally weak in relation to environmental indicators. The criteria are weighted in favour of what is publicly stated by the listed companies themselves, requiring simply that companies make certain commitments and develop and disclose their environmental policies. In relation to environmental obligations, the reporting of "non-compliance, prosecution, fines, [and] accidents" is regarded as a "desirable indicator", but is not required, even if companies are pursing the title of "best performer" on the SRI Index.

It appears that little to no robust independent verification of companies' claims about their performance is carried out, and even easily available and clear information which directly contradicts these claims is not taken into account in compiling the SRI Index.

The CER's assessment was motivated by its concern that while big industry in South Africa publicly claims to be committed to the advancement of the "sustainability agenda", many listed companies still operate in non-compliance with the law and in the process cause severe degradation of the environment.

According to the JSE's "SRI Index – Background and Criteria" for 2014, one of the key objectives of the SRI Index is to "identify those companies listed on the JSE that integrate the principle of the triple bottom line and good governance into their business activities".[1] The SRI Index is supposed to "serve as a facilitation vehicle for responsible investment for investors looking for non-financial risk variables to include in investment decisions, as such risks do carry the potential to have significant financial impacts".[2]

The JSE is praised for being the first stock exchange and emerging market to launch a sustainability index, doing so in 2004, with BM&F Bovespa in Brazil following suit in 2005. SRI Index constituents are perceived by the public as "certified good corporate citizens"[3] with a "longer-term horizon who are managing risks responsibly".[4] Companies on the SRI Index take pride in their inclusion, issuing public statements to that effect on their websites and in their annual reports.

The JSE also requires that companies listed on the JSE All Share Index comply with the King Code. The King Code is viewed as a "ground-breaking code of corporate governance" and is cited as "the most effective summary of the best international practices in corporate governance".[5] The King Code regards sustainability as "the primary moral and economic imperative of the 21st century" and recognises that sustainability "is one of the most important sources of both opportunities and risks for businesses".[6]

If this is the position in South Africa, why then are companies such as Lonmin, exposed in the Marikana Report for non-compliance with its social and labour plan and the poor working and living conditions of its miners; Sasol, a company which recently launched court proceedings against the state in a bid to set aside air quality standards which aim to reduce the pollutants that operations of Sasol and other big industry emit; and ArcelorMittal, which was recently compelled by a court order to release a copy of its environmental Master Plan to concerned community members after stubbornly refusing to do so for many years; nonetheless praised for their commitments to corporate responsibility and sustainability?

> *…there must, as a bare minimum for qualification on any new SRI index, be a requirement for listed companies to be in compliance with the law.*

While the CER acknowledges that the JSE has recently partnered with FTSE Russel and will be "aligning its environmental, social and governance (ESG) disclosure indicators and data collection methodology with FTSE Russell's evolved ESG approach",[7] it is not clear when this new system will be introduced, or how it will differ from the SRI Index criteria currently in place. The CER is strongly of the view that there must, as a bare minimum for qualification on any new SRI index, be a requirement for listed companies to be in compliance with the law (which includes environmental law). The new index must also have an independent method of assessing all available information relating to potential constituents' non-compliance with environmental laws.

The CER is also of the view that the JSE Listing Requirements for all listed companies (not only those seeking accreditation on the SRI Index) should be amended to require disclosure of environmental non-compliance. Currently, disclosure is only required in respect of material price sensitive information, with "material" defined as a change in a factor equal to or exceeding 10%. While the CER is of the view that environmental non-compliance should result in a shift in share price, this will not always be the case.[8] Regardless of whether or not environmental non-compliance directly affects share price, shareholders have a right to be informed, particularly given that environmental impacts and non-compliances can represent significant future liabilities for the company and for the country.

The King Code recommends that companies produce an integrated report which integrates both financial and non-financial risks and is supposed to explain how a company both positively and negatively affects the environment in which it operates and how it creates value over time. While the production of an integrated report is not a mandatory requirement for companies listed on the JSE All Share Index, the vast majority of the companies assessed by the CER have produced integrated reports. In addition to stating that their reports comply with the principles espoused in the King Code, and the International Framework for Integrated Reporting (an

international guideline for producing integrated reports), the majority of the companies assessed also claimed to have complied with, or to have been guided by, the Global Reporting Initiative's (GRI) Guidelines.

> *Retention of ISO 14001 certification is not an indication that a company is in compliance with environmental laws and permits, nor is it a substitute for reporting environmental non-compliance.*

The GRI Guidelines require relatively comprehensive reporting in the Environmental Category, including, specifically, that companies report on the "monetary value of significant fines and total number of non-monetary sanctions for non-compliance with environmental laws and regulations".[9] Despite this, the CER's research has revealed that few companies actually disclose environmental non-compliance adequately or at all.

The CER's research also revealed that many of the companies assessed regard their ISO 14001 certification as evidence of their compliance with the law.[10] ISO 14001 (the current version being ISO 14001:2015) sets out the criteria for an Environmental Management System. An Environmental Management System refers to the management of a company's environmental programmes in a comprehensive, systematic, planned and documented manner. ISO 14001 does not stipulate any requirements for environmental performance, but rather maps out a framework that companies can follow to set up and maintain an effective Environmental Management System.

Adherence to this framework does not, in any way, guarantee that a certified company is complying with applicable environmental laws. Certification merely means that the company has systems in place which should, theoretically, help it comply with applicable laws and minimise its environmental impact.

Retention of ISO 14001 certification is therefore not an indication that a company is in compliance with environmental laws and permits, nor is it a substitute for reporting environmental non-compliance.

> *South African companies are not adequately accounting for the costs of their environmental impacts and non-compliance with environmental laws to investors and to the public.*

While there appears to be an overarching acknowledgment of the importance of the triple bottom line and sustainability issues in South Africa, the system currently in place is evidently not working in practice. Investors and potential investors are not receiving adequate and accurate information upon which they can properly assess the risk of investing, and South African companies are not adequately accounting for the costs of their environmental impacts and non-compliance with environmental laws to investors and to the public.

While this is a problem created by the companies assessed, investors also have a duty to at least ask the right questions. Companies which state compliance with corporate governance guidelines must be held to account by their investors. Investors can put pressure on companies by asking the awkward questions and by refusing to simply look the other way.

---

1. JSE SRI Index – Background and Criteria 2014, at p2, available at: https://www.jse.co.za/content/JSERulesPoliciesandRegulationItems/Background%20and%20Criteria%202014.pdf
2. JSE SRI Index – Background and Criteria 2014, at p2, available at: https://www.jse.co.za/content/JSERulesPoliciesandRegulationItems/Background%20and%20Criteria%202014.pdf
3. http://www.gaaaccounting.com/the-johannesburg-stock-exchange-socially-responsible-investment-index/#sthash.mm6cUatk.dpuf (last accessed on 6 September 2015).
4. http://www.iol.co.za/business/news/jse-s-socially-responsible-index-greenwash-ngos-1.1614130#.VZ5pdvmqqko (last accessed on 6 September 2015).
5. https://en.wikipedia.org/wiki/King_Report_on_Corporate_Governance (last accessed on 6 September 2015).
6. King Code of Governance for South Africa (2009), at p9.
7. https://www.jse.co.za/services/market-data/indices/socially-responsible-investment-index (last accessed on 6 September 2015).
8. An example of where environmental non-compliance has resulted in a significant shift in share price is the drop of value in shares of Coal of Africa Limited after news of enforcement action against one of its facilities became public.
9. G3-EN28 in version 3.0 and 3.1 of the Global Reporting Initiative Framework, and G4-EN29 in version 4 of the Global Reporting Initiative Framework.
10. See, for example, Lonmin's response to *Full Disclosure*.

IRON & STEEL

Sector Overview

In 'An Overview of the South African Iron, Manganese and Steel Industry during the period 1984 – 2003', published by the Department of Minerals and Energy in 2005, it was reported that the South African steel industry accounts for 1% of world production and that South Africa is the 19th largest steel producer in the world.[1] More recent data from the World Steel Association places South Africa in 21st place in terms of crude steel production and attributes 0.4% of world production to South African manufacturers.[2]

Steel production gives rise to significant air, water and land pollution. The manufacturing process employed in the iron and steel industry can result in the release of large quantities of emissions, some highly toxic. These include particulate emissions, carbon monoxide, sulphur dioxide, organic compounds and carbonaceous compounds. Atmospheric pollution is also contributed to by the dust produced from sources such as vehicle traffic.[3]

The process can also result in water pollution:

> *Steel works discharge large volumes of water to lakes, rivers and streams, with additional volumes being vaporized while cooling coke or steel. Waste water retained in unsealed or leaking holding ponds can seep through and may contaminate the local water table and underground streams. These may also be contaminated by the leaching of rainwater through piles of raw materials or accumulations of solid wastes. Contaminants include suspended solids, heavy metals and oils and greases. Temperature changes in natural waters due to discharge of higher temperature process water (70% of steel-making process water is used for cooling) may affect the ecosystems of these waters.*[4]

Without sufficient safeguards, the steel and iron industry can have severely damaging environmental impacts, resulting in harm to the health of those living near to manufacturing operations. A study published in the International Journal of Hygiene and Environmental Health proved that air pollutant levels were higher near a steel plant than at a site 5 kilometres away and furthermore suggested that the air quality in areas near a steel plant may influence cardiovascular physiology.[5]

A 2007 news report recorded the following statement made by the DEA in relation to the inspections of companies in the iron and steel and ferroalloy sector:

> *Although we expected to find some non-compliance at the sites we have inspected thus far, we are taken aback at the levels of non-compliance we are identifying in the iron and steel and ferroalloy industry sector.*
>
> *Many of the operating companies are extremely profitable multinationals who have access to all the information and resources they require to come into compliance with environmental legislation.*
>
> *However, it appears that they have chosen to disregard their obligations to the law and the environment and people affected by their operations.*[6]

Primary Legislation

National Environmental Management Act
National Environmental Management: Air Quality Act
National Environmental Management: Waste Act
National Water Act
Environment Conservation Act

Pursuant to these pieces of legislation, companies are required to have licences relating to the relevant activities under the Acts. Minimum emission standards were published in Government Notice No. 248 in 2010.[7] Licences granted to companies under the National Environmental Management: Air Quality Act must at least incorporate these standards and deadlines were introduced for meeting those standards.

1. http://www.infomine.com/library/publications/docs/DMESouthAfrica/IronManganeseSteelIndustry.pdf at p18.
2. http://www.saisi.co.za/index.php/primary-steel-industry (last accessed on 7 August 2015).
3. 'Control of Pollution in the Iron and Steel Industry' by D.L. Doushanov, at p1-2, in Pollution Control Technologies, Vol. III, ed. Bhaskar Nath and Georgi Stefanov Cholakov.
4. International Labour Organisation, Encyclopaedia of Occupational Health and Safety, Environmental and Public Health Issues, Iron and Steel, at http://www.ilo.org/iloenc/ (last accessed on 7 August 2015).
5. Liu, L., et al., Exposure to air pollution near a steel plant and effects on cardiovascular physiology: A randomized crossover study. Int. J. Hyg. Environ. Health (2013), at p7
6. http://mg.co.za/article/2007-10-04-shock-pollution-findings-at-highveld-steel (last accessed on 7 August 2015).
7. https://www.environment.gov.za/sites/default/files/gazetted_notices/nemaqa_listofactivities_g33064gon248.pdf

Summary of findings and company response

ArcelorMittal's environmental policy states as follows:

> *Environmental excellence, incorporated into all processing activities, is to be promoted by the following principles:*
>
> - *Implementation of environmental management systems including ISO 14001:2004 certification for all production facilities;*
> - *Compliance with all relevant environmental laws and regulations, and other company commitments;*
> - *Continuous improvement in environmental performance, taking advantage of systematic monitoring and aiming at pollution prevention;*
> - *Development, improvement and application of low impact, environmental production methods taking benefit of locally available raw materials;*
> - *Development and manufacture of environmentally friendly products focusing on their use and subsequent recycling;*
> - *Efficient use of natural resources, energy and land;*
> - *Management and reduction where technically and economically feasible of the CO? footprint of steel production;*
> - *Employee commitment and responsibility in environmental performance;*
> - *Supplier and contractor awareness and respect of ArcelorMittal's environmental policy;*
> - *Open communication and dialogue with all stakeholders affected by ArcelorMittal's operations.*[1]

ArcelorMittal's operations have always had, and continue to have, serious environmental impacts. A number of inspections were carried out by Environmental Management Inspectors at ArcelorMittal facilities during the assessment period. However, there are numerous omissions and discrepancies between the findings of these inspections as reported in the National Environmental Compliance and Enforcement Reports and the way in which these findings were presented to shareholders in ArcelorMittal's annual reports.

It is clear from the National Environmental Compliance and Enforcement Reports that ArcelorMittal has, over the period assessed, committed multiple serious breaches of environmental laws. It is also clear from ArcelorMittal's annual reports that the level of disclosure of these non-compliances with environmental laws and permits to shareholders is low.

In his response to the *Full Disclosure* findings, ArcelorMittal's CEO, Paul O'Flaherty, says that "…it was never the intention of AMSA to deal with all the findings as contained in the NECERs in detail as part of the [company's Integrated Annual Reports / Sustainability Reports]". It is unclear why this should be the case. Mr O'Flaherty further states that "…the most pertinent compliance concerns, whether highlighted by the EMI or not, are highlighted in our Reports together with the necessary corrective actions".

The findings in Full Disclosure do not support this statement. For example, the 2012 NECER reported that a criminal investigation had been initiated against ArcelorMittal Vanderbijlpark in respect of non-compliances and ongoing incidents. In the 2013 NECER it was reported that this investigation was ongoing. The NECER reports also refer to criminal investigations at Vereeniging, most recently in 2014 when investigations were again said to be ongoing. ArcelorMittal does not mention these criminal investigations in its company reports.

In his response, Mr O'Flaherty makes the following statement:

> *It should be understood that the findings made by the DEA and other relevant government departments as part of the NECERs are based on the relevant government departments' own interpretations and opinions of the relevant legislation, which was never confirmed by an independent third party as part of subsequent legal processes. … AMSA is of the opinion that the company does not conduct any unlawful activities at any of the company's plants as referred to as part of the NECERs. Compliance with conditions contained in the various authorisations issued to the company does however remain a challenge …*

There is no environmental regulatory system in the world in terms of which a finding by an enforcement official must be "confirmed by an independent third party as part of subsequent legal processes." The Environmental Management Inspectors are empowered by the National Environmental Management Act to make findings of non-compliance where there are reasonable grounds for believing that there has been non-compliance with a provision of the law, or with a term or condition of a permit or authorisation. There are mechanisms for challenging these findings, but until such time as any challenge by the company has resulted in the finding being overturned, it remains a finding of unlawfulness.

ArcelorMittal's company reports themselves contradict the position set out in the company's response to *Full Disclosure.* It is clear that ArcelorMittal accepted many of the findings of unlawfulness by Environmental Management Inspectors. To give only a few examples, some operations ceased immediately as a result of the inspection findings, certain sites were reported by ArcelorMittal to have been operated without the necessary permits, and a R220 million dust extraction unit was installed at the Vereeniging Works to achieve "legal compliance with … a major directive emanating from the 2007 inspection by the Green Scorpions"

In relation to findings by the EMIs as to permits required by the company for the operation of the Vaal disposal site at the Vereeniging Works, the NECERs make clear that there was an ongoing legal dispute as to the correctness of this finding. Mr O'Flaherty references a legal opinion from Senior Counsel in terms of which ArcelorMittal's opinion that it did not require a permit in terms of section 20(1) of the Environment Conservation Act was confirmed.

ArcelorMittal's response also details legal reasons for the company's dispute of the EMI's findings that two further sites at the Vereeniging Works were operating without a required section 20 ECA permit.

In 2013 the Vaal Environmental Justice Alliance (VEJA), represented by the Centre for Environmental Rights, sought access, under the Promotion of Access to Information Act, to ArcelorMittal's Vanderbijlpark 'Environmental Master Plan' and the documentation relating to the closure of the Vaal Waste Disposal Site. After ArcelorMittal refused to disclose the documents, VEJA initiated proceedings to challenge this refusal and was successful in the South Gauteng High Court. ArcelorMittal's subsequent appeal to the Supreme Court of Appeal was unsuccessful and ArcelorMittal was directed by the Court to release the document. The court gave a strongly worded judgment in support of corporate transparency.

The Master Plan contains the results of pollution tests and specialist investigations covering a broad spectrum of environmental issues, including ground water, air

quality, surface water and environmental monitoring. The Integration Report of January 2003 (which forms part of the Master Plan) makes clear that, at the time that the Master Plan was prepared, there was already substantial pollution at the Vanderbijlpark plant, particularly groundwater and soil contamination by a range of contaminants including heavy metals.

It also recorded a “potentially unacceptable impact” on the surface water of the Rietkuilspruit via the Rietspruit canal. The report showed a “potentially unacceptable” risk to the environment and human health as these contaminants move through groundwater, with potential exposure through affected drinking water. The Report noted that the affected aquifers “can generally not be remediated to acceptable risk levels through technical measures, over the short and medium terms. Such measures will require flushing of the aquifers with ‘clean’ water and/or steam and will in any event take several decades to improve the situation significantly.”

It is important to note that the Master Plan was commissioned by ArcelorMittal, and community organisations have now started the arduous process of assessing the quality of the evidence provided by the Master Plan. Initial findings by expert and scientist at the Environmental Law Alliance Worldwide in the USA, Dr Mark Chernaik, are that, given that groundwater samples taken as part of the Master Plan reports showed detectable levels of cadmium, “cadmium toxicity should have been, but was not, a main focus of the investigation of groundwater contamination in the vicinity of AMSA”. Chronic exposure to very low levels of cadmium can cause renal dysfunction, including kidney failure. Residents of Steel Valley have long alleged significant health impacts from water pollution in the area.

On 20 March 2015, ArcelorMittal submitted a notification of contaminated land in respect of its Vanderbijlpark plant to the Department of Environmental Affairs in terms of section 36(5) of the National Environmental Management: Waste Act. Section 36(5) states that “an owner of land that is significantly contaminated, or a person who undertakes an activity that caused the land to be significantly contaminated, must notify the Minister or MEC of that contamination as soon as that person becomes aware of that contamination.”

The Department has acknowledged receipt of the notification and has required ArcelorMittal to conduct a site assessment in respect of the investigation area. ArcelorMital is required to submit a site assessment report and a remediation plan if the findings are that the area is contaminated, but no deadline for the submission of the reports has been given. ArcelorMittal’s Vanderbijlpark plant, which is now an “investigation area” in terms of the Waste Act, has been registered on the National Contaminated Land Register.

---

1. ArcelorMittal’s Environmental Policy, available at: http://southafrica.arcelormittal.com/Portals/0/Environmental%20Policy%20English.pdf

Company overview

ArcelorMittal is the largest steel producer in Africa and a member of the ArcelorMittal group,[1] which has steelmaking operations in more than 20 countries.[2] ArcelorMittal has over 9000 employees in South Africa[3] and operates facilities in Vanderbijlpark, Saldanha, Newcastle and Vereeniging.[4]

---

1. http://www.arcelormittalsa.com/Company/Overview.aspx (last accessed on 7 August 2015)
2. http://corporate.arcelormittal.com/who-we-are/at-a-glance (last accessed on 7 August 2015)
3. http://www.arcelormittalsa.com/Company/Overview.aspx (last accessed on 7 August 2015)
4. http://www.arcelormittalsa.com/Operations/Overview.aspx (last accessed on 7 August 2015)

Non-compliance with environmental laws as reported in the National Environmental Compliance and Enforcement Reports

ArcelorMittal operates at the following locations in South Africa:

- Vereeniging Works (Steel), Gauteng
- Vanderbijlpark Works (Steel), Gauteng
- Saldanha Works (Steel), Western Cape
- Newcastle Works (Steel), KwaZulu-Natal
- Coke and Chemicals operation, Pretoria, Gauteng

Department of Environmental Affairs' compliance monitoring and enforcement action

Vanderbijlpark		
NECER	**Significant Inspection Findings**	**Further Developments and Status of Enforcement Process**
2009[1]	The following findings were recorded at an inspection in November 2008: *Lack of waste permits for areas used for the temporary storage of sludge waste on a continuous basis. Lack of registration certificates for certain scheduled processes, including the re-heating furnaces and galvanising lines. Non-compliance with some conditions of ROD related to kilns 5 and 6. Five unauthorised activities for which section 24G rectification applications had been submitted. Environmentally harmful activities as a result of, inter alia, waste management practices, uncontrolled emissions (specifically linked to blast furnace C and coke battery no.1) and dust emissions due to moving vehicles and activities at the off-loading and storage areas.* It was also noted in the 2009 report that it had not been possible for inspectors to visit and assess compliance of all operations at the site due to the fact that 40% of the site was not operational as a result of the global economic crisis.	
2010	-	-
2011[2]	In a follow up inspection carried out on 23 – 27 August 2010 the following findings were made: *Failure to appoint an appropriately knowledgeable independent Environmental Control Officer for various technical processes for the duration of construction and commissioning. Failure to fulfil all information requirements in the amended EMP (submitted to the GDARD); as well as the failure to submit the amended EMI [sic] timeously. ArcelorMittal does not have a Section 20 (1) ECA Waste Disposal site Permit. Failure to notify the Department within 24 hours if any condition of this authorisation is not adhered to. Discharge of treated storm water that does not comply with the standards in the Water Use License.*	In the 2011 report it was noted (presumably in relation to the 2008 inspection) that: *Detailed representations were received from the facility dated 14 May 2009. In addition, the authorities were informed that ArcelorMittal has decided to shut down coke battery no. 1 as a result of the findings of the inspection.* Regarding the status of the enforcement process, it was stated that: *Report still undergoing vetting process.*
2012[3]	-	In the 2012 report, the following information was recorded regarding enforcement action: *Due to the consolidation of the facility's APPA permit by DEA, certain sections of the plant were not inspected during the follow-up inspection conducted by GDARD in August 2010 and a decision was made to delay further monitoring until after the AEL was issued (which has recently occurred). A criminal investigation has been recently initiated in respect of the non-compliances and ongoing incidents at the site.*
2013[4]	-	The update provided in the 2013 report was as follows: *Due to the consolidation of the facility's APPA permit by DEA, certain sections of the plant were not inspected during the follow-up inspection conducted by GDARD in August 2010 and a decision was made to delay further monitoring until after the AEL was issued (which has recently occurred). A pre-compliance notice was issued to Mittal Vanderbijlpark on 24 July 2012, regarding its non-compliance with conditions stipulated in its AEL which specifically related to the exceedances of particulate matter release limits. A final compliance notice in this regard was issued to Mittal Vanderbijlpark on 26 September 2013, which included an instruction to cease operations of certain facilities and its associated activities. On 9 February 2013 a fire occurred at the Vanderbijlpark plant which caused severe damage to three Basic Oxygen Furnaces (BOFs) in the steel making facility.*

		ARCELORMITTAL in February/March 2013, applied to the Minister for an exemption to operate its two electric arc furnaces for a period of three months while rebuilding the furnaces that recently burnt down. The matter was referred by the Minister to the Atmospheric Emission Licensing Authority, Sedibeng District Municipality. ARCELORMITTAL obtained an AEL application [sic] from the Sedibeng District Municipality. Repairs to the steel making facility have been completed and the three BOFs have been re-commissioned and are now fully operational.The issuance of the application and the conditions contained therein, as well as the information obtained during the ongoing criminal investigation will further inform the administrative enforcement process. Note: VEJA, represented by the CER, objected to ArcelorMittal's application for an exemption from the conditions of its AEL in order to run the EAFs, due in part to the insufficient public participation period.
2014	-	-

In a report by the non-profit organisation groundWork published in 2014, entitled 'Slow Poison: Air Pollution, Public Health and Failing Governance', further detail is provided on the above enforcement actions:

> *In September 2012, the corporation was forced to close down its electric arc furnaces (EAFs) at Vanderbijlpark because they failed to comply with air quality legislation. The Gauteng Department of Agriculture and Rural Development (GDARD) issued it with a compliance notice for contravening the terms of its AEL – by emitting more PM_{10} than allowed – and gave it thirty days to implement a dedusting solution. ArcelorMittal responded by closing down the plant's three EAFs. It said that completing a R230 million dust extraction system to abate emissions from the furnaces was 'too costly' and scrapped the project. Its appeal against the notice was unsuccessful but, because it closed the EAFs and complied with other requirements, the notice was withdrawn.*
>
> *In April 2013, following a major fire which forced the closure of the plant's Basic Oxygen Furnaces (BOFs) and remaining steel-making capacity, ArcelorMittal applied to vary its AEL so that it could operate its EAFs again. In fact, it sought to run them for three months while the BOFs were repaired without doing anything about emissions. It also argued that it should be exempt from having to conduct public consultation for this change in the AEL or, alternatively, that a period of seven days should be allowed. The Sedibeng District Municipality agreed to the abbreviated consultation. VEJA objected to: the reduced consultation which fell far short of the 'reasonable opportunity' prescribed by NEMAQA; the lack of adequate information to access the application; and to the proposed variation of the AEL. Nevertheless, the Municipality granted the application on the 9th of May 2013, and agreed to provide VEJA with the requested air quality monitoring reports. ArcelorMittal again shut down the EAFs on the 1st of July 2013. NECER 2012-2013 states that the issuance of the AEL application and its conditions, together with the ongoing criminal investigation, will further inform the administrative enforcement process.*[5]

Newcastle		
NECER	**Significant Inspection Findings**	**Further Developments and Status of Enforcement Process**
2009[6]	An inspection in September 2007 found 57 non-compliances which included: *Lack of adequate monitoring. Air emission exceedances. Unauthorised waste disposal sites. Inability to demonstrate compliance with certain conditions of the registration certificates due to a lack of monitoring. Non-compliance with a number of conditions of the waste permit, specifically in relation to monitoring and contradictions in audit findings. Contravention of certain conditions of the EIA authorisations. 36 of the non-compliances detected were in relation to the management of the two permitted H:H and GSB landfill sites. Unauthorised activity for which a section 24G rectification application had been submitted. Environmentally harmful activities that could be prevented/rehabilitated in terms of the NEMA duty of care; and Failure to report an emergency incident to the authorities.*	It was reported that, *ArcelorMittal responded comprehensively to the findings of the inspection and no enforcement action was taken.*
2010	-	-
2011[7]	Representations had been received on the 19th of June 2008 and a follow-up inspection was undertaken on the 23rd of February 2011 where the following findings were made: *Non-compliances to environmental authorizations conditions still continues. Significant air emissions from some operations on site. Potential ground and surface water as well as soil pollution from activities on site. Unauthorized waste disposal sites.*	The following was reported regarding the enforcement process: *Follow-up compliance inspection report being finalized, after which it will be vetted and an enforcement strategy developed.*
2012[8]	-	In the 2012 report, the following update was provided regarding the status of the enforcement process: *Based on the findings of the follow-up inspection, an enforcement strategy is being developed.*
2013[9]	-	The 2013 update was as follows: *Due to a number of authorisations issued to ArcelorMittal subsequent to the baseline inspection in 2007, a follow-up inspection was conducted in February 2013. An inspection report*

		detailing the findings of this inspection is still being finalised. Upon finalisation of the inspection report and the vetting thereof, an enforcement strategy will be drafted.
2014[10]		The above information was updated as follows in the 2014 report: *A further follow-up inspection was conducted during February 2013. An inspection report detailing the findings of this inspection has been finalised and issued to the facility. Representations were received in this regard, pursuant to which a notice in terms of section 31H of NEMA was issued to the facility in March 2014 in which additional information was requested.*

Vereeniging		
NECER	**Significant Inspection Findings**	**Further Developments and Status of Enforcement Process**
2009	-	-
2010	-	-
2011[11]	An inspection carried out in May 2007 made the following findings: *Continued dumping of hazardous waste on an unpermitted site, despite repeated instructions from authorities to cease such activity. Particulate emissions to air that cause, have caused or may cause significant and serious pollution of the environment. Significant and serious pollution of surface and groundwater with phenols, iron, oil, fluoride and other hazardous substances. Failure to lodge audit reports.* A follow-up inspection conducted in July 2010 by GDARD made the following findings: *ArcelorMittal Vereeniging stopped with all activities at Vaal dump site. ArcelorMittal submitted a rehabilitation plan to GDARD in January 2008 and re-submitted it again in March 2010 requesting approval. 99% of Magnetite was removed from the site. The magnetite was disposed of at Holfontein H:H landfill site and the disposal certificate has been submitted to the department and monthly progress reports were submitted to the department regarding the removal of magnetite from Vaal dump site.*	The following information was provided in the 2011 report, but presumably related to enforcement action from earlier years, as other actions were listed under the present year's enforcement status section: *Pre-notices were issued to ArcelorMittal by DEAT and Gauteng Inspectors: Gauteng Inspectors ordered ArcelorMittal to cease dumping hazardous waste on its Vaal Dump, and to submit a revised rehabilitation plan for this site. In October 2007, DEAT Inspectors ordered ArcelorMittal to implement a major dust emission control project within 18 months, and to submit proposals on interim measures to control fugitive dust emissions. The Inspectorate currently believes that ArcelorMittal has made every effort to comply with authorities' requirements, and will hold it to the timeframes set in the notices.* The following was also reported in the 2011 report regarding the status of the enforcement process: *DEA issued APPA section 12(2) final Notice [sic] in 2007 to implement a major dust emission control project within 18 months, and to submit proposals on interim measures to control fugitive dust emissions. GDARD issued compliance notice in terms of Section 31L of NEMA and directive in terms of Section 28(4) of NEMA in 2007 which instructed ArcelorMittal Vereeniging to cease dumping hazardous waste on its unlicensed Vaal Dump, and to submit a revised rehabilitation plan for this site. Dumping at the site ceased and GDARD approved the revised rehabilitation plan. ArcelorMittal Vereeniging has been informed that it must apply to DEA for a waste management license to close and rehabilitate the site.*
2012[12]	-	The following update was provided in the 2012 report: *ArcelorMittal has still not submitted an application to the DEA for the rehabilitation of the Vaal disposal site and there remains a dispute in relation to the legal interpretation and whether or not a licence is required. The NPA has requested the Department to undertake further investigation in relation to the criminal case.*
2013[13]	-	In the 2013 report, the following information was recorded: *ArcelorMittal has still not submitted an application to the DEA for the rehabilitation of the Vaal disposal site and there remains a dispute in relation to the legal interpretation and whether or not a waste management license is required. The NPA has requested the Department to undertake further investigation in relation to the criminal case. A follow-up inspection was conducted on 27-28 August 2012, an inspection report detailing the findings of the inspection is still being reviewed prior to finalisation. During the inspection, various documents were not provided to the EMIs upon request. On 13 November 2012, the DEA issued the facility with a letter, providing it with a final opportunity to provide all the information requested during the inspection. Some of the information requested was submitted and is being used to finalise the inspection report. The DEA however remains of the opinion that the Vaal disposal site requires a waste management license for the rehabilitation thereof and is awaiting the application. Upon finalisation of the inspection report, an enforcement strategy will be drafted and a decision with regards to the appropriate enforcement action will be made.*

2014[14]	In the 2014 report, the following findings were reported from the inspection which had been carried out in August 2012: *certain waste disposal sites were being operated without a section 20 ECA permit; non-compliance with the provisions of the NEMWA in respect of the storage and handling of waste and non-compliance with conditions of the waste management licence; effluent discharge limits in terms of a water use licence issued by DWA had been exceeded and unauthorised water uses were detected; non-compliance with conditions of APPA registration certificate; undertaking of certain listed activities without the necessary EA and where an EA was held, non-compliance with the conditions thereof; generally environmentally harmful activities, including irregular waste storage, exceeding of water limits stipulated in water permits, significant dust emissions, storm water management and potential soil and groundwater pollution.*	Much of the above was also repeated regarding the status of the enforcement process, with some additions: *During the inspection, various documents requested by the EMIs were not provided by the facility. In November 2012, DEA issued the facility with a letter, providing it with a final opportunity to provide all the information requested during the inspection. Some of this information was eventually submitted and an enforcement strategy is being developed including a decision with regards to the appropriate enforcement action, if any. The dispute in respect of the waste management license for rehabilitation remains unresolved. The Department's Directorate: Legal Services is currently in discussion with the facility in this regard. A criminal investigation is running parallel to the abovementioned administrative action. The criminal investigation was initially only related to the unlawful operation of a waste disposal site in terms of section 20 of ECA. The DPP North Gauteng declined to prosecute in respect of the ECA section 20 contravention but has requested that a further on-site investigation is undertaken so as to establish whether or not there has been other non-compliance, particularly in respect of section 28(14) of NEMA. This follow-up investigation is in the process of being conducted.* The following information was also provided: *a pre-directive in terms of 31A of ECA; and a pre-compliance notice in terms of section 31L NEMA* And: *During August 2013, and pursuant to corrective actions implemented by the facility following the notices above, DEA took a decision that no further administrative [sic] against the facility was necessary at the time as the issues and concerns raised had adequately been addressed. Criminal investigations are, however, ongoing.*

In a 2011 meeting of the Portfolio Committee on Water Affairs and Sanitation, Mr Lukey, Deputy Director General, Environmental Quality Planning, Department of Environmental Affairs, commented on the dust extraction system in Vereeniging. PMG (Parliamentary Monitoring Group) reported his submission as follows:

> *Operation Ferro targeted the iron and steel industries, and had resulted in two of the 'dirtiest' industries cleaning up. A dust extraction system was launched at Arcelor Mittal [sic] in Vereeniging, turning the plant, which had been polluting for 50 years, into a clean plant, while the Aspen Plant in Cato Ridge installed a dust extraction system that reduced the dust emissions by roughly 90%. These developments took place simply through proper compliance enforcement, although he did note that the Chief Executive Officer had to be threatened with imprisonment before agreeing to install the extractor.*[15]

It is unclear which Chief Executive Officer Mr Lukey was referring to.

Saldanha		
NECER	**Significant Inspection Findings**	**Further Developments and Status of Enforcement Process**
2009	-	-
2010[16]	An inspection in March 2009 resulted in the following findings: *Non-compliance with conditions of the APPA permits. Non-compliance with conditions of the ECA Section 20 permit. Operation of two waste storage areas without required authorisations. Groundwater pollution detected as a result of sewage. Non-reporting of emergency incidents.*	The following information was provided regarding the status of the enforcement process: *Representations from the facility were received in October 2009. Certain findings of non-compliance are disputed by the facility. Information received from the facility partially satisfies the Department that the issues and concerns identified during the inspection in relation to air and waste permit conditions have been and are being addressed. Measures have been implemented to address the issues pertaining to groundwater pollution due to the seepage of sewage from the conservancy. The Department will still decide on whether or not enforcement action against the facility is required.*
2011	-	-
2012	-	-
2013	-	-
2014	-	-

1. National Environmental Compliance and Enforcement Reports, 2008/2009 at p26 – 27.

2. National Environmental Compliance and Enforcement Reports, 2010/2011 at p44-45.
3. National Environmental Compliance and Enforcement Reports, 2011/20012 at p42.
4. National Environmental Compliance and Enforcement Reports, 2012/2013 at p42.
5. http://www.groundwork.org.za/specialreports/Slow%20Poison%20(2014)%20groundWork.pdf at p59-60.
6. National Environmental Compliance and Enforcement Report, 2008/2009 at p25.
7. National Environmental Compliance and Enforcement Report, 2010/2011 at p45-46.
8. National Environmental Compliance and Enforcement Report, 2011/2012 at p43.
9. National Environmental Compliance and Enforcement Report, 2012/2013 at p43.
10. National Environmental Compliance and Enforcement Report, 2013/2014 at p44.
11. National Environmental Compliance and Enforcement Report, 2010/2011 at p46-47.
12. National Environmental Compliance and Enforcement Report, 2011/2012 at p44.
13. National Environmental Compliance and Enforcement Report, 2012/2013 at p44.
14. National Environmental Compliance and Enforcement Report, 2013/2014 at p43.
15. http://pmg.org.za/report/20110125-adoption-all-outstanding-minutes-and-reports-briefing-verbal-report-d (last accessed on 7 August 2015).
16. National Environmental Compliance and Enforcement Report, 2009/2010 at p25-26.

ArcelorMittal South Africa Limited's disclosure of environmental non-compliances in annual reports

2008 company reports

The company stated the following in its 2008 Sustainability Report:

> *Last year we reported on the Green Scorpions' inspection of the Vereeniging-based Vaal waste disposal site in a joint audit with the inspectorates of DEAT, Gauteng Department of Agriculture, Conservation and Environment (GDACE) and the Sedibeng District Municipality, and the subsequent directive from GDACE to close and rehabilitate the site.*
>
> *Operations ceased immediately as directed and a revised rehabilitation plan submitted by the set deadline. Full rehabilitation of the site will commence as soon as approval of the plan is granted.*
>
> *We have removed the bulk of the magnetite ore that was previously stored at the site, having found a market for it in the cement industry. We are confident that the 30 June 2009 deadline set by the authorities for the total removal of the magnetite will be met.*
>
> *The Green Scorpions conducted a follow-up inspection of the site in April 2008, taking further samples as part of their investigation.*[1]

This report also states:

> *The following is an update on the audits and site visits that took place in 2008:*
>
> - *Vanderbijlpark Works: A site visit and audit was conducted by the Green Scorpions in November 2008. We are awaiting their report.*
> - *Saldanha Works: The visit by the Green Scorpions took place in March 2009.*
> - *Newcastle Works: In May 2008, we received the outcome of a September 2007 environmental inspection. The most significant finding was that the Blast Oxygen Furnace slag disposal site is operated without a permit. In our response, we committed to building a new, compliant disposal site. We are still awaiting feedback from the authorities to this proposal.*[2]

It was reported in the 2008 Annual Report that:

> *[A] special task force was established by ArcelorMittal South Africa in May 2008 to address the many environmental issues experienced in Vanderbijlpark and to prepare for a November 2008 inspection audit by the Green Scorpions. This made a significant contribution towards achieving greater environmental awareness throughout the Works. Simultaneously the company started interactions with local Vanderbijlpark communities as well as NGOs about our environmental legacy.*
>
> *…*
>
> *The Green Scorpions audit took place from 3 – 7 November 2008 and a final report is still awaited.*[3]

The 2008 Sustainability Report also states that:

> *In a coordinated action in May last year, various environmental NGOs, including the local Vaal Environmental Justice Alliance (VEJA), delivered a memorandum at the ArcelorMittal annual general meeting in Luxembourg. This detailed their concerns relating to air and water pollution.*[4]

2009 company reports

In the 2009 Annual Report non-compliances were reported as follows:

> *(T)he work done in completing the Vereeniging Works dust extraction unit sets out how we are going about cleaning up our environmental footprint. The project – which was commissioned in the fourth quarter of 2009 and cost in the region of R220 million – is already having a major impact on pollution levels in the area. It achieves legal compliance with one of the major directives emanating from the 2007 inspection by the Green Scorpions at Vereeniging Works. The other directive related to the Vaal Waste Disposal site. This site was closed and all the magnetite removed as directed. We are awaiting final approval of the site's rehabilitation plan from the Gauteng provincial government.*[5]
>
> *…*
>
> *The feedback to the Green Scorpions on environmental issues at Vanderbijlpark Works was finalised in May 2009. An analysis of the findings shows that the environmental risk of the Vanderbijlpark Works can be described as moderate.*
>
> *A Green Scorpions report following on their environmental inspection of Saldanha Works in March 2009 was received in September 2009. The company has asked for further clarifications from the Enforcement Directorate, but to date the potential impact of the findings on our business can be described as moderate.*[6]

And in the 2009 Sustainable Development report:

> *The Green Scorpions conducted an inspection of Saldanha Works during 2009 and we are already implementing a number of actions emanating from their ?ndings.*[7]
>
> *…*
>
> *Our plants are regularly visited by authorities who conduct audits to ensure that we are legally compliant with environmental legislation. The feedback and status on these visits is as follows:*
>
> - *Vanderbijlpark Works: As reported last year, the plant was inspected by the Green Scorpions in 2008. We have since received an inspection*

> *report which outlined several ?ndings, and have responded accordingly.*
>
> - *Saldanha Works: A Green Scorpions inspection was conducted at this plant on 10 and 11 March 2009 and the report received in September 2009. We have submitted our response to the initial ?ndings made.*[8]

The following are also "some of the major incidents" which occurred during the year:

> *On 2 May 2009, unstable conditions at Saldanha's Corex plant resulted in the opening of its emergency pressure release valve. The opening is associated with a significant release of dust/fumes and a noise similar to an explosion.*
>
> *On 26 May 2009, a "burn-through" occurred at the Corex plant in close proximity to the emergency tap hole. The liquid iron and slag that escaped came into contact with water pipes causing explosions that triggered further fire damage. Emissions of steam, dust and fumes were visible.*
>
> *On 28 May 2009 the bleeder of blast furnace C at Vanderbijlpark Works opened due to high-pressure conditions. The unstable conditions resulted in a fire at the furnace's hydraulic room causing the furnace to be taken out of operation. The incident also caused excessive dust and fume emissions.*[9]

2010 company reports

In the 2010 Annual Report the following information was recorded:

> *"(T)here were no serious findings from the various audits and site visits conducted by the environmental authorities. The report resulting from a Green Scorpion inspection conducted during August 2010 at Vanderbijlpark Works is not yet available. There were no significant environmental spills during the year and we were not issued with any fines or non-monetary sanctions for non-compliance with environmental laws and regulations. One incident was reported to the authorities in October 2010 in terms of section 30 of the National Environmental Management Act as a result of the uncontrolled release of emissions to atmosphere during an emergency situation at our Pretoria Works coke battery.*[10]
>
> *…*
>
> *Our production facilities are regularly visited by government environmental authorities and external standards organisations for site visit and audit purposes. The following summarises those visits conducted during the year:*
>
> - *Vereeniging Works: the Green Scorpions visited this site in July 2010 to conduct a follow-up inspection on the back of the directives issued to the company regarding air emissions and the closure of the Vaal Waste Disposal site. We have complied with both directives and await of?cial feedback on the visit.*
> - *Vanderbijlpark Works: the Green Scorpions conducted a full site inspection in August 2010. A full inspection was conducted in November 2008 and while we responded to the ?ndings, the report was never closed. The Green Scorpions indicated their intention to withdraw the original report due to the time lapsed and the fact that they had since employed new personnel who were unfamiliar with the site. This paved the way for the latest inspection. The report ?ndings have not been issued yet."*[11]

2011 company reports

In the 2011 Annual Report it was stated that:

> *Of?cial inspections conducted at our Newcastle Works and Pretoria Works by environmental management inspectors (Green Scorpions).*[12]

(In a table, "feedback and actions" are then displayed, but it is not clear which feedback or actions relate to the official inspection).

Environmental incidents were also reported on within the 2011 Sustainable Development report:

> *On 29 July 2011, a pipeline conveying effluent from the Cold Mills to the CETP was damaged by a contractor. The pipeline was under pressure and the spill could not immediately be contained. The effluent in the line contained Cr (III and VI) and Sn compounds, which potentially pose a risk to the environment. Due to the significant soil pollution that occurred over a large area of up to 700 m^2, the incident was reported in terms of section 30 of the National Environmental Management Act No 107 of 1998 to the relevant authority.*
>
> *By the third quarter of 2011, it became apparent that the Vanderbijlpark Works water treatment facility was no longer able to consistently maintain ZED standards, and plans were drawn up for necessary upgrades.*[13]

The following information (although not under the heading of 'environmental incidents') also appeared in the 2011 Sustainability Report:

> *Fugitive particulate emissions from our steel-making facilities at Vanderbijlpark and Saldanha Works have caught the attention of our stakeholders during 2011, and we are investigating possible solutions to such emissions.*
>
> *The tar distillation plant located at Vanderbijlpark has high VOC emissions (many are of a fugitive nature) and an action plan will be drawn up in 2012 to reduce such emissions.*[14]

And:

> *During the year, Pretoria Works experienced an increase in sulphate and chloride levels in its discharged effluent, due to high leachate volumes from the slag disposal sites. This was reported to the authorities. An internal investigation suggests the problem was caused by the excessively high rainfall in 2010 and 2011, which exposed slag reclamation areas. Towards the end of 2011, leaking municipal water pipes on the hill above the slag reclamation areas were detected, which could have added to the leachate problem. This situation is being monitored, as these events are unprecedented and never occur during the dry seasons.*[15]

This report also noted:

> *The Green Scorpions (Environmental Management Inspectorate) inspected the Newcastle plant in February 2011 – that report is not yet issued. This agency also inspected the Mooiplaats waste disposal site near Pretoria in August 2011, but we do not anticipate negative findings. The report resulting from a Green Scorpion inspection conducted during August 2010 at Vanderbijlpark Works is not yet available. We were not issued with any*

> *fines or non-monetary sanctions for non-compliance with environmental laws and regulations during 2011.*[16]

2012 company reports

In the 2012 Annual Report the following information was recorded:

> *In October a compliance notice was issued by the Gauteng Department of Agriculture and Rural Development (GDARD) to Vanderbijlpark to cease operations of the electric arc furnaces, coke batteries, sinter plant and foundry, based on ?ndings of non-compliance with the atmospheric emission licence conditions. GDARD withdrew the compliance notice at the end of February 2013 based on its ?ndings that Vanderbijlpark had shown suf?cient evidence of its compliance with the licence conditions that it was allegedly breaching.*[17]

In the 2012 Sustainability Report the following is stated:

> *Fugitive emissions at Vanderbijlpark and Saldanha Works were reported on in the previous integrated report and local community stakeholders raised the issue of visible sinter stack and electric arc furnace roof emissions at Vanderbijlpark Works during the year…*
>
> *Our Saldanha Works received complaints about windblown dust emissions from the stockyard and other facilities. Plans are in place to optimise and expand watering systems during 2013. Other complaints related to corex cast house fugitive emissions, meltshop roof emissions and dust from raw materials storage where further work is required. We investigate all such complaints as a matter of policy and provided feedback on these findings to our stakeholder communities.*[18]

And:

> *We also reported increased sulphate and chloride levels from our Pretoria Works during the previous financial year. Initial indications pointed to a higher-than average rainfall as the cause of the problem while further investigations revealed that leaking municipal pipes had also contributed to the sulphate and chloride spikes in the run-off from slag storage areas. Some pipes were repaired during the year and ongoing measurements indicate that the situation is improving. We will however, continue to monitor the situation and respond should the problem reoccur.*[19]

2013 company reports

In the 2013 Sustainability Report the following statement was made, which was repeated in the 2013 Annual Report:

> *A site audit conducted by the Green Scorpions at Vanderbijlpark Works during the year highlighted some areas of concern regarding air emissions. We also received some community complaints about fugitive emissions, mainly at Saldanha Works. We continue to investigate a range of projects to reduce air emissions. The need to implement these projects is necessarily balanced by the capital available to do so, and such projects will only be reported on as and when capital expenditure to implement them is approved.*[20]

The following was also reported in the 2013 Annual Report:

> *In 2013, we initiated the application process for our Atmospheric Emission Licences, which remain to be issued for Saldanha, Newcastle and our operations at Pretoria Works. Negotiations are currently underway regarding these authorisations, but it is a general area of concern that authorities may implement stricter standards than those prescribed in the Air Quality Act.*[21]

The company also noted the following in its 2013 Sustainability Report:

> *Unstable operations at our Vanderbijlpark Works have placed tremendous pressure on our water treatment facilities and on 21 November 2013 a discharge of effluent occurred. The discharge was contained within 10 hours to restore ZED status and the Department of Water Affairs was informed about the situation as per the Water Use Licence requirements.*[22]

2014 company reports

The company stated the following in its 2014 Annual Report:

> *Regrettably, Vanderbijlpark lost its ZED status after repeated discharges of process water into the stormwater collection system and water treatment capacity constraints during the year. This status was subsequently reinstated. An amount of R90 million was approved for effecting remedies with preliminary projections indicating that Vanderbijlpark's ZED status could be sustained during 2015.*
>
> *In February 2014 a leak of hydrochloric acid into the Leeuwspruit was detected at our Vanderbijlpark Works. The incident was promptly and fully reported to the authorities, all water discharges being immediately blocked and the affected stream thoroughly flushed with clarified Vaal Dam water. This incident was also investigated by the Green Scorpions, who made no further findings relating to the incident.*[23]

And:

> *Newcastle Works received a pre-compliance notice from the Department of Environmental Affairs (DEA). This notice relates not only to atmospheric emissions but also to water and stormwater management as well as waste management and alleged soil and groundwater pollution.*
>
> *Vereeniging Works received a Green Scorpions inspection report from the DEA relating to similar issues. In addition, a pre-compliance notice was issued to Vereeniging Works by the Gauteng Department of Agriculture and Rural Development in November 2014, which report related mostly to minor dust and spillage issues.*
>
> *In later 2014 the company received notification from the South African Human Rights Commission that an investigation had been launched regarding the 'gross violation of environmental laws and human rights by ArcelorMittal's operations in Vanderbijlpark'. This investigation was launched following the submission of a report, 'Steel at any cost' by the Bench Marks Foundation to the commission. A response was submitted in December. Discussions with the commission on their investigation were ongoing in early 2015.*[24]

In June 2015, AMSA published the 'External audit report in fulfilment of the waste management license for the decommissioning and remediation of the Klip waste site at Arcelormittal Vereeniging Works', which included the following findings:

> *Monitoring is not undertaken at all of the required boreholes as some of the boreholes have been damaged and are blocked…*
>
> *At the time of the audit it was reported that monitoring of organic elements commenced in 2014, however TOC was not monitored in the third quarter (November) of the 2014 reporting period. The sampling and analysis must be re-assessed in terms of the license and the required elements be monitored as required until an agreement is reached with the authorities to amend the condition…*
>
> *No gas monitoring is undertaken as required. An amendment application was submitted to remove this requirement, however until the amendment has been approved the condition is still in force. Monitoring should therefore proceed as required until the request is formally approved by the Department (WMCO, July 2015).*[25]

1. ArcelorMittal Sustainability Report 2008, at p18, available at: http://www.arcelormittalsa.com/InvestorRelations/2008/sustainability/downloads/mittal_sr_2008.pdf
2. ArcelorMittal Sustainability Report 2008, at p25, available at: http://www.arcelormittalsa.com/InvestorRelations/2008/sustainability/downloads/mittal_sr_2008.pdf
3. ArcelorMittal Annual Report 2008, at p26, available at: http://www.arcelormittalsa.com/InvestorRelations/2008/annual/downloads/mittal_ar_2008.pdf
4. ArcelorMittal Sustainability Report 2008, at p16, available at: http://www.arcelormittalsa.com/InvestorRelations/2008/sustainability/downloads/mittal_sr_2008.pdf
5. ArcelorMittal Annual Report 2009, at p17, available at: http://www.arcelormittalsa.com/MittalAr09/pdf/ArcelorMittalMainAR.pdf
6. ArcelorMittal Annual Report 2009, at p29, available at: http://www.arcelormittalsa.com/MittalAr09/pdf/ArcelorMittalMainAR.pdf
7. ArcelorMittal Sustainability Report 2009, at p9, available at: http://www.arcelormittalsa.com/UploadedFiles/ContentFiles/2009SustainablityReport.pdf
8. ArcelorMittal Sustainability Report 2009, at p58, available at: http://www.arcelormittalsa.com/UploadedFiles/ContentFiles/2009SustainablityReport.pdf
9. ArcelorMittal Sustainability Report, at p48, available at: http://arcelormittalsa.com/UploadedFiles/ContentFiles/2009SustainablityReport.pdf
10. ArcelorMittal Annual Report 2010, at p72, available at: http://www.arcelormittalsa.com/Portals/0/ArcelorMittal_full_Lo-res2.pdf
11. ArcelorMittal Annual Report 2010, at p75, available at: http://www.arcelormittalsa.com/Portals/0/ArcelorMittal_full_Lo-res2.pdf
12. ArcelorMittal Integrated Annual Report 2011, at p11, available at: http://www.arcelormittal-reports.com/reports/ar_2011/pdf/full.pdf
13. ArcelorMittal Sustainability Report 2011, at p23, available at: http://arcelormittalsa.com/Portals/0/Sustaintability%202011.pdf
14. ArcelorMittal Sustainability Report 2011, at p24, available at: http://www.arcelormittalsa.com/Portals/0/Sustaintability%202011.pdf
15. ArcelorMittal Sustainability Report 2011, at p25, available at: http://www.arcelormittalsa.com/Portals/0/Sustaintability%202011.pdf
16. ArcelorMittal Sustainability Report 2011, at p22, available at: http://www.arcelormittalsa.com/Portals/0/Sustaintability%202011.pdf
17. ArcelorMittal Integrated Annual Report 2012, at p16, available at: http://www.arcelormittal-reports.com/reports/ar_2012/integrated/pdf/full.pdf
18. ArcelorMittal Sustainability Report 2012, at p39, available at: http://www.arcelormittalsa.com/Portals/0/Sustainability%20report%202012.pdf
19. ArcelorMittal Sustainability Report, at p40, available at: http://www.arcelormittalsa.com/Portals/0/Sustainability%20report%202012.pdf
20. ArcelorMittal Sustainability Report 2013, at p54, available at: http://www.arcelormittalsa.com/Portals/0/0ndiu0ye_compressPdf.pdf
21. ArcelorMittal Integrated Annual Report 2009, at p64, available at: http://www.arcelormittal-reports.com/reports/ar_2013/integrated/pdf/full.pdf
22. ArcelorMittal Sustainability Report 2013, at p55, available at: http://www.arcelormittalsa.com/AMittal_Sustainability_Lo_Fixed.pdf
23. ArcelorMittal Integrated Annual Report 2014, at p55, available at: http://annualreport.arcelormittalsa.com/wp-content/uploads/2015/03/ArcelorMittal-2014-IAR.pdf
24. ArcelorMittal Integrated Annual Report 2014, at p55, available at: http://annualreport.arcelormittalsa.com/wp-content/uploads/2015/03/ArcelorMittal-2014-IAR.pdf
25. External Audit Report in fulfilment of the waste management licence for the decommissioning and remediation of the Klip waste site at ArcelorMittal Vereeniging Works, at p3, available at: http://www.arcelormittalsa.com/Portals/0/Klip%20Waste%20Site_External%20audit%20report_2015%20Final.pdf at p3

Environmental non-compliances reported by affected communities, the media, & NGOs

Community complaints reported in annual reports

ArcelorMittal's impacts on the environment have affected numerous communities. ArcelorMittal's 2010 Annual Report detailed the following environmental issues and requests which had been raised by communities during meetings with the company:

> *Greater involvement of community members in waste management projects for social upliftment. The recently launched Waste Act is unfortunately restrictive as even small waste-related projects require waste management licences, which in turn affects their ?nancial feasibility.*
>
> *Concerns regarding the state of the Leeuwspruit river in Boipatong. A partnership with provincial authorities and other stakeholders is currently being considered to get a proposal off the ground.*
>
> *Public participation exercises conducted as part of environmental impact assessment processes.*
>
> *Monitoring committees established as part of permit or other requirements.*
>
> *Monitoring forums established by national, provincial or local authorities, or a combination thereof.*[1]

News reports

News reports detail complaints made by members of local communities about the pollution caused by ArcelorMittal, including in relation to the contamination of groundwater and public health issues:

Sunday Independent article from 25 September 2009 entitled "Arcelor Mittal South Africa dismisses pollution claims"

> *On Thursday about 20 former residents of the valley gathered in a makeshift shed on Matsepe's property to recount their experiences to a group of international journalists and environmental activists.*
>
> *They spoke about how animals were born deformed and how tea would foam when they poured milk into it. Clothes would be bleached of their colors after washing; tins of food and even metal window frames would rust away.*
>
> *'My oldest daughter has three different kinds of cancer. All my children are sick, and what is really frightening is that my grandchildren are also sick. This is from, I believe, where we stayed,' said Joey Cock, 71.*[2]

Mail & Guardian article from 26 June 2015 entitled "Big business shrugs off health concerns"

> *Clasping her hands together, Molete says the factory has been there her whole life. "We have always had to live with the smoke from Mittal. You won't find many old people like me still walking around.*
>
> *…*
>
> *The worst smoke comes at night, when the asthmatic wakes up with a heavy chest, unable to breathe. "You open the door to try to get fresh air and there is just this smoke outside. You cannot escape."*
>
> *Her granddaughter, 30-year-old Semakaleng Molete, stops sweeping the dust from her gate to join the conversation. "We suffer because of that factory. It does what it wants and nobody is fighting for us."*[3]

Mail & Guardian article from 3 July 2015 entitled "Just admit it, corporate SA: You are killers"

> *Last week, I talked to people living downwind of the multinational ArcelorMittal plant in Vanderbijlpark. Last year the company made R220-million profit from its local operations.*
>
> *…*
>
> *In this area, chest problems are the norm. Everyone I spoke to either had them or a close family member did.*
>
> *Standing on a gravel road half a kilometre from the ArcelorMittal plant, a 60-year-old woman said she could hardly make it to the end of her street. Her cupboard is packed with asthma medication.*
>
> *Her granddaughter said her four-year-old son had such bad asthma that he regularly ends up in hospital. He cannot participate in sport and the communal activities that shape a healthy childhood. He gets to start life at a massive disadvantage, thanks to a quirk of birth.*[4]

Report by the Bench Marks Foundation

In a recent report produced by the non-profit Bench Marks Foundation, entitled 'Steel at any cost: A community voice perspective on the impacts of ArcelorMittal's operations in Vanderbijlpark, South Africa', attention is drawn to the pollution caused by ArcelorMittal and the illnesses suffered by those residing near manufacturing operations.[5] Having engaged with members of the local community, it was noted that the general feedback was that:-

> *Pollution by the company to the surrounding environment is rife. The people also said that efforts to deal with this by the company range from denial*

> *of responsibility to piecemeal solutions that do not adequately address the real issues affecting the ordinary people. Many families there were suffering illnesses, most of the time due to the dust emanating from the company and there is a lack of clean water in some communities.*[6]

Litigation

In 2013, the Vaal Environmental Justice Alliance, represented by the Centre for Environmental Rights, sought access to the Vanderbijlpark 'Environmental Master Plan' and the documentation relating to the closure of the Vaal Waste Disposal Site under the Promotion of Access to Information Act. ArcelorMittal refused to disclose the documents, stating in the company's 2013 Sustainable Development Report:-

> *The Environmental Master Plan was researched and written for internal purposes and dates back to 2002. The detailed results of an audit of this kind are a con?dential matter and we believe that this document must be viewed in this light. Furthermore, signi?cant changes in the environmental legislative framework recently introduced have led to more stringent environmental controls, thus rendering the Environmental Master Plan outdated and irrelevant. On this basis, combined with other arguments, we refused VEJA's request for access to the documentation.*[7]

VEJA initiated proceedings to challenge this refusal and was successful in the South Gauteng High Court. ArcelorMittal's subsequent appeal to the Supreme Court of Appeal was unsuccessful and ArcelorMittal was directed by the Court to release the document. The court gave a strongly worded judgment in support of corporate transparency, holding that:

> *Corporations operating within our borders, whether local or international, must be left in no doubt that in relation to the environment in circumstances such as those under discussion, there is no room for secrecy and that constitutional values will be enforced.*[8]

The Supreme Court also criticised ArcelorMittal's public assertions as to its commitment to stakeholder engagement, remarking that:

> *It is difficult to understand AM's accusation that VEJA is setting itself up as an alternative regulatory authority. It calls into question AM's stated commitment to collaborative corporate governance in relation to the environment, as well as its bona fides in resisting the request for information.*[9]

The Master Plan contains the results of pollution tests and specialist investigations covering a broad spectrum of environmental topics, including ground water, air quality, surface water and environmental monitoring.[10]

The Integration Report of January 2003 (which forms part of the Master Plan) makes clear that, at the time that the Master Plan was prepared, there was already substantial pollution at the Vanderbijlpark plant, particularly groundwater and soil contamination by a range of contaminants that include heavy metals.[11] It also recorded a "potentially unacceptable impact" on the surface water of the Rietkuilspruit via the Rietspruit canal.[12]

The report showed a "potentially unacceptable" risk to the environment and human health as these contaminants move through groundwater, with potential exposure through affected drinking water.[13] The Report noted that the affected aquifers "can generally not be remediated to acceptable risk levels through technical measures, over the short and medium terms. Such measures will require flushing of the aquifers with 'clean' water and/or steam and will in any event take several decades to improve the situation significantly".[14]

It is important to note that the Master Plan was commissioned by ArcelorMittal, and community organisations have now started the arduous process of assessing the quality of the evidence provided by the Master Plan. Initial findings by expert and scientist of Environmental Law Alliance Worldwide in the USA, Dr Mark Chernaik, have pointed out that, given that groundwater samples taken as part of the Master Plan reports showed detectable levels of cadmium, "cadmium toxicity should have been, but was not, a main focus of the investigation of groundwater contamination in the vicinity of AMSA". Chronic exposures to very low levels of cadmium can cause renal dysfunction, including kidney failure. Residents of Steel Valley have long alleged significant health impacts from water pollution in the area.

National Contaminated Land Register

On 20 March 2015, ArcelorMittal submitted a notification of contaminated land in respect of its Vanderbijlpark plant to the Department of Environmental Affairs in terms of section 36(5) of the National Environmental Management: Waste Act, 2008.[15] Section 36(5) states that "An owner of land that is significantly contaminated, or a person who undertakes an activity that caused the land to be significantly contaminated, must notify the Minister or MEC of that contamination as soon as that person becomes aware, of that contamination." The Department has acknowledged receipt of the notification and has required ArcelorMittal to conduct a site assessment in respect of the investigation area.[16] ArcelorMittal is required to submit a site assessment report and a remediation plan, if the findings are that the area is contaminated, but no deadline for the submission of the reports has been given. ArcelorMittal's Vanderbijlpark plant, which is now an investigation area in terms of the Waste Act, has been registered on the National Contaminated Land Register.[17]

---

1. ArcelorMittal Annual Report 2010, at p74, available at: http://www.arcelormittalsa.com/Portals/0/ArcelorMittal_full_Lo-res2.pdf
2. ArcelorMittal South Africa dismisses pollution claims, by Sapa-AP, Sunday Independent (South Africa), September 25th, 2009, available at http://www.corpwatch.org/article.php?id=15455
3. http://mg.co.za/article/2015-06-25-big-business-shrugs-off-health-concerns (last accessed on 7 August 2015).
4. http://mg.co.za/article/2015-07-02-just-admit-it-corporate-sa-you-are-killers (last accessed on 7 August 2015).
5. http://www.bench-marks.org.za/press/arcelor_mittal_report_nov2013.pdf
6. http://www.bench-marks.org.za/press/arcelor_mittal_report_nov2013.pdf at p26 - p27.
7. ArcelorMittal Sustainability Report 2013, at p52, available at: http://www.arcelormittalsa.com/Portals/0/0ndiu0ye_compressPdf.pdf
8. *Company Secretary of ArcelorMittal South Africa and Another v Vaal Environmental Justice Alliance*, paragraph 82, available at: http://cer.org.za/wp-content/uploads/2012/12/VEJA-v-AMSA-SCA-Judgment.pdf
9. *Company Secretary of ArcelorMittal South Africa and Another v Vaal Environmental Justice Alliance*, paragraph 53, available at: http://cer.org.za/wp-content/uploads/2012/12/VEJA-v-AMSA-SCA-Judgment.pdf
10. http://cer.org.za/news/steel-giants-environmental-records-exposed (last accessed on 7 August 2015).
11. Page 36 of the IVS Master Plan Integration Report. The Report (Pages 133 – 138 of the IVS Master Plan Integration Report) lists elevated levels of Ca, Mg, SO4, Cl, K, Na, NO3, F, Fe and Mn.
12. Page 138 of the IVS Master Plan Integration Report.
13. Pages 36 and 157 of the IVS Master Plan Integration Report.

14. Page 38 of the IVS Master Plan Integration Report.
15. ArcelorMittal South Africa Ltd Vanderbijlpark Works: Notification of Investigation Areas in terms of Section 36(5) of the National Environmental Management: Waste Act 59 of 2008
16. Acknowledgement of receipt of notification of investigation areas for ArcelorMittal Vanderbijlpark
17. The CER obtained an incomplete copy of the National Contaminated Land Register in response to a request for access to information submitted to the Department of Environmental Affairs in terms of the Promotion of Access to Information Act 2 of 2000.

ArcelorMittal South Africa Limited's response to the Full Disclosure findings

Each company assessed was given a month to respond to the *Full Disclosure* findings before we published our report.

See ArcelorMittal South Africa Limited's response at: http://cer.org.za/full-disclosure/company/arcelormittal-south-africa-limited?correspondence.

Major shareholders

The list of "beneficial shareholders with a holding greater than 5% of the issued shares" according to ArcelorMittal's 2014 Integrated Annual Report[1] are:

- ArcelorMittal Holdings AG
- VICVA Investments and Trading Nine (Pty) Ltd
- Investec Asset Management
- Industrial Development Corporation
- Government Employees Pension Fund
- Coronation Fund Managers

1. ArcelorMittal Integrated Annual Report 2014, at p94, available at: http://annualreport.arcelormittalsa.com/wp-content/uploads/2015/03/ArcelorMittal-2014-IAR.pdf

Membership of voluntary initiatives, accreditations and awards

JSE SRI	ArcelorMittal South Africa appeared on the SRI index every year from 2007 to 2014.
JSE SRI Best Performers	ArcelorMittal South Africa featured in the Best Performers category in 2009, 2010, 2011 and 2012.
Carbon Disclosure Project	ArcelorMittal South Africa has responded to the CDP on a number of occasions.
ISO 14001:2004	All South African operations have obtained ISO 14001:2004 certification.[1]
World Business Council for Sustainable Development	ArcelorMittal South Africa is a member of this group.
Cement Sustainability Initiative	Not applicable
Green Building Council of South Africa	ArcelorMittal South Africa is a member of the Council.
Global 100	ArcelorMittal South Africa does not appear in the Global 100.
United Nations Global Compact	The ArcelorMittal group is a participant in the UNGC.
International Council on Mining and Metals	ArcelorMittal South Africa is not a member of the ICMM.
Extractive Industries Transparency Initiative	The ArcelorMittal group is an EITI supporting company.
Cyanide Code	Not applicable

1. ArcelorMittal South Africa Sustainability Report 2013, at p66, available at: http://www.arcelormittalsa.com/Portals/0/0ndiu0ye_compressPdf.pdf

CEMENT

Sector Overview

The manufacture of cement involves a number of highly polluting activities, from the mining of raw materials such as limestone, to the use of extremely high temperatures to produce cement powder, and the waste products generated by this process. The vast global demand for cement means that the scale of these activities has serious environmental implications. The cement industry requires high energy consumption to mine, manufacture and transport cement. These activities result in the release of carbon dioxide, dioxins, NO?, SO? and particulates, all of which are dangerous air pollutants. The cement industry now also increasingly makes use of hazardous waste – including used solvents, spent tyres and sewerage sludge – as fuel for cement kilns.

Pretoria Portland Cement (PPC), Afrisam and Lafarge control the largest shares of the cement market in South Africa.[1] PPC is the only one of these three companies which features on the JSE SRI.

Primary legislation

National Environmental Management Act
National Environmental Management: Air Quality Act
National Environmental Management: Waste Act
National Water Act
Environment Conservation Act

Pursuant to these pieces of legislation, cement companies are required to obtain licences to carry out various regulated activities, including, inter alia, environmental authorisations, atmospheric emission licences, waste management licences and water use licences. The mining of limestone and other raw materials used in cement manufacturing also requires mining and associated licences, governed by the Mineral and Petroleum Resources Development Act.

Voluntary guidelines have also been published by the Cement Sustainability Initiative (CSI). The CSI is “a global effort by 24 major cement producers with operations in more than 100 countries who believe there is a strong business case for the pursuit of sustainable development”.[2] According to the CSI’s website, the purpose of the CSI is to:

> - *Explore what sustainable development means for the cement industry;*
> - *Identify actions and facilitate steps cement companies can take, individually and as a group, to accelerate progress toward sustainable development;*
> - *Provide a framework for other cement companies to become involved;*
> - *Create the content and context for further stakeholder engagement.*[3]

1. http://www.hypenica.com/about-us/news/item/105-south-african-cement-industry-shaping-up (last accessed on 7 August 2015).
2. http://www.wbcsdcement.org/index.php/about-csi (last accessed on 7 August 2015).
3. http://www.wbcsdcement.org/index.php/about-csi (last accessed on 7 August 2015).

PRETORIA PORTLAND CEMENT COMPANY LIMITED

Summary of findings and company response

PPC claims the following in its Environmental Policy:

> *In line with our environmental policy commitments, PPC is committed to environmental compliance across the group.*[1]

The National Environmental Compliance and Enforcement Reports show that a number of PPC's facilities were inspected by the Green Scorpions in 2008. Environmental Management Inspectors discovered multiple serious non-compliances with environmental laws and permits at all of the PPC facilities inspected. PPC made representations to the Department of Environmental Affairs in which it made commitments to address these non-compliances. However, it appears from subsequent NECER reports that follow-up inspections found that PPC had largely failed to implement the improvements, and that in many instances PPC was still committing the same breaches of environmental laws and permits that were discovered at the initial inspections.

In many instances, details of the findings by the Environmental Management Inspectors were not disclosed in PPC's reports to its shareholders.

PPC's 2008 Annual Report refers to the inspections carried out by the EMIs. The Annual Report states that the EMI's report for Riebeeck West had been received and "contained no major legal findings", despite the fact that the EMIs had in fact found 10 non-compliances with the company's permit in terms of the Environment Conservation Act, as well as "significant dust emissions emanating from various sources on site".

PPC's 2009 Annual Report claims that it is a "business objective" for the company to "meet all legislated emission level requirements and further reduce emissions". The report refers to the inspections carried out by EMIs at 6 plants in the reporting year, and states that "no non-conformance notices or clean-up directives were issued as a result of these visits". The Annual Report does not mention the fact that during the course of these inspections the EMIs found 56 non-compliances with environmental legislation and permits, and that the reason no directives or notices had been issued was due to the company's representations to the EMIs that massive capital expenditure was planned to improve the conditions that had led to the non-compliances.

In PPC's 2011 Annual Report it was again stated that no fines or directives had been received for South African operations. The Annual Report did not mention that follow-up inspections by the EMIs had found that most of the non-compliances which PPC had undertaken to address had not been rectified, and that the EMIs were in the process of finalising a decision on enforcement action.

PPC's 2012 Annual Report stated that "Slurry kiln 7 dust emissions remain a challenge, we are discussing options with the authorities". PPC's 2013 Annual Report again states that "Slurry kiln 7 dust emissions remain a challenge". PPC's annual reports do not mention that a follow-up inspection had taken place at this facility on 13 May 2010, at which the EMIs found that "[c]onditions of the APPA permit were still not being complied with. Dust was a significant problem across the site. PPC was unable to demonstrate the adequacy and efficiency of the dust abatement measures".

In his response to *Full Disclosure,* Darryll Castle, CEO, does not address the company's failure to disclose the findings of the Green Scorpion inspections in its annual reports.

Mr Castle provided information about PPC's "participation in the transition from the old Atmospheric Pollution Prevent [sic] Act regime to the National Environmental Management: Air Quality Act", stating that:

> *[o]ften this participation resulted in unintended consequences e.g. participation in the APPA review process resulted in PPC plants being immediately migrated to the 2015 emission limits in the then draft minimum emission standards …The result of this was that PPC, at some sites, was permitted into non-compliance at the time that Green Scorpion inspections were being conducted across the PPC group. The audit resulted in a number of findings against these permits including emission limits and stack heights. With substantial effort on the part of PPC, most of these issues were remedied.*

Mr Castle also provided information about PPC's waste permitting and water use licencing, as well as providing details and costs of upgrades to facilities aimed at improving emissions.

Mr Castle stated that "[o]ther improvements arising as a result of the Green Scorpion inspections were made at the following plants":

> - *Upgrades to stormwater management systems at Hercules and Riebeeck;*
> - *Improvements to management controls for waste at Riebeeck, De Hoek, Slurry and Dwaalboom;*
> - *Fugitive emission plans developed and implemented for all sites.*

Mr Castle's response ends with the statement, "We will continuously identify opportunities to continuously improve our environmental performance through our certified ISO 14001 management systems".

ISO 14001 (the current version being ISO 14001: 2004) sets out the criteria for an Environmental Management System. An Environmental Management System refers to the management of a company's environmental programmes in a comprehensive, systematic, planned and documented manner. ISO 14001 does not stipulate any requirements for environmental performance, but rather maps out a framework that companies can follow to set up and maintain an effective Environmental Management System.

Retention of ISO 14001 certification is therefore not an indication that a company is in compliance with environmental laws and permits, nor is it a substitute for reporting environmental non-compliance.

---

1. http://www.ppc.co.za/sustainability/environment.aspx#VPtabs1-html (last accessed on 7 August 2015).

Company overview

PPC is a South African company which, according to its website, is the leading supplier of cement in southern Africa. PPC operates in South Africa, Botswana,

Zimbabwe, Mozambique, Rwanda, Ethiopia and the Democratic Republic of the Congo. Within South Africa PPC operates seven cement plants, two quarries, one milling plant and one lime plant.

PPC's 2014 Annual Report states that its total number of employees in Africa is 3017 and that the total number employed in South Africa is 2202.[1]

---

1. PPC's 2014 Annual Integrated Report at p28, available at: http://www.ppc.co.za/documents/PPCIntegratedReportforWEB2014_Hi-Res.compressed.pdf

Non-compliance with environmental laws as reported in the National Environmental Compliance and Enforcement Reports

PPC has eleven facilities at the following locations:

- Hercules Cement Factory, Pretoria, Gauteng
- Jupiter Cement Factory, Johannesburg, Gauteng
- Port Elizabeth Cement Factory, Port Elizabeth, Eastern Cape
- Dwaalboom Cement Factory, Dwaalboom, Limpopo
- Slurry Cement Factory, Slurry, North West Province
- De Hoek Cement Factory, De Hoek, Western Cape
- Riebeeck Cement Factory, Riebeeck West, Western Cape
- Saldanha Milling Depot, Saldanha, Western Cape
- Lime Acres Lime Plant, Lime Acres, Northern Cape
- Laezonia Quarry, Gauteng
- Mooiplaas Quarry, Pretoria, Gauteng

Department of Environmental Affairs' compliance monitoring and enforcement action

Riebeeck West		
NECER	**Significant Inspection Findings**	**Further Developments and Status of Enforcement Process**
2009[1]	Following an inspection on the 27th of May 2008, a number of findings were made: *10 non-compliances relating to the company's permit in terms of the Environment Conservation Act, 1989. EMIs observed significant dust emissions emanating from various sources on site.*	The following information was also provided in the 2009 report: *The company has budgeted for its dust abatement equipment to be upgraded in the new financial year.The company has since reviewed its operating procedures and compiled plans to rectify and address these issues.*
2010[2]		The 2010 report provided the following update: *Follow-up inspection …undertaken…towards the end of the reporting period in order to compare the site conditions with the undertakings made in the representations responding to the inspection findings. The Department is in the process of finalizing a decision on whether to take enforcement action.*
2011[3]	As outlined in the 2011 report, representations in relation to the 2008 findings were received in October 2008 and a follow-up inspection was undertaken on the 3rd of December 2009.The principle findings were as follows: *The facility was still in the process of installing baghouse filters to address the air pollution issue from the mills. The study on measures to reduce the fugitive emissions on site was still underway. The facility had submitted requests for amendment of the waste management license conditions.*	The following information was also provided: *Enforcement Strategy developed. Warning letter to PPC Riebeeck West requesting further information and notice of referral. Matter referred to West Coast District Municipality ("WCDM") and Western Cape Department of Environmental Affairs and Development Planning ("DEADP") for further enforcement action.*
2012	-	-
2013	-	-
2014	-	-

Port Elizabeth		
NECER	**Significant Inspection Findings**	**Further Developments and Status of Enforcement Process**
2009[4]	An inspection held on the 27th of May 2008 made the following findings: *11 non-compliances. Excessive fugitive dust emissions.*	The status of the enforcement process was reported to be as follows: *The company advised that it has upgraded its ESP (Electrostatic Precipitator) in order to reduce the emissions emanating from the kiln stack and it has appointed a consultant to undertake an air quality investigation. Plans are in place to upgrade the dust abatement equipment at the raw mill stack.*
2010[5]		In the 2010 report, the following update is provided: *Follow-up inspection …undertaken…towards the end of the reporting period in order to compare the site conditions with the undertakings made in the representations responding to the inspection findings. The Department is in the process of finalizing a decision on whether to take enforcement action.*

2011[6]	As reported in the 2011 report, representations were received on the 22nd of December 2008 and a follow up inspection was undertaken on the 5th of October 2009. The principle findings were as follows: *Potential groundwater and surface water pollution from poor storm water management, storage of coal ash on unlined area. Requests submitted for amendment of the APPA permit to address the stack height. Fugitive emissions from the clinker collection area were still observed. Installation of the bag filters to replace the ESP was still in progress during the follow-up inspection.*	Further information was provided regarding the enforcement strategy: *Enforcement Strategy developed. Section 31A ECA & Section 28 NEMA pre-directive dated 5 October 2010 issued by DEA. The facility has provided a response and the Department found that the concerns were adequately addressed by the facility. A "spot inspection" will be conducted at the facility to confirm its compliance prior to making a final decision on whether or not to proceed with the directive.*
2012	-	-
2013	-	-
2014	-	-

De Hoek		
NECER	**Significant Inspection Findings**	**Further Developments and Status of Enforcement Process**
2009[7]	In the 2009 report it was recorded that: *EMIs detected 11 non-compliances which have since been addressed.* According to the 2011 report, these non-compliance findings were made following an inspection in July 2008.	The following was also reported in the 2009 report: *The company intends undertaking a R70-million project at the plant to improve air quality, reduce dust emissions and ensure the company complies with new environmental legislation. Old precipitators will be replaced with more efficient bag-filter technology. The project is expected to be completed in 2011.*
2010[8]	-	In the 2010 report it was stated that: *Follow-up inspection …undertaken…towards the end of the reporting period in order to compare the site conditions with the undertakings made in the representations responding to the inspection findings. The Department is in the process of finalizing a decision on whether to take enforcement action.*
2011[9]	Representations had been received on the 9th of December 2008 and a follow-up inspection was undertaken in December 2009. The following are the principle findings made at that inspection: *The non-compliances in relation to the section 20 ECA permit, which were listed in the initial inspection report, were not yet addressed. The facility had also not yet addressed the environmentally harmful activities listed in the initial inspection report. The facility still had to replace the Electrostatic Precipitators ("ESPs") with bag filters in order to reduce excessive emissions and a study to investigate the sources of fugitive emissions was still underway.*	In relation to the enforcement strategy the following information was also provided: *Enforcement Strategy developed. Warning letter dated 6 December 2010 requesting further information and notice of referral. Matter referred to West Coast District Municipality ("WCDM") and Western Cape Department of Environmental Affairs and Development Planning ("DEADP") for further enforcement action.*
2012	-	-
2013	-	-
2014	-	-

Slurry		
NECER	**Significant Inspection Findings**	**Further Developments and Status of Enforcement Process**
2009[10]	An inspection carried out on the 16th of July 2008 detected 14 non-compliances. It was recorded that alongside dust emission problems the company did not report certain incidents that had the potential to give rise to environmental and health risks to the authorities.	The 2009 report also contained the following statement: *The report has been recently issued to the company and representations are expected in the near future.*
2010[11]	-	The 2010 report provided the following update: *Follow-up inspection …undertaken…towards the end of the reporting period in order to compare the site conditions with the undertakings made in the representations responding to the inspection findings. The Department is in the process of finalizing a decision on whether to take enforcement action.*
2011[12]	Representations had been received on the 12th of August 2009 and a follow-up inspection had been undertaken on the 13th of May 2010. The following findings were made: *Conditions of the APPA permit were still not being complied with. Dust was still a significant problem across the site. PPC was unable to demonstrate the adequacy and efficacy of the dust abatement measures. Various issues pertaining to soil erosion at*	The following was stated regarding the enforcement process: *A warning letter was issued in November 2010 informing the facility that the matter has been referred to NWDACE:RD for enforcement action.*

	the landfill site were still outstanding.	
2012	-	-
2013	-	-
2014	-	-

Hercules		
NECER	**Significant Inspection Findings**	**Further Developments and Status of Enforcement Process**
2009[13]	It was recorded that 13 non-compliances had been detected on site, but the date of the inspection was not provided in this or subsequent reports. These non-compliances included the following: *Air pollution issues…were observed. EMIs found that the air quality monitoring as required by the SPL authorisation issued by the GDACE to be inadequate.*	In 2009 it was also recorded that: *GDACE is currently reviewing a section 24G application from the company for a dry mortar mixer plant in terms of the NEMA.*
2010	-	-
2011	-	-
2012	-	-
2013	-	-
2014	-	-

Dwaalboom		
NECER	**Significant Inspection Findings**	**Further Developments and Status of Enforcement Process**
2009[14]	It was recorded that "*all seven non-compliances have been rectified*", but the date of the inspection which found these non-compliances was not provided in this or other years' reports.	It was also stated that: *with regard to the dust problem on site, the facility has commissioned a study to identify all dust source points and to recommend mitigation measures.* The following statement was also made in the 2009 report in relation to each of the PPC operations which featured in the NECERs: *PPC, as a Group, has planned capital expenditure, subject to Board approval, for upgrades and expansion at all operations to improve dust emissions. Thus far, R40-million has been spent on improving environmental conditions at PPC's Slurry, Jupiter, Hercules and Port Elizabeth cement plants. Given the positive response received from the above facilities and management's willingness to come into compliance with environmental legislation, there was no need for stringent enforcement action following the initial inspections. The pressing air quality issues will be addressed by the new atmospheric emission licences and the license requirement of phased upgrading of air quality abatement equipment. It is encouraging to note that many of the above facilities have been proactive in this regard. Follow-up inspections will take place in the next financial year to confirm that the measures proposed have been effectively implemented. Where non-compliances are still being detected, enforcement action will follow.*
2010[15]		In the 2010 report, the following update is provided: *Follow-up inspection ...undertaken...towards the end of the reporting period in order to compare the site conditions with the undertakings made in the representations responding to the inspection findings. The Department is in the process of finalizing a decision on whether to take enforcement action.*
2011	-	-
2012	-	-
2013	-	-
2014	-	-

1. National Environmental Compliance and Enforcement Report 2008/2009, at p28.
2. National Environmental Compliance and Enforcement Report 2008/2009, at p27.

3. National Environmental Compliance and Enforcement Report 2008/2009, at p54.
4. National Environmental Compliance and Enforcement Report 2008/2009, at p28.
5. National Environmental Compliance and Enforcement Report 2009/2010, at p27.
6. National Environmental Compliance and Enforcement Report 2010/2011, at p54.
7. National Environmental Compliance and Enforcement Report 2008/2009, at p29.
8. National Environmental Compliance and Enforcement Report 2009/2010, at p27.
9. National Environmental Compliance and Enforcement Report 2010/2011, at p55.
10. National Environmental Compliance and Enforcement Report 2008/2009, at p29.
11. National Environmental Compliance and Enforcement Report 2009/2010, at p27.
12. National Environmental Compliance and Enforcement Report 2010/2011, at p55.
13. National Environmental Compliance and Enforcement Report 2008/2009, at p29.
14. National Environmental Compliance and Enforcement Report 2008/2009, at p28.
15. National Environmental Compliance and Enforcement Report 2009/2010, at p27.

Pretoria Portland Cement Company Limited's disclosure of environmental non-compliances in annual reports

PPC's annual reports mention the findings made in the National Environmental Compliance and Enforcement Reports to a limited extent. The level of disclosure is low considering the number of violations which the National Environmental Compliance and Enforcement Reports record at PPC operations and PPC's recurring failure to adhere to commitments made to the Department of Environmental Affairs.

2008 company reports

PPC's 2008 Annual Report stated that a number of its plants had been audited by the environmental management inspectors, presumably a reference to the inspections reported in the National Environmental Compliance and Enforcement Report.[1] It was also reported that, "(t)he Green Scorpions' report for PPC Riebeeck has been received and contained no major legal findings. Issues of concern in the report included the management of dust impacts and waste management at the PPC Riebeeck landfill."[2]

PPC's 2008 Annual Report also stated that during the 2008 reporting period the Jupiter operation had been issued with a directive in terms of section 31A[3] of the Environment Conservation Act and that PPC had responded to the provincial environment department's requirements for section 24G applications to be submitted for the Slurry and Dwaalboom operations, alongside the payment of R 120,000.00 in fines for both operations.[4]

This report also noted that there had been fires at the De Hoek and Dwaalboom facilities.[5]

2009 company reports

A "business objective" within the 2009 Annual Report was to "meet all legislated emission level requirements and further reduce emissions".[6] The CEO's report also stated that during the reporting year six plants had impromptu visits from the environmental management inspectors and that "no non-conformance notices or clean-up directives were issued as a result of these visits".[7] Considering the significant number of non-compliance findings set out in the National Environmental Compliance and Enforcement Reports, this statement is misleading.

There was also a statement in another section of the report that "external legal audits have identified a few areas of non-compliance, however management plans have been drawn up to address these areas of concern".[8] In terms of "Environmental compliance and incidents" it was stated in the Sustainability Report that there were no fines issued to PPC but an emergency incident report had been lodged with the Department of Water and Environmental Affairs during 2009.[9] It was explained that it had been discovered at the Slurry operation that about 3509 litres of diesel was unaccounted for in August and that the underground transporting pipes were leaking. It was also stated that "environmental non-conformances on site were managed through the ISO 14001:2004 /ASPASA EMS system".

2010 company reports

In the 2010 Annual Report it was stated that the Port Elizabeth plant had received correspondence from the environmental management inspectors requesting management plans to address fugitive emissions and raw material onsite.[10] It was also stated that no fines or directives had been received for the South African operations.[11]

2011 company reports

In the 2011 report it was again stated that no fines or directives had been received for South African operations.[12] The 2011 report fails to disclose that follow-up inspections by the environmental management inspectors had found that most of the non-compliances which PPC had undertaken to address had not been rectified, and that the Department of Environmental Affairs was at that time in the process of developing enforcement strategies.

2012 company reports

PPC's 2012 report stated that "PPC Riebeeck faced challenges in meeting permitted sulphur dioxide limits due to its plant technology and composition of the ore body. PPC completed extensive investigations and has approached the authorities to request an interim relaxation of limits pending the upgrade of this facility."[13]

It was also stated that, "Slurry kiln 7 dust emissions remain a challenge, we are discussing options with the authorities".[14] It was also stated that PPC Lime Acres had recently been audited by the environmental management inspectorate and it had been "recommended that PPC Lime Acres apply for a variation of its waste licence to ensure that all conditions are appropriate for the operation".[15] A variation application was reported to have been submitted.

2013 company reports

The 2013 report also stated that a section 30 incident[16] had been reported at PPC Riebeeck and that "Slurry kiln 7 dust emissions remain a challenge"[17](as had also been reported in the previous year's report). The section 30 incident related to a historical diesel tank spillage at PPC Riebeeck and it was stated that the Department of Environmental Affairs had issued a directive to address this and PPC was implementing recommendations from the directive.

It was also stated that the operations at Jupiter and Hercules had been inspected by the Gauteng Environmental Inspectorate to verify compliance against environmental permit conditions and the duty of care but that no reports had been received for those inspections.[18]

PPC's 2013 environmental review stated that PPC had "almost 70%" of water use licences issued by the Department of Water Affairs.[19] PPC was therefore presumably operating without 30% of required water use licences.

2014 company reports

PPC's 2014 Integrated Report listed the following "lowlights" from the year:

> *Given concerns on the performance of four emission points, we applied to postpone compliance timeframes for Dwaalboom kiln 1, PE kiln 4, De Hoek finishing mill 6 and Slurry kiln 7.*
>
> *Delays in issuing water-use licences and various regulatory amendments remain a challenge. PPC continues to engage with government officials to ensure successful outcomes.*
>
> *…*

> *We have been unable to achieve our goals in implementing energy management systems aligned to ISO 50001, due to resource constraints.*[20]

It was also reported that no environmental compliance directives had been received in South Africa over the year.[21] In an update on the company's lack of water use licences, it was stated that, "PPC has not received all integrated water-use licences".[22]

---

1. PPC's 2008 Annual Report at p70, available at: http://www.ppc.co.za/investors/financials/PPC%20Annual%20Report%202008.pdf
2. PPC's 2008 Annual Report at p70, available at: http://www.ppc.co.za/investors/financials/PPC%20Annual%20Report%202008.pdf
3. Section 31A gives public authorities such as the Minister or local authority the power to direct a person who performs any activity or fails to perform any activity as a result of which the environment is or may be seriously damaged, endangered or detrimentally affected, to cease such activity or to take steps deemed fit by the authority.
4. PPC's 2008 Annual Report at p71, available at: http://www.ppc.co.za/investors/financials/PPC%20Annual%20Report%202008.pdf
5. PPC's 2008 Annual Report at p71, available at: http://www.ppc.co.za/investors/financials/PPC%20Annual%20Report%202008.pdf
6. PPC's 2009 Annual Report at p1, available at: http://www.ppc.co.za/investors/financials/ar2009.pdf
7. PPC's 2009 Annual Report at p21, available at: http://www.ppc.co.za/investors/financials/ar2009.pdf
8. PPC's 2009 Annual Report at p64, available at: http://www.ppc.co.za/investors/financials/ar2009.pdf
9. PPC's 2009 Sustainability Report at p80, available at: http://www.ppc.co.za/investors/financials/sustainability2009.pdf
10. PPC's 2010 Integrated Annual Report at p74, available at: http://www.ppc.co.za/investors/financials/PPC_A_R%202010.pdf
11. PPC's 2010 Integrated Annual Report at p75, available at: http://www.ppc.co.za/investors/financials/PPC_A_R%202010.pdf
12. PPC's 2011 Integrated Annual Report at p64, available at: http://www.ppc.co.za/investors/financials/PPC_integrated_annual_report_2011.pdf
13. PPC's 2012 Integrated Annual Report at p66, available at: http://www.ppc.co.za/investors/financials/PPC%20Annual%20Integrated%20Report%20%202012%20Final%20Lo-Res.pdf
14. PPC's 2012 Integrated Annual Report at p66, available at: http://www.ppc.co.za/investors/financials/PPC%20Annual%20Integrated%20Report%20%202012%20Final%20Lo-Res.pdf
15. PPC's 2012 Integrated Annual Report at p75, available at: http://www.ppc.co.za/investors/financials/PPC%20Annual%20Integrated%20Report%20%202012%20Final%20Lo-Res.pdf
16. A Section 30 incident is an emergency incident with the potential to cause serious danger to the public or serious pollution or potential detriment to the environment, and must be immediately reported as per section 30 of the National Environmental Management Act.
17. PPC's 2013 Integrated Annual Report at p63, available at: http://www.ppc.co.za/media/61111/PPCAR013FORWEB2013small.pdf
18. PPC's 2013 Integrated Annual Report at p63, available at: http://www.ppc.co.za/media/61111/PPCAR013FORWEB2013small.pdf
19. PPC's Environmental Review for 2013, available at: http://ppc.investoreports.com/ppc_ar_2013/2013-performance-review/environmental-review/#
20. PPC's 2014 Integrated Report at p98, available at: http://www.ppc.co.za/documents/PPCIntegratedReportforWEB2014_Hi-Res.compressed.pdf
21. PPC's 2014 Integrated Report at p99, available at: http://www.ppc.co.za/documents/PPCIntegratedReportforWEB2014_Hi-Res.compressed.pdf
22. PPC's 2014 Integrated Report at p100, available at: http://www.ppc.co.za/documents/PPCIntegratedReportforWEB2014_Hi-Res.compressed.pdf

Environmental non-compliances reported by affected communities, the media, & NGOs

Many of the complaints regarding pollution by PPC relate to opposition by communities to the burning of waste for fuel. PPC was mentioned in the public hearings before the Parliamentary Portfolio Committee on Environmental Affairs and Tourism, held during November 2007 for the National Environmental Management Waste Bill [B39 – 2007].[1] The submission to the Portfolio Committee from a Ward Committee Member,[2] Tshwane, dealt with the health problems caused by PPC. He said that he had interviewed local physicians and that they had all attributed the high incidence of community health problems to PPC. He stated that people were being treated for lung and sinus problems, asthma and skin problems. He also stated that the Hercules community clinic saw 55,000 patients in 2006, which is double the Pretoria average, and that most of these patients attended due to respiratory related problems. He further reported that emissions were unacceptably high and that there was uncertainty about what emissions from burning waste would consist of. He also noted that PPC had not been responsive to the concerns of the community and the community lacked trust in PPC as it did not listen to the needs of the community.

In a newsletter of non-profit organisation groundWork from 2008, the following statement was made by an individual living beside a PPC operation:

> *I am a resident in the immediate PPC vicinity. Since living here over the past 20 years I increasingly began suffering more and more from chest problems. I am now a chronic asthma patient and am undergoing expensive medical treatment to be able to cope on a daily basis. I have witnessed people dying and suffering from chest complaints in the area, many of whom were children – young people – or in the prime of their life. I live in the flats directly opposite PPC – the buildings have black saturation markings all over. Plants and trees look wilted and pale and are struggling to survive in the area. How much more the suffering of the people? PPC's pollution is of such a serious nature that I believe that PPC could be challenged constitutionally for the suffering and discomfort that they cause.*[3]

Further media and other reports found online detail NGO and community opposition to the burning of tyres for fuel by PPC and other companies.[4]

In early 2015, the Department of Environmental Affairs granted PPC's application for postponement of its obligation to comply with new minimum emission standards for particulate matter under the National Environmental Management: Air Quality Act. The new standards would have been applicable from 1 April 2015, but PPC's exemption enables it to delay compliance until 2020.[5]

In response to a PAIA request submitted by the CER for records indicating the names of mines and industrial facilities in respect of which notices or directives under the National Water Act have been issued, the Department of Water & Sanitation responded with information which indicated that PPC was issued with a notice under the National Water Act on 30 January 2015.

---

1. http://pmg.org.za/minutes/20071120-national-nuclear-regulator-annual-report-200607-briefing-0 (last accessed on 7 August 2015).
2. Ward committee members are members of a community representing the interests of that community.
3. GroundWork Newsletter, Vol 10 No 4, December 2008, at p9, available at http://www.groundwork.org.za/newsletters/December%202008.pdf
4. http://www.srk.co.za/files/File/South-Africa/publicDocuments/NPC_Cimpor/App/7_Public_Participation/2_EIA_phase_PPP_material/2_media_coverage/7_315359_article_7_activists_sunday_paper_23_august_2010_cliffy_naidoo_20110202.pdf (last accessed on 7 August 2015).
5. http://www.dailymaverick.co.za/opinionista/2015-03-09-breathing-space-for-polluters-but-what-about-public-health/#.VV23ofmqqko and https://www.environment.gov.za/sites/default/files/docs/airqualitymanagement_postponementapplications.pdf (last accessed on 7 August 2015).

Pretoria Portland Cement Company Limited's response to the Full Disclosure findings

Each company assessed was given a month to respond to the *Full Disclosure* findings before we published our report.

See Pretoria Portland Cement Company Limited's response at: http://cer.org.za/full-disclosure/company/pretoria-portland-cement?correspondence.

Major shareholders

PPC's 2014 Annual Report[1] provides the following names under the title of 'Beneficial Shareholders holding 3% or more':

- Government Employees Pension Fund
- PPC SBP Consortium Funding SPV (Pty) Limited
- PPC Masakhane Employee Share Trust
- Foord Balanced Fund

1. Appendices to PPC's 2014 Annual Integrated Report at p131, available at: http://ppc.investoreports.com/iar2014/download/financials.pdf

Membership of voluntary initiatives, accreditations and awards

JSE SRI	PPC appeared on the SRI index every year from 2004 to 2014, with the exception of 2005.
JSE SRI Best Performers	PPC featured in the Best Performers category in 2009, 2010, 2011 and 2012.
Carbon Disclosure Project	PPC has responded to the CDP on a number of occasions.
ISO 14001:2004	PPC states that its operations have ISO 14001:2004 certification.
World Business Council for Sustainable Development	PPC is not a member of the WBCSD.
Cement Sustainability Initiative	PPC is not a member of the CSI.
Green Building Council of South Africa	PPC is a member of the GBCSA.
Global 100	PPC does not appear in the Global 100.
United Nations Global Compact	PPC is not a participant in the UNGC.
International Council on Mining and Metals	PPC is not a member of the ICMM.
Extractive Industries Transparency Initiative	PPC is not an EITI supporting company.
Cyanide Code	Not applicable

MINING

Sector Overview

Mining has wide-ranging and severe impacts on the environment, including contamination of soil, groundwater and surface water by chemicals used in the mining process, loss of biodiversity,[1] air pollution and the creation of large amounts of waste. In South Africa, unrehabilitated mines and acid mine drainage are particular problems. These environmental issues can have harmful effects on human health.[2]

The mining sector accounts directly for 8.3% GDP[3] and "total industry employment" was put at 493,000 by the Minister for Mineral Resources in 2015.[4]

Primary Legislation

National Environmental Management Act
National Environmental Management: Air Quality Act
National Environmental Management: Waste Act
National Water Act
Mineral and Petroleum Resources Development Act
National Heritage Resources Act
Environment Conservation Act

Pursuant to these pieces of legislation, companies are required to have licences relating to the relevant activities under the Acts. Minimum emission standards were published in Government Notice No. 248 in 2010.[5] Licences granted to companies under the National Environmental Management: Air Quality Act must at least incorporate these standards and deadlines were introduced for meeting those standards.

---

1. http://www.foeeurope.org/sites/default/files/publications/FoEE_Blessing_or_curse_mining_impacts_1007.pdf (last accessed on 7 August 2015).
2. *Human Health and Environmental Damages from Mining and Mineral Processing Wastes*, published by the Office of Solid Waste, U.S. Environmental Protection Agency, December 1995, at page 1
3. http://www.tradingeconomics.com/south-africa/gdp-growth-annual (last accessed on 7 August 2015).
4. http://www.gov.za/speeches/minister-ngoako-abel-ramatlhodi-occasion-budget-vote-29-7-may-2015-0000 (last accessed on 7 August 2015).
5. https://www.environment.gov.za/sites/default/files/gazetted_notices/nemaqa_listofactivities_g33064gon248.pdf

Summary of findings and company response

ARM describes its Environmental Policy as follows:

> *Environmental responsibility is a core part of our commitment to zero harm and to upholding the principles of responsible mining as members of the ICMM. Our ethical approach to environmental considerations reduces the risk of negative impacts on our host communities. It also builds trust in our relationships with Government, labour and Non-Governmental Organisations (NGOs) which are crucial in maintaining our social licence to operate.*[1]

The findings in *Full Disclosure,* as well as ARM's response to those findings, cast doubt on the claims made in the company's environmental policy.

ARM failed to respond to questions about the extremely concerning number of applications made by the company for ex post facto authorisation of illegally commenced activities. Over a four year period, ARM paid fines for commencing listed activities without environmental authorisation on at least 7 occasions. The purpose of environmental authorisation, and the environmental impact assessments which it requires, is to ensure that impacts are assessed, avoided or mitigated, before the activities are undertaken. Authorisation also sets conditions around how an activity must be undertaken, and contraventions of those conditions are criminal offences. Commencing with a listed activity without environmental authorisation is also a criminal offence.

The multiple instances in which ARM has failed to apply for environmental authorisation before commencing with listed activities indicate a serious disregard for South Africa's environmental laws.

Full Disclosure reveals that ARM inadequately discloses information about environmental non-compliances to its shareholders. In response, Mike Schmidt, ARM's CEO, responded to our findings as follows:

> *We [ARM] can only assume that the CER's intention behind its generation of the baseline assessment … is in order to inform the public in relation to the content of the sources reviewed and to offer the CER's view on performance considerations. We make this point because, as we understand it, the CER's intention is not to substitute itself for the Department of Environment Affairs Environmental Management Inspectorate ("EMI"). As you are aware it is the EMI that has primary responsibility to determine matters of performance …management is a dynamic process and it is very difficult to make a definitive statement on environmental performance based on mere observation and reporting that may have been generated some time in the past.*

The argument that civil society must not "substitute itself" for the State in relation to environmental protection has been thoroughly debunked by South Africa's courts. The Constitutional Court has clearly stated that the participation of public interest groups is vital for the protection of the environment.[2] The Gauteng High Court has stated that civil society organisations and "like-minded individuals must be encouraged to exercise a watch-dog role in the preservation and rehabilitation of our environment".[3]

In response to a similar accusation by ArcelorMittal South Africa against the Vaal Environmental Justice Alliance (VEJA), the Supreme Court of Appeal held that:

> *…it is difficult to understand [ArcelorMittal's] accusation that VEJA is setting itself up as an alternative regulatory authority. It calls into question [ArcelorMittal's] stated commitment to collaborative corporate governance in relation to the environment.*[4]

Similarly, Mr Schmidt's comments in this regard call into question the company's claim that it's "ethical approach to environmental considerations … builds trust in our relationships with Government, labour and Non-Governmental Organisations (NGOs) which are crucial in maintaining our social licence to operate".

Mr Schmidt also stated in his response that:

> *…if the report is simply taken at face value and in isolation from the interactions and correspondence that may have surrounded the compilation of the report, then there is the danger that the information relied upon may be incorrect or incorrectly interpreted.*

It is self-evident that, if the information that is publicly available is incorrect or may be incorrectly interpreted, the onus is on the company to make sure that sufficient further information is publicly available to correct any such inaccuracies.

Mr Schmidt states that in relation to ARM's Assmang Cato Ridge facility, the findings by Environmental Management Inspectors "do not, in and of themselves, reveal environmental non-performance".

Firstly, it is important to note that *Full Disclosure* does not deal with environmental "non-performance". Environmental performance is an internal benchmark managed differently by each company. *Full Disclosure* is an assessment of environmental non-compliance, i.e. non-compliance with the law. The findings of the Environmental Management Inspectors at Assmang Cato Ridge included "significant uncontrolled dust emissons, containing heavy metal manganese", "serious non-compliance with a hazardous waste site permit", and "at least one unpermitted waste site". It is self-evident that these findings are findings of legal non-compliance.

Mr Schmidt questions the CER's authority to make "definitive statements" based on the review of source documentation and asks us to:

> *bear in mind that when the EMI is dealing with compliance issues, its practice is to engage with the entity that has committed the alleged non-compliance. This interaction permits the EMI to develop a nuanced understanding of a situation. Such nuances are difficult to express and, therefore, usually absent from reporting on the alleged non-compliance.*

On this basis Mr Schmidt submits that "…there are a number of issues raised in the CER's letter that are simply incorrect."

This approach reflects both the serious problems with the Department of Environmental Affairs' approach to compliance monitoring and enforcement (for more information please see *Enforcing the Law: the challenges undermining environmental compliance monitoring and enforcement in South Africa*), as well as the common and very problematic attitude amongst much of South Africa's private sector that compliance with environmental laws is "nuanced" and a "process", rather than a state in which all applicable environmental legal requirements are in fact fulfilled. Environmental performance, such as reduction of water use, energy efficiency, etc. may be a process, monitored and managed by each company individually. Environmental compliance, on the other hand, is a pre-requisite for lawful conduct of operations.

Whilst improving environmental performance is a laudable aspiration for the future, complying with the law is, by definition, obligatory, not just in the future, but at all times. An investor may be forgiven for assuming, in the absence of information provided to the contrary, that such compliance may be taken as read, and that improving environmental performance happens over and above baseline legal compliance. The failure to distinguish between the two, coupled with the attitude espoused by many of the assessed companies that environmental compliance is a matter of "negotiation" between a company and the regulator, is a fundamental problem with corporate environmental management in South Africa.

Mr Schmidt raises in his letter that:

> *…much of mining's environmental impact dates from a time when the actions which caused the impact were perfectly legal and continued to be so for many decades". He suggests that, were the CER "…to take note of the history of South Africa's mining industry in its work" this would "bring greater subtlety to how the CER deals with mining's impact …*

None of the non-compliance issues identified in *Full Disclosure*, in relation to ARM, were "legacy" issues. They were all non-compliances with current environmental laws applicable and relevant to ARM's operations over the period 2008 – 2014.

Finally, Mr Schmidt refers to *Full Disclosure's* reporting of community, NGO and media references to environmental problems associated with ARM. He states that information from these sources is "at best, anecdotal and possibly hearsay and we question the value of such information in the manner it has been used by the CER".

The Department of Mineral Resources and the Department of Water and Sanitation are responsible for compliance monitoring and enforcement of environmental and water laws by mining companies. Thus far, unlike the Department of Environmental Affairs, neither department has published any information on its compliance monitoring and enforcement action. Both Departments however, in answers to Parliamentary Questions, insist that many inspections take place, many directives and compliance notices are issued, and many criminal prosecutions are instituted.

ARM does not refer to any Department of Mineral Resources or Department of Water Affairs compliance inspections and findings at its operations in its shareholder reporting. The fact that the Departments charged with regulating the mining sector do not publicise non-compliance findings or enforcement action means that it is impossible to know whether or not the level of disclosure on environmental non-compliances by mining companies in their annual reports is accurate or complete.

---

1. ARM 2013 Sustainability Report, at p107, available at: http://arm.integrated-report.com/2013/download/ARM-SD13.pdf
2. *Biowatch Trust v Registrar of Genetic Resources and Others* 2009 (6) 232 (CC), at para19, available at: http://www.saflii.org/za/cases/ZACC/2009/14.pdf
3. Unreported matter of *Vaal Environmental Justice Alliance v Company Secretary of Arcelormittal and another* (South Gauteng High Court, case number 39646/12, 10 September 2013), at para16, available at: http://cer.org.za/virtual-library/judgements/vaal-environmental-justice-alliance-v-company-secretary-arcelormittal-sa
4. Unreported matter of *Vaal Environmental Justice Alliance v Company Secretary of Arcelormittal and another* (South Gauteng High Court, case number 39646/12, 10 September 2013), at para53, available at: http://cer.org.za/virtual-library/judgements/vaal-environmental-justice-alliance-v-company-secretary-arcelormittal-sa

Company overview

ARM is a diversified mining and minerals company which mines iron ore, manganese ore and alloys, chrome ore and alloys, platinum group metals, copper, nickel and coal. ARM operates in a number of locations throughout South Africa through its subsidiaries (ARM Platinum, ARM Coal and ARM Ferrous, which in turn have various proportions of shares in a number of companies) and employs 14,066 people.[1]

ARM has interests in the following operations in South Africa:[2]

- Beeshoek Iron Ore Mine, Northern Cape: ARM Ferrous has a 50% stake in Assmang, which owns 100% of Beeshok.
- Khumani Iron Ore Mine, Northern Cape: ARM Ferrous has a 50% stake in Assmang, which owns 100% of Khumani.
- Nchwaning Manganese Mine, Northern Cape: ARM Ferrous has a 50% stake in Assmang, which owns 100% of Nchwaning.
- Gloria Manganese Mine, Northern Cape: ARM Ferrous has a 50% stake in Assmang, which owns 100% of Gloria.
- Kalplats PGM Exploration Project, North West: ARM Platinum and Platinum Australia.
- Goedgevonden Coal Mine, Mpumalanga: owned in varying share amounts by ARM, ARM Coal and Xstrata.
- 'Participating Coal Business', Mpumalanga: owned in varying share amounts by ARM, ARM Coal and Xstrata.
- Modikwa Platinum Mine, Limpopo: 41.5% ARM Platinum, 8.5% local communities and 50% Anglo Platinum.
- Dwarsrivier Chrome Mine, Mpumalanga: ARM Ferrous has a 50% stake in Assmang, which owns 100% of Dwarsriver. In June 2015, ARM concluded an agreement for the disposal of its interest in Dwarsriver to Assore Limited.[3]
- Two Rivers Platinum Mine, Mpumalanga: 55% ARM Platinum and 45% Implats.
- Machadodorp Ferromanganese and Ferrochrome Works, Mpumalanga: ARM Ferrous has a 50% stake in Assmang, which owns 100% of Machadodorp.
- Nkomati Nickel and Chrome Mine, Mpumalanga: 50% ARM Platinum and 50% Norilsk Nickel Africa.
- Cato Ridge Ferromanganese Works, KwaZulu-Natal: ARM Ferrous has a 50% stake in Assmang, which owns 100% of Cato Ridge.
- Black Rock Manganese Mine: this mine is jointly managed by ARM and Assore.[4]

ARM also holds 14.62% of the shares in Harmony Gold.[5]

---

1. ARM Integrated Annual Report 2014, at p22, available at: http://www.arm.co.za/im/r_annual.php
2. http://www.arm.co.za/b/b_i.php (last accessed on 7 August 2015).
3. http://www.arm.co.za/im/press_display.php?id=2015/25jun15 (last accessed on 7 August 2015).
4. http://www.mining-technology.com/news/newsafrican-rainbow-minerals-looks-cut-jobs-black-rock-manganese-mine-4533963 (last accessed on 7 August 2015).
5. https://www.harmony.co.za/investors/share-trading/shareholder-analysis?highlight=YTo2OntpOjA7czo3OiJhZnJpY2FuIjtpOjE7czo3OiJyYWluYm93IjtpOjI7czo4OiJtaW5lcmFscyI7aTozO3M6MTU6ImFmcmljYW4gcmFpbmJvdyI7aTo0O3M6MjQ6ImFmcmljYW4gcmFpbmJvdyBtaW5lcmFscyI7aTo1O3M6MTY6InJhaW5ib3cgbWluZXJhbHMiO30 (last accessed on 7 August 2015).

Non-compliance with environmental laws as reported in the National Environmental Compliance and Enforcement Reports

ARM's mining operations do not feature in the National Environmental Compliance and Enforcement Reports. However, as the Department of Environmental Affairs' Environmental Management Inspectors do not have jurisdiction over the environmental or water impacts of mining, this does not mean that the company has not been subject to compliance monitoring and/or enforcement action. The Department of Mineral Resources and the Department of Water and Sanitation are responsible for compliance monitoring and enforcement of environmental and water laws by mining companies. Unlike the Department of Environmental Affairs, thus far neither department has published any information on its compliance monitoring and enforcement action. Both Departments however, in answers to Parliamentary Questions, insist that many inspections take place, many directives and compliance notices are issued, and many criminal prosecutions are instituted.

With a few minor exceptions, the mining companies assessed in *Full Disclosure* did not refer to compliance monitoring inspections by the Department of Mineral Resources or Department of Water and Sanitation in their shareholder reporting.

The fact that the Departments charged with regulating the sector do not publicise non-compliance findings or enforcement action means that it is impossible to know whether or not the level of disclosure on environmental and water non-compliances by mining companies in their annual reports is accurate.

For more information please see *Enforcing the Law: the challenges undermining environmental compliance monitoring and enforcement in South Africa*.

However, ARM non-mining facilities - the ferro manganese smelter at Cato Ridge and the ferroalloy smelter at Machadodorp - do feature in the National Environmental Compliance and Enforcement Reports.

Department of Environmental Affairs' compliance monitoring and enforcement action

Assmang Cato Ridge, KwaZulu Natal		
NECER	**Significant Inspection Findings**	**Further Developments and Status of Enforcement Process**
2009	-	-
2010	-	-
2011[1]	An inspection was carried out in February 2007 and the following findings were noted in the 2011 report: *Significant uncontrolled dust emissions, containing heavy metal manganese. Serious non-compliance with a hazardous waste site permit. At least one unpermitted hazardous waste site.*	Regarding the enforcement process the following information was provided: *Notice of intention to issue a notice in terms of section 12(2) of APPA was served on the facility in 2007, in relation to exceedances of fugitive emissions (dust and fumes) as well as non-compliance to the APPA permit conditions. A notice of intention to suspend the class H:H permit due to Assmang's failure to comply with the waste permit conditions to operate a H:H disposal site in terms of section 20(1) of ECA was also issued in 2007. Notice of intention to issue a directive in terms of section 28(4) of NEMA, dated October 2007, due to Assmang's failure to comply with its general duty of care, to prevent air pollution, promote a healthy working environment for employees & prevent soil & water contamination. Following a review of the representations submitted by the facility in response to the above mentioned enforcement tools, the Department responded as follows:* • *A notice in terms of section 12(2) of APPA, dated 1 April 2008, was issued to the facility.* • *A decision on 6 March 2008 not to suspend the class H:H permit issued by DWAF, provided that certain conditions were strictly adhered to.* • *An enforcement letter, dated 6 March 2008, informing the facility that the decision on whether or not to issue a Section 28(4) directive had been postponed, provided that the facility strictly adhered to the specific conditions contained in the letter.* • *Assmang then sent a request letter, dated 15 December 2009, to the Department to amend a condition contained in the Department's letter, dated 6 March 2008.* • *After reviewing all the available information the Department responded with a letter, dated 10 March 2010, effecting the amendment provided that the facility adhered to certain conditions.* • *Due to the continuous nature of the conditions contained in the above mentioned documents, the Department, through quarterly meetings, is in a process of monitoring the facility's movement towards compliance with all environmental legislation.*
2012[2]		The following update was provided:

		During this financial year (for previous action taken refer to previous reports), Assmang was issued with a WML for the construction of a new slag dump facility, as well as a WML for the capping and closure of the old "historical" slag dump. In a letter dated 27 January 2012, Assmang requested an extension of time to comply with certain conditions contained in the notices and directives issued by the DEA, which was granted. Due to the continuous nature of the conditions contained in the above mentioned documents, the DEA, through quarterly meetings, is in a process of monitoring the facility's compliance with environmental legislation.
2013[3]	A follow-up inspection had been held in February 2013 which focused on the waste management licences issued to the facility.	The following was reported regarding the enforcement process: *During this financial year (for previous action taken refer to previous reports), Assmang was issued with a WML for the construction of a new slag dump facility, as well as a WML for the capping and closure of the old "historical" slag dump. In a letter dated 27 January 2012, Assmang requested an extension of time to comply with certain conditions contained in the notices and directives issued by the DEA, which was granted. Due to the continuous nature of the conditions contained in the above mentioned documents, the DEA, through quarterly meetings, is in a process of monitoring the facility's compliance with environmental legislation. An inspection was conducted in February 2013. The inspection only focused on the waste disposal sites at the facility (New and old Slag Disposal Sites as well as the Baghouse Dust and Slimes Dams Facilities). Several non-compliances were identified and an inspection report detailing the findings of the inspection is still being finalised.*
2014[4]	It was reported that during the follow up inspection in 2013, several non-compliances had been identified.	It was reported that: *During November 2013, and prior to the finalisation of the above-mentioned report (the follow-up inspection report), a complaint was received regarding the dumping of slag in a valley situated just outside the boundary of the facility. During March 2014 and upon further investigation by DEA, it was ascertained that the slag in question had been dumped by the facility. Pursuant to these further investigations, DEA issued a notice in terms of section 31H of NEMA and investigations are ongoing.*

Assmang Machadodorp, Mpumalanga		
NECER	**Significant Inspection Findings**	**Further Developments and Status of Enforcement Process**
2009	-	-
2010	-	-
2011	-	-
2012[5]	An inspection carried out in February 2011 revealed the following non-compliances: *Several non-compliances to conditions on authorisations (APPA permits; Environmental authorisations). Lack of continuous air quality monitoring as required by Atmospheric Emission Licence. Operation of slag disposal site without the waste management licence. Groundwater pollution from unlined slag dump. Failure to comply with general duty of care in respect of waste management on site.*	The status of the enforcement process was as follows: *In the process of developing enforcement strategy. A NEMA section 31H notice has been issued.*
2013[6]		The following was reported regarding the enforcement process: *A NEMA Section 31H notice was issued to Assmang in May 2012. Assmang responded to the notice and the inspection report was updated to include the additional information. An enforcement strategy is being developed.*
2014[7]		The 2014 report updated the above enforcement process status as follows: *An enforcement strategy has been drafted and DEA is currently in the process of making a decision as to how to proceed further.*

In a 2011 news report, it was stated that Assmang's Cato Ridge operation was still not complying with regulations despite the identification of dust problems at the operation by the Green Scorpions in 2007. Findings in relation to air pollution and waste disposal had been made following the 2007 inspection and the company had been issued with compliance notices. This was reported on in the context of a report that, on the day of the site inspection of Cato Ridge by the Deputy Minister of Environmental Affairs, the company had shut down the crushing and screening plant for "routine maintenance". The truth of this was questioned by a union official. The union official stated that when the visit of the Deputy Minister had been arranged, a contractor had been called in to sweep away volumes of dust at the operation and the staff canteen had been painted. The news report also contained a statement by a member of Groundwork that while there undoubtedly had been huge improvements at Cato Ridge since 2007, there was concern that metal leaching from Assmang's old unlined metal disposal site had been disposed of off-site. Finally,

the report recorded the statement made by the Deputy Minister to Assmang's chief executive that Assmang had been the worst company in the country following the 2007 inspection, but that now, "though you are not yet 100 percent, you are aiming there".[8]

---

1. National Environmental Compliance and Enforcement Reports 2010/2011, at p47-48.
2. National Environmental Compliance and Enforcement Reports 2011/2012, at p45.
3. National Environmental Compliance and Enforcement Reports 2012/2013, at p59-60.
4. National Environmental Compliance and Enforcement Reports 2013/2014, at p42.
5. National Environmental Compliance and Enforcement Reports 2011/2012, at p45.
6. National Environmental Compliance and Enforcement Reports 2012/2013, at p61.
7. National Environmental Compliance and Enforcement Reports 2013/2014, at p47.
8. http://www.iol.co.za/business/news/assmang-gets-nod-for-trying-to-comply-1.1103821#.VETV7_mUfE4

African Rainbow Minerals Limited's disclosure of environmental non-compliances in annual reports

Variations of the following statement are often made in ARM's Annual Reports:-

> *Internal and external audits are regularly conducted at all operations and any instances of non-compliance with regulatory requirements are reported to management for corrective action. The Company did not receive any fines nor has it been prosecuted for any anti-competitive practices or non-compliance with any governance or legislative obligations.*[1]

2008 company reports

In the 2008 Annual Report it was stated that:-

> *The most significant matter of non-compliance related to the Cato Ridge smelter. In August 2007, Assmang responded to a report from the Department of Environment and Tourism (DEAT) following an inspection undertaken in February 2007. Further interaction ensued between the parties in respect of air pollution and emissions, non-adherence to conditions of the dust disposal facility permit, the absence of a monitoring committee, and perceived inadequacies in terms of monitoring and general pollution issues.*
>
> *Assmang was given 21 days in which to prepare detailed action plans to address the listed non-conformances and other issues raised by DEAT, and this was provided timeously on 16 November 2007. In compliance with the action plans developed, waste management (for dust and slag) and waste management facilities, water management and licensing, as well as air quality monitoring and management, have received significant attention. A number of specialists were engaged to prepare the appropriate project scopes, plans and costings to address environmental management at Cato Ridge and ensure compliance in the future. Implementation of the plan will take two to three years. Bi-monthly meetings are held between the Works, the local municipality and DEAT to track a report on progress. The project is on schedule.*[2]

2009 company reports

No non-compliance information was included in the company's reports for 2009.

2010 company reports

It was reported in the 2010 Annual Report that:-

> *The most recent external audit, conducted in F2009, identified certain areas requiring attention, which were addressed during F2010. In the first instance, certain rectification applications were submitted to the authorities in terms of Section 24G of NEMA. This resulted in Nkomati Mine paying an administrative penalty of R351 000 (the mine having an approved EMPR but not having obtained environmental authorisations in terms of NEMA for certain specified activities), and Black Rock Manganese Mine paying an administrative penalty of R161 000 (for not having an environmental authorisation in terms of NEMA for the start-up for a housing development).*[3]

2011 company reports

In ARM's 2011 Sustainability Report it was stated that:-

> *The most recent liability audits were completed during the year under review. The reports on these audits are in the process of being finalised and [sic] as is confirmation of the factual correctness of the findings, after which the audit reports (both operational and corporate reports) will be distributed. Thereafter, appropriate action plans and non-conformances will be included in individual operations' non-conformance management systems and tracked and reported on quarterly.*[4]

2012 company reports

In ARM's 2012 Sustainability Report it was stated that:-

> *During the year under review, Modikwa Mine received a notice of intent to deliver a directive in terms of Section 31 of the National Environmental Management Act (NEMA). The notice alleged illegal construction without an approved environmental impact assessment and related to construction of a new sewage treatment plant. Modikwa mine submitted application under Section 24G of NEMA, made representations and explained the actions as a remedy to the current unstable and old facility and is in discussions with authorities to resolve the issue. The directive has not been issued and all work is on hold until an approved EIA has been received.*[5]

Notably, in ARM's 2012 Annual Report, it was also stated that:-

> *During F2012 the Company did not receive any administrative penalties nor was it fined nor has it been prosecuted for any anticompetitive practices or non-compliance with any legislative or regulatory obligations.*[6]

2013 company reports

In ARM's 2013 Annual Report it was reported that:-

> *During the year under review, an administrative fine of R500 000 in terms of Section 24G of the National Environmental Management Act was paid by the Black Rock Mine of Assmang Limited and an administrative fine of R315 000 was paid by Modikwa in respect of the Montrose sewage facility. In the case of the Khumani Housing Company Proprietary Limited, a subsidiary of Assmang Limited, an administrative fine of R460 000 was imposed, but this has been taken on appeal. The appeal remained unresolved as at year end.*
>
> *The Company did not receive any other administrative penalties nor has it been prosecuted for any anti-competitive practices or non-compliance with any governance or legislative obligations.*[7]

In the 2013 Sustainability Report it was also stated that:-

> *Black Rock Mine is continuing with the process of amending its initial Environmental Management Programme Report (EMPR) to reflect the current*

> *realities of the operation.*[8]

2014 company reports

In the 2014 Annual Report further administrative fines were reported:

> *During the year under review, Modikwa paid an administrative fine of R315 000 in terms of the National Environmental Management Act in respect of the Montrose sewage facility. In the case of the Khumani Housing Company Proprietary Limited, a subsidiary of Assmang Proprietary Limited, an administrative fine of R460 000 was imposed, but this has been taken on appeal. The appeal remained unresolved as at 30 June 2014. Dwarsrivier Mine paid an administrative fine of R1 000 000 for rectification processes in terms of section 24G of NEMA, which it had lodged in 2008, and Two Rivers Platinum also paid a consolidated fine of R1 000 000 for rectification in terms of section 24G of NEMA.*[9]

(Note: Assmang's Annual Reports were not included in this assessment of disclosure.)[10]

ARM has also published 'Sustainability Data Tables' for 2014. In this document, information is provided on the amount of land 'disturbed' by specific operations (it is unclear whether the figures are total amounts or solely for the reporting year), whether or not the disturbed land has been rehabilitated and whether the land is located in close proximity to an area of high biodiversity or a protected area:

- at Modikwa, 555 hectares have been disturbed and are not yet rehabilitated,[11]
- at Two Rivers, 190 hectares have been disturbed in a high biodiversity or protected area,[12]
- at Nkomati, 377 hectares have been disturbed and are not yet rehabilitated,[13]
- at Beeshoek, 1103 hectares have been disturbed and are not yet rehabilitated,[14]
- at Khumani 3080 hectares have been disturbed and are not yet rehabilitated,[15]
- at Black Rock, 1464 hectares have been disturbed and are not yet rehabilitated,[16]
- at Dwarsrivier, 181 hectares within a high biodiversity or protected area have been disturbed and are not yet rehabilitated,[17]
- at Machadodorp 141 hectares have been disturbed within an area of high biodiversity or a protected area,[18] and;
- at Cato Ridge, 150 hectares have been disturbed and are not yet rehabilitated, including land located in an area of high biodiversity or a protected area.[19]

---

1. ARM Annual Report 2009, at p124, available at: http://www.arm.co.za/im/files/annual/2009/pdf/full.pdf
2. ARM Annual Report 2008, p113, available at: http://www.arm.co.za/im/files/annual/2008/files/ARM_AR2008.pdf
3. ARM Integrated Annual Report 2010, at p141, available at: http://www.arm.co.za/im/files/annual/2010/f/ARM_AR2010.pdf
4. ARM Sustainability Report 2011, at page 61, http://www.arm.co.za/im/files/annual/2011/download/ARM-sustainable-development-report-2011.pdf
5. ARM Sustainability Report 2012, at p116, available at: http://www.arm.co.za/im/files/annual/2012/ARM-sustainable-development-report-2012.pdf
6. ARM Integrated Annual Report 2012, at p138, available at: http://arm.onlinereport.co.za/arm_iar_2012/wp-content/themes/arm_2012/downloads/arm_iar_2012.pdf
7. ARM 2013 Annual Integrated Report, at p138, available at: http://arm.integrated-report.com/2013/downloads/ARM-IR13.pdf
8. ARM 2013 Sustainability Report, at p117, available at: http://arm.integrated-report.com/2013/download/ARM-SD13.pdf
9. ARM 2014 Annual Integrated Report, at p132, available at: http://www.arm.co.za/im/r_annual.php
10. http://www.assmang.co.za/content.asp?pg=24 (last accessed on 7 August 2015).
11. ARM Sustainability data tables, at p5, available at: http://arm.integrated-report.com/2013/download/ARM-SD13-data-tables.pdf
12. ARM Sustainability data tables, at p6, available at: http://arm.integrated-report.com/2013/download/ARM-SD13-data-tables.pdf
13. ARM Sustainability data tables, at p7, available at: http://arm.integrated-report.com/2013/download/ARM-SD13-data-tables.pdf
14. ARM Sustainability data tables, at p8, available at: http://arm.integrated-report.com/2013/download/ARM-SD13-data-tables.pdf
15. ARM Sustainability data tables, at p8, available at: http://arm.integrated-report.com/2013/download/ARM-SD13-data-tables.pdf
16. ARM Sustainability data tables, at p9, available at: http://arm.integrated-report.com/2013/download/ARM-SD13-data-tables.pdf
17. ARM Sustainability data tables, at p9, available at: http://arm.integrated-report.com/2013/download/ARM-SD13-data-tables.pdf
18. ARM Sustainability data tables, at p10, available at: http://arm.integrated-report.com/2013/download/ARM-SD13-data-tables.pdf
19. ARM Sustainability data tables, at p11, available at: http://arm.integrated-report.com/2013/download/ARM-SD13-data-tables.pdf

Environmental non-compliances reported by affected communities, the media, & NGOs

There are a number of media reports of pollution caused by ARM's subsidiaries. Assmang in particular has been linked to serious issues such as manganese poisoning of employees.[1] An occupational hygienist previously contracted by Assmang said that he had warned Assmang more than ten years previously that it ran the risk of prosecution due to the high levels of toxic dust at the Cato Ridge Smelter.[2]

In 2009 a survey by consulting engineers Moore Spence Jones revealed significant pollution of underground and surface water by the Cato Ridge operation. Cyanide, mercury and other poisonous heavy metals were discovered. The survey also revealed measurable levels of such poisons in streams or shallow boreholes more than 1km from the factory and indications of other forms of pollution up to 2km away.[3]

A 2010 thesis considered the environmental impact of Dwarsrivier mine and concluded that, "mining activities at Dwarsrivier mine may be contributing to environmental pollution, particularly to groundwater".[4]

In response to a PAIA request submitted by the CER for records indicating the names of mines and industrial facilities in respect of which notices or directives under the National Water Act have been issued, the Department of Water & Sanitation responded with information which indicated that Modikwa Platinum Mine (a joint Amplats and ARM operation) and Two Rivers Platinum Mine (an ARM operation) were issued with notices under the National Water Act on 29 January 2014 and 30 July 2014 respectively. ARM failed to report on the notice issued to Modikwa Platinum Mine in the 2014 annual report. The notice received by Two Rivers Platinum Mine was issued outside of the 2014 reporting period.

---

1. http://www.miningweekly.com/article/lsquoassmang-failed-to-react-immediately-to-warning-about-cato-ridge-furnacersquo-2008-05-02 and http://www.environment.co.za/poisoning-carcinogens-heavy-metals-mining/manganism-manganese-poisoning.html (last accessed on 7 August 2015).
2. http://www.miningweekly.com/article/lsquoassmang-failed-to-react-immediately-to-warning-about-cato-ridge-furnacersquo-2008-05-02 (last accessed on 7 August 2015).
3. http://www.highbeam.com/doc/1G1-199855828.html (last accessed on 7 August 2015).
4. Environmental impacts of chrome mining on the Assmang Chrome Dwarsrivier Mine by Tshengedezi Remember Mmbengwa, Thesis (MTech: Environmental Management) Tshwane University of Technology, 2010, available at: http://encore.tut.ac.za/iii/cpro/DigitalItemViewPage.external;jsessionid=8E9468B60B28C8DEBFE25CDBFA5F4F0B?lang=eng&sp=1000639&sp=T&sp=1&suite=def, at p71.

African Rainbow Minerals Limited's response to the Full Disclosure findings

Each company assessed was given a month to respond to the *Full Disclosure* findings before we published our report.

See African Rainbow Minerals Limited's response at: http://cer.org.za/full-disclosure/company/african-rainbow-minerals-limited?correspondence.

Major shareholders

The top 20 shareholders of African Rainbow are the following[1]:

- African Rainbow Minerals & Exploration Investments (Pty) Limited
- ARM Broad-Based Economic Empowerment Trust
- BlackRock Inc.
- Public Investment Corporation Limited
- Fidelity Investments
- Allan Gray Investment Council
- Investec Asset Management
- RMB Asset Management
- STANLIB Asset Management
- The Vanguard Group
- Dimensional Fund Advisors
- Government Singapore Investment Corporation
- Coronation Fund Managers
- Jennison Associates LLC
- Kagiso Asset Management (Pty) Limited
- Old Mutual Asset Managers
- Rand Merchant Bank
- Metropolitan Asset Managers
- State Street Global Advisors
- Nomura Asset Management

1.http://www.arm.co.za/im/shareholder_info.php (last accessed on 7 August 2015).

Membership of voluntary initiatives, accreditations and awards

JSE SRI	ARM appeared in the SRI Index every year from 2004 to 2014, with the exception of 2005 and 2006.
JSE SRI Best Performers	ARM has never featured in the Best Performers category.
Carbon Disclosure Project	ARM has submitted responses to the CDP's Climate Change Program on a number of occasions but has never submitted a response to the CDP's Water Program.
ISO 14001:2004	In the 2013 Sustainable Development report, it was stated that all operations were ISO 14001:2004 certified, with the exception of Two Rivers Platinum Mine, Modikwa Mine and Lubambe Mine.
World Business Council for Sustainable Development	ARM is not a member of the WBCSD.
Cement Sustainability Initiative	Not applicable
Green Building Council of South Africa	Not applicable
Global 100	ARM does not appear in the Global 100.
United Nations Global Compact	ARM is not a participant in the UNGC.
International Council on Mining and Metals	ARM is a member of the ICMM.
Extractive Industries Transparency Initiative	ARM is an EITI supporting company.
Cyanide Code	Not applicable

ANGLO AMERICAN PLATINUM LIMITED

Summary of findings and company response

Amplats provides the following description of its environmental policy on its website:

> *We recognise the value and scarcity of our country's natural resources, especially energy and water. In practice this means that we minimise and optimise their use, while at the same time seeking fair and secure access to them in a sustainable way. We are mindful of the impact of our operations on our natural environment and on our neighbours, and what we leave behind when our operations close. We reduce our environmental footprint through research, planning and responsible environmental management at every stage of our operational life cycle, from exploration to beyond closure.*
>
> *For us, compliance with environmental legislation is fundamental to our approach of implementing best practice. We do this to ensure a sustainable mining environment that focuses on continuous improvement and prevention of pollution.*[1]

Amplats is to be commended for the level of disclosure of its environmental impacts and non-compliances in its annual reports, which is higher than that of many other companies assessed in *Full Disclosure.* However, the level of non-compliance with environmental laws and regulations and conditions of permits revealed by the outcomes of Amplats' own audits is concerning, and fundamentally at odds with the company's stated environmental policy and claimed commitment to compliance with environmental legislation.

In 2010 and 2012, Amplats reported in its sustainable development reports on the outcomes of legal reviews and audits of compliance with conditions at its mining operations and processing operations, and on performance assessments of compliance with various Environmental Management Programmes applicable to Amplats' operations. These audits are not carried out by the government departments tasked with regulating the environmental impacts of mining, but by environmental consultants commissioned by Amplats.

The figures reported do show improvement in compliance over the period covered by the audits. However, given that compliance with environmental legislation, and with the conditions attached to mining licences, environmental management programmes, environmental authorisations, water use licences etc. is not optional, it is concerning that the company considers it acceptable to be in non-compliance with such an array of conditions. For example, the 2012 audit of compliance with environmental management programmes at 5 Amplats' mines identified that 30% of the conditions of these programmes were not being complied with. The non-compliances involve serious environmental harms, including:

- Failure to adequately separate clean and dirty water systems;
- Incorrect waste management;
- Failure to strip and stockpile topsoil;
- Failure to report to authorities as required by conditions of environmental authorisations;
- Groundwater and surface water around waste rock dumps and tailings dams indicating high concentrations of nitrates, chlorides and sulphates;
- Failure to implement biodiversity and rehabilitation plans at tailings facilities; and
- Failure to carry out concurrent rehabilitation.

Amplats' response to Full Disclosure noted that "findings and related action plans resulting from internal reviews/audits are managed through the action manager as part of the ISO14001 certified environmental management system".

ISO 14001 (the current version being ISO 14001: 2004) sets out the criteria for an Environmental Management System. An Environmental Management System refers to the management of a company's environmental programmes in a comprehensive, systematic, planned and documented manner. ISO 14001 does not stipulate any requirements for environmental performance, but rather maps out a framework that companies can follow to set up and maintain an effective Environmental Management System.

Retention of ISO 14001 certification is therefore not an indication that a company is in compliance with environmental laws and permits, nor is it a substitute for reporting environmental non-compliance.

The Department of Mineral Resources and the Department of Water and Sanitation are responsible for compliance monitoring and enforcement of environmental and water laws by mining companies. Thus far, neither department has published any information on their compliance monitoring and enforcement action. Both Departments however, in answers to Parliamentary Questions, insist that many inspections take place, many directives and compliance notices are issued, and many criminal prosecutions are instituted.

Amplats does not refer to any Department of Mineral Resources or Department of Water and Sanitation compliance monitoring inspections and findings in its shareholder reporting. The fact that the Departments charged with regulating the mining sector do not publicise non-compliance findings or enforcement action means that it is impossible to know whether or not the level of disclosure on environmental non-compliances by mining companies in their annual reports is accurate or complete.

In Amplats' response to *Full Disclosure*, CEO Chris Griffith states that "we will continue to assess and evaluate our operations to work towards compliance to all applicable legal conditions and commitments". This approach, that compliance with legal obligations need only be "worked towards", is common amongst the companies surveyed, and is a fundamental problem in environmental management in South Africa. Environmental *performan*ce, e.g., reduction of water use, energy efficiency, etc. may be a process, monitored and managed by each company individually. Environmental *compliance*, on the other hand, is a state in which all applicable environmental legal requirements are in fact fulfilled – not a state of working towards being fulfilled within an undefined future period.

Whilst improving environmental performance is a laudable aspiration for the future, complying with the law is, by definition, obligatory, not just in the future, but at all times. An investor may be forgiven for assuming, in the absence of information provided to the contrary, that such compliance may be taken as read, and that improving environmental performance happens over and above baseline legal compliance. The failure to distinguish between the two, coupled with the attitude espoused by many of the assessed companies that environmental compliance is a matter of "negotiation" between a company and the regulator, is a fundamental problem with corporate environmental management in South Africa.

1.http://www.angloamericanplatinum.com/sustainability/environment.aspx (last accessed on 7 August 2015).

Company overview

Amplats is the leading primary producer of platinum group metals worldwide.[1] Amplats owns and operates 8 mines: the Bathopele, Dishaba, Unki, Mogalakwena, Siphumelele, Thembelani, Tumela and Union mines. The Unki mine is in Zimbabwe. The Twickenham Platinum Mine is also currently under development. Amplats is furthermore involved in a number of joint ventures.[2]

Amplats has 49,700 employees.[3]

1.http://www.angloamericanplatinum.com/about-us/at-a-glance.aspx (last accessed on 7 August 2015).

2.http://www.angloamericanplatinum.com/about-us/where-we-operate.aspx (last accessed on 7 August 2015).

3.http://www.angloamericanplatinum.com/about-us/at-a-glance.aspx (last accessed on 7 August 2015).

Non-compliance with environmental laws as reported in the National Environmental Compliance and Enforcement Reports

Amplats does not feature in the National Environmental Compliance and Enforcement Reports. However, as the Department of Environmental Affairs' Environmental Management Inspectors do not have jurisdiction over the environmental or water impacts of mining, this does not mean that the company has not been subject to compliance monitoring and/or enforcement action. The Department of Mineral Resources and the Department of Water and Sanitation are responsible for compliance monitoring and enforcement of environmental and water laws by mining companies. Unlike the Department of Environmental Affairs, thus far neither department has published any information on its compliance monitoring and enforcement action. Both Departments however, in answers to Parliamentary Questions, insist that many inspections take place, many directives and compliance notices are issued, and many criminal prosecutions are instituted.

With a few minor exceptions, the mining companies assessed in *Full Disclosure* did not refer to compliance monitoring inspections by the Department of Mineral Resources or Department of Water and Sanitation in their shareholder reporting.

The fact that the Departments charged with regulating the sector do not publicise non-compliance findings or enforcement action means that it is impossible to know whether or not the level of disclosure on environmental and water non-compliances by mining companies in their annual reports is accurate.

For more information please see *Enforcing the Law: the challenges undermining environmental compliance monitoring and enforcement in South Africa*.

Anglo American Platinum Limited's disclosure of environmental non-compliances in annual reports

Some non-compliances are reported in the company's annual and sustainable development reports. Amplats uses an incident classification system in terms of which it classifies incidents according to the severity of their impact. This classification system ranges from Level 1 to Level 5; Level 1 incidents being those with the most minor impact on the environment. Prior to 2011, a three-level classification system was used.

2008 company reports

In 2008 the company reported 3,442 Level 1 incidents, 1 Level 2 incident and 8 formal complaints. No detail is provided as to the nature of these incidents and complaints.

2009 company reports

In 2009 the company reported 2,689 Level 1 incidents, 3 Level 2 incidents and 18 formal complaints.[1] The three Level 2 incidents were:

- a discharge into the Brakspruit river system;
- an overflow at a pollution control dam into the Klipfontein Spruit; and
- the "alleged" unauthorised start of construction activities.[2]

In subsequent years there was a big drop in Level 1 incidents due to the introduction of the 'substandard acts and conditions' (acts and incidents that can potentially lead to incidents) category.

2010 company reports

In 2010 the company reported 477 Level 1 incidents, 16 formal complaints and 875 substandard acts and conditions.[3]

Of the 16 formal complaints, fourteen related to visual emissions and dust fallout in the Rustenburg area, one related to treated sewage effluent that was seeping into a stream and one related to odours from a sewage plant (both at the Twickenham Platinum mine).[4]

Most of the 477 Level 1 incidents related to inadequate management of hydrocarbons (diesel, oil, grease), air quality, other hazardous substances (chemicals) and water (leaks, discharges and contamination).[5]

In relation to 'compliance' in 2010, it was noted that no fines or non-monetary sanctions had been received for non-compliance with environmental regulations and permits and that it was "unclear whether mining-related activities that are listed and occur on mining areas are subject to the environmental assessment and approval processes contained within the MPRDA or those within the NEMA, or both".[6]

The company reported in 2010, in relation to "compliance with conditions at mining operations", that 430 were 100% compliant, 222 were found to "need attention" and 36 were not applicable. It was noted that the 63% of conditions adhered to in 2010 was an improvement from 58% in 2009. Issues said to "deserve special mention, owing to their potential to become issues if action plans to address the findings are not executed in the required time," were:

- the separation of clean and dirty water systems;
- incorrect waste management;
- failure to strip and stockpile top-soil; and
- a failure to submit reports to the authorities as required by records of decision and environmental authorisations.[7]

The company reported in 2010, in relation to "compliance with conditions at process operations", that out of 545 conditions 465 were 100% compliant and 80 needed attention. Issues said to "deserve mention" included:

- the improvement and revision of water and air-quality commitments and management plans;
- improvement of records of representative air-quality monitoring data; and
- "full compliance in terms of adequate management of clean and dirty water needs attention".[8]

The 2010 report also contained Environmental Management Programme performance assessments. 2,104 conditions were assessed at 5 mines. It was stated that "of these, 1,380 were in full compliance and 108 were findings".[9] It is unclear what "were findings" means.[10] However, it was noted that findings included:

- "groundwater and surface water around waste rock dumps and tailings dams indicating high concentrations of nitrates, chlorides and sulphates";
- "alien and invasive plant species were observed";
- "top-soil stockpiles need maintaining in some instances";
- "clean and dirty water systems can be improved".

Environmental Management Programme performance assessments were also carried out at process operations, and of 672 conditions assessed, 484 were compliant and "188 findings were raised", which included a failure to implement biodiversity and rehabilitation plans at tailings facilities and the need to improve waste management plans "in some instances".[11]

At Twickenham Mine and Mogalakwena Mine water use compliance audits were carried out against water use licence conditions. Mogalakwena Mine was 84% compliant and it was stated that "the findings were minor" and that the Twickenham Mine was 55% compliant.[12]

In 2010 it was also reported that at the Mogalakwena Mine a local community was alleging that Amplats did not have the correct environmental authorisation to operate, as an authorisation under the National Environmental Management Act was required. Amplats claimed that the company had authorisation in terms of the Mineral and Petroleum Resources Development Act. It was also reported that Mototolo Platinum Mine, Union Mine, and the Rustenburg and Amandelbult mines did not have water use licences, "despite applications having been made in 2004".[13]

2011 company reports

In 2011 the company reported 309 Level 1 and 2 incidents, 20 formal complaints and 976 substandard acts and conditions.[14]

Of the 20 formal complaints, 15 were air-quality complaints relating to the Rustenberg area and were made in relation to visual emissions and dust emissions. A complaint was also received regarding hazardous historical tar material and there were three water-related complaints.[15]

Most of the Level 1 incidents reported this year were reported to relate to the inadequate management of hydrocarbons (diesel, oil, grease), leaks, discharges and contamination and improper waste management. Three Level 2 incidents related to water.[16] Substandard acts and conditions related to the same categories.

18 potential Level 3 incidents relating to discharges, spillages and tailings were investigated and found not to reach Level 3 severity and were therefore downgraded to Level 1 or 2 incidents.[17]

2012 company reports

In 2012 the company reported 476 Level 1 and 2 incidents, 10 formal complaints and 1,175 substandard acts and conditions.

6 of the 10 complaints related to visual and dust emissions and another related to an overflow of a surface water dam.[18] Of the 476 Level 1 and 2 incidents, 34 were Level 2 incidents. The majority of Level 1 and 2 incidents were caused by inadequate management of hydrocarbons resulting in the contamination of soil; leaks; discharges; and improper dust and air quality management.[19]

Most substandard acts and conditions in 2012 similarly related to the inadequate management of hydrocarbons; inadequate waste management; and leaks, discharges and contamination.[20]

12 potential Level 3 incidents were investigated, which related to spillages and discharges including tailings spillages, but were found not to qualify as Level 3 incidents.[21]

In legal reviews of four mining operations, 2,880 conditions were identified.[22] 2,629 were compliant and “251 were findings”.[23]

Certain focus areas were “highlighted”:

- conditions of water-use licences;
- GN704 requirements to separate clean and dirty water;
- concurrent rehabilitation;
- monitoring of environmental noise and PM10 (particulate matter) levels;
- waste management practices; and
- statutory environmental reporting to regulators.[24]

Following legal reviews at process operations it was found that of 3,105 conditions 2,947 were fully compliant or had adequate action plans in place while 178 needed attention. The following focus areas were highlighted:

- groundwater remediation management plans;
- air-quality-improvement initiatives; and
- waste-management plans.

Environmental Management Programme performance assessments were carried out at Twickenham, Mogalakwena, Amandelbult, Union and Rustenburg mines in 2012 and a total of 2,295 conditions were assessed. Of this number 1,345 were compliant and 255 were “non-completed conditions”.[25]

Environmental performance assessments were also carried out at process operations and a total of 3,361 conditions were assessed. Of these, 143 applicable conditions required attention. Key focus areas were groundwater management and rehabilitation.[26]

At Twickenham mine, the Polokwane Smelter and the Mogalakwena mine internal water-use-compliance audits were carried out against approved water-use licences. Compliance levels were at 89%, 92% and 94% respectively.[27]

2013 company reports

In 2013 the company reported one Level 3 incident: a spillage at Mogalakwena mine’s Blinkwater tailings dam which “affected” the Mohlosane River for approximately 2.5 km within the mine boundary and 2.5 km outside the mine boundary. The spillage occurred in June 2013 and it was stated that “by the end of the reporting period most of the river had been cleaned and most of the rehabilitation work had been completed. The clean-up operation and subsequent rehabilitation have improved the condition of the river in many ways”. To give an idea of the extent of the spillage, 160 people were involved in cleaning the river and 22,000 square meters of tailings were removed.[28]

In 2013 the company also reported 549 Level 1 incidents, 41 Level 2 incidents and 2,092 sub-standard acts and conditions. The majority of the incidents related to the inadequate management of hydrocarbon projects which contaminated soil and to improper dust and air quality management and discharges and contamination. Sub-standard acts and conditions were also attributed predominantly to inadequate management of hydrocarbon products and then to inadequate waste management and leaks, discharges and contamination.[29]

10 environmental complaints were received in 2013. These included the following:

- visible emissions, gas present at an underground shaft (attributed after investigations to an underground dam);
- gas inhalation from the Waterval Smelter plant area (it was reported that after investigations it was found that “there was a possibility that fugitive gas emissions could have emanated from the ACP”[30]);
- dust from a tailings dam; and

- odour caused by the death of fish.[31]

The 2013 report also contained Rustenburg ambient air quality monitoring statistics. Here it was noted that there were 480 exceedances of the SANS 10 minute average for SO?, 87 exceedances of the national hourly average for SO?, 6 exceedances of the national daily average for SO? and 26 exceedances of the national daily average for PM10 (particulate matter).[32]

2014 parliamentary questions

In September 2014, via a response to a question by a member of the Democratic Alliance, the Minister of Water and Sanitation published a list of mines operating without the required water use licences. An Anglo Platinum mine in the North West featured on this list. It was stated that the application for authorisation had been received and outstanding information was awaited from the mine.[33]

2014 company reports

The 2014 Sustainable Development Report recorded that nine community complaints relating to environmental issues were received during the year.[34]

Five complaints in Rustenberg related to airborne dust from tailings dams and four complaints related to the Unki mine in Zimbabwe.[35] Although these complaints appear to comprise the total figure of nine environmental complaints, in another section of the report it was noted that communities "continued to allege that a leakage of tailings into the Mohlosane River in 2013 was causing the death of livestock". The report stated that "autopsies of a number of animals concluded that their deaths had been caused by the ingestion of plastics and disposable nappies". An investigation by the DWA was said to be in progress.[36]

No "significant incidents" were recorded during the year. The company reported 525 Level 1 incidents, 37 Level 2 incidents and 1,957 substandard acts and conditions.[37] The Level 2 incidents included the following:

"Discharges to a receiving water resource occurred from Dishaba Mine, the concentrator at Mogalakwena Mine, the refineries in the Rustenburg mining area and Twickenham Platinum Mine."[38]

It was reported that no fines or non-monetary sanctions for non-compliance with environmental laws had been received during the year.[39] However, the Amandelbult mine was reported to be operating without a water use licence.[40] Amplats stated that until the licence was granted, "the mine will operate under the water permit issued in terms of previous legislation".[41]

---

1. Anglo American Platinum Annual Report 2009 at p155, available at http://www.angloamericanplatinum.com/~/media/Files/A/Anglo-American-Platinum/annual-reports/ar2009.pdf
2. Anglo American Platinum Annual Report 2009 at p52, available at http://www.angloamericanplatinum.com/~/media/Files/A/Anglo-American-Platinum/annual-reports/ar2009.pdf
3. Anglo American Platinum Sustainable Development Report 2010 at p149, available at http://investoreports.com/angloplatinumar2010_pdfs//downloads/angloplatinum_sdr_2010.pdf
4. Anglo American Platinum Sustainable Development Report 2010 at p117, available at http://investoreports.com/angloplatinumar2010_pdfs//downloads/angloplatinum_sdr_2010.pdf
5. Anglo American Platinum Sustainable Development Report 2010 at p118, available at http://investoreports.com/angloplatinumar2010_pdfs//downloads/angloplatinum_sdr_2010.pdf
6. Anglo American Platinum Sustainable Development Report 2010 at p118, available at http://investoreports.com/angloplatinumar2010_pdfs//downloads/angloplatinum_sdr_2010.pdf
7. Anglo American Platinum Sustainable Development Report 2010 at p119-120, available at http://investoreports.com/angloplatinumar2010_pdfs//downloads/angloplatinum_sdr_2010.pdf
8. Anglo American Platinum Sustainable Development Report 2010 at p120, available at http://investoreports.com/angloplatinumar2010_pdfs//downloads/angloplatinum_sdr_2010.pdf
9. Anglo American Platinum Sustainable Development Report 2010 at p120, available at http://investoreports.com/angloplatinumar2010_pdfs//downloads/angloplatinum_sdr_2010.pdf
10. While the meaning of "were findings" is unclear from the reports themselves, Amplats' Chief Executive Officer has, in response to the CER's letter of 23 July 2015, indicated that a "finding" refers to an incomplete action, and implies that action plans have either not been adhered to or have not been fully affected at the time of the review/audit.
11. Anglo American Platinum Sustainable Development Report 2010 at p120, available at http://investoreports.com/angloplatinumar2010_pdfs//downloads/angloplatinum_sdr_2010.pdf
12. Anglo American Platinum Sustainable Development Report 2010 at p121, available at http://investoreports.com/angloplatinumar2010_pdfs//downloads/angloplatinum_sdr_2010.pdf
13. Anglo American Platinum Annual Report 2010 at p45, available at http://www.angloamerican.com/~/media/Files/A/Anglo-American-PLC-V2/investors/a-reports/2011rep/angloplatinumltd_2010.pdf
14. Anglo American Platinum Sustainable Development Report 2011 at p154, available at http://www.angloamerican.com/~/media/Files/A/Anglo-American-Plc/development/reports/csreports/platinum_sustainabledevelopment_report
15. Anglo American Platinum Sustainable Development Report 2011 at p69, available at http://www.angloamerican.com/~/media/Files/A/Anglo-American-Plc/development/reports/csreports/platinum_sustainabledevelopment_report
16. Anglo American Platinum Sustainable Development Report 2011 at p70, available at http://www.angloamerican.com/~/media/Files/A/Anglo-American-Plc/development/reports/csreports/platinum_sustainabledevelopment_report
17. Anglo American Platinum Sustainable Development Report 2011 at p70, available at http://www.angloamerican.com/~/media/Files/A/Anglo-American-Plc/development/reports/csreports/platinum_sustainabledevelopment_report
18. Anglo American Platinum Sustainable Development Report 2012 at p124, available at http://www.angloamericanplatinum.com/~/media/Files/A/Anglo-American-Platinum/annual-reports/aapsdreport2012-150313.pdf
19. Anglo American Platinum Sustainable Development Report 2012 at p124, available at http://www.angloamericanplatinum.com/~/media/Files/A/Anglo-American-Platinum/annual-reports/aapsdreport2012-150313.pdf
20. Anglo American Platinum Sustainable Development Report 2012 at p125, available at http://www.angloamericanplatinum.com/~/media/Files/A/Anglo-American-Platinum/annual-reports/aapsdreport2012-150313.pdf
21. Anglo American Platinum Sustainable Development Report 2012 at p125, available at http://www.angloamericanplatinum.com/~/media/Files/A/Anglo-American-Platinum/annual-reports/aapsdreport2012-150313.pdf
22. Anglo American Platinum Sustainable Development Report 2012 at p126, available at http://www.angloamericanplatinum.com/~/media/Files/A/Anglo-American-Platinum/annual-reports/aapsdreport2012-150313.pdf
23. Anglo American Platinum Sustainable Development Report 2012 at p126, available at http://www.angloamericanplatinum.com/~/media/Files/A/Anglo-American-Platinum/annual-reports/aapsdreport2012-150313.pdf
24. Anglo American Platinum Sustainable Development Report 2012 at p126, available at http://www.angloamericanplatinum.com/~/media/Files/A/Anglo-American-Platinum/annual-reports/aapsdreport2012-150313.pdf
25. Anglo American Platinum Sustainable Development Report 2012 at p127, available at http://www.angloamericanplatinum.com/~/media/Files/A/Anglo-American-Platinum/annual-reports/aapsdreport2012-150313.pdf
26. Anglo American Platinum Sustainable Development Report 2012 at p128, available at http://www.angloamericanplatinum.com/~/media/Files/A/Anglo-American-Platinum/annual-reports/aapsdreport2012-150313.pdf
27. Anglo American Platinum Sustainable Development Report 2012 at p128, available at http://www.angloamericanplatinum.com/~/media/Files/A/Anglo-American-Platinum/annual-reports/aapsdreport2012-150313.pdf
28. Anglo American Platinum Sustainable Development Report 2013 at p88, available at http://www.angloamericanplatinum.com/~/media/Files/A/Anglo-American-Platinum/annual-reports/aap-sd-report-2013.pdf
29. Anglo American Platinum Sustainable Development Report 2013 at p88, available at http://www.angloamericanplatinum.com/~/media/Files/A/Anglo-American-Platinum/annual-reports/aap-sd-

report-2013.pdf

30. ACP is defined in the companys Sustainable Development Report as "Amplats Converting Process, a pyrometallurgical process used at the Waterval Smelter Complex in Rustenburg".
31. Anglo American Platinum Sustainable Development Report 2013 at p99, available at http://www.angloamericanplatinum.com/~/media/Files/A/Anglo-American-Platinum/annual-reports/aap-sd-report-2013.pdf
32. Anglo American Platinum Sustainable Development Report 2013 at p100, available at http://www.angloamericanplatinum.com/~/media/Files/A/Anglo-American-Platinum/annual-reports/aap-sd-report-2013.pdf
33. Question No. 1716, Date of publication in internal question paper: 19 September 2014, available at https://www.dwa.gov.za/communications/Q&A/2014/NA%201716.pdf
34. Anglo American Platinum Sustainable Development Report 2014 at p60, available at http://www.angloamericanplatinum.com/~/media/Files/A/Anglo-American-Platinum/annual-reports/aap-sd-report-2014.pdf
35. Anglo American Platinum Sustainable Development Report 2014 at p60, available at http://www.angloamericanplatinum.com/~/media/Files/A/Anglo-American-Platinum/annual-reports/aap-sd-report-2014.pdf
36. Anglo American Platinum Sustainable Development Report 2014 at p39, available at http://www.angloamericanplatinum.com/~/media/Files/A/Anglo-American-Platinum/annual-reports/aap-sd-report-2014.pdf
37. Anglo American Platinum Sustainable Development Report 2014 at p85, available at http://www.angloamericanplatinum.com/~/media/Files/A/Anglo-American-Platinum/annual-reports/aap-sd-report-2014.pdf
38. Anglo American Platinum Sustainable Development Report 2014 at p63, available at http://www.angloamericanplatinum.com/~/media/Files/A/Anglo-American-Platinum/annual-reports/aap-sd-report-2014.pdf
39. Anglo American Platinum Sustainable Development Report 2014 at p59, available at http://www.angloamericanplatinum.com/~/media/Files/A/Anglo-American-Platinum/annual-reports/aap-sd-report-2014.pdf
40. Anglo American Platinum Sustainable Development Report 2014 at p8, available at http://www.angloamericanplatinum.com/~/media/Files/A/Anglo-American-Platinum/annual-reports/aap-sd-report-2014.pdf
41. Anglo American Platinum Sustainable Development Report 2014 at p61, available at http://www.angloamericanplatinum.com/~/media/Files/A/Anglo-American-Platinum/annual-reports/aap-sd-report-2014.pdf

Environmental non-compliances reported by affected communities, the media, & NGOs

Amplats' environmental impacts are frequently reported on in the media.

A 2008 BBC investigation reported that water around Amplats' mines in Limpopo had been tested and found unfit for human consumption, due to contamination with nitrates, which can cause stomach cancer and a potentially fatal blood disorder.[1]

Non-profit organisation ActionAid had carried out the water sampling referred to in the BBC investigation in late 2007, and the results of the sampling were also reported on in ActionAid's 2008 report 'Precious Metal, the Impact of Anglo Platinum on poor communities in Limpopo, South Africa'.

This report dealt in large part with the resettlement which had been carried out to expand Anglo Platinum's Potgietersrus Platinum Limited (PPL) mine (now the Mogalakwena mine), but also referenced the discovery of serious water pollution by ActionAid at four sites (including two schools) near Amplats' mines.[2] It was claimed that whole communities had lost access to clean drinking water as it was unfit for human consumption and mining was the most likely cause of the pollution.

At three sites the water contained high levels of total dissolved salts and nitrates and although this could have been caused by raw sewage, the most probable cause was mining activities. At the fourth site the water contained high concentrations of total dissolved salts, sulphates and nitrates and again the cause was deduced to be mining activities. It was noted that such findings had raised concerns of health risks such as cancer.[3]

Amplats published a response to ActionAid entitled 'The Facts', which included the following statements,

> *Anglo Platinum has an extensive on-site surface and ground water monitoring programme. It does not however sample all water sources used by the surrounding communities as this is the responsibility and function of the Department of Water Affairs.*
>
> *Excessive nitrates concentrations are a common form of water pollution, including in areas with no history of mining. The most common causes include seepage of untreated sewage and poor application of agricultural fertilizers. Water results around the mine have shown slightly elevated levels of nitrate in close proximity to communities and this is attributed to sewerage run-off and pit latrine systems, as these communities have no formal sewerage systems.*
>
> *Results show that there are slightly elevated concentrations of nitrates and sulphates immediately adjacent to the tailings dam.*
>
> *Anglo Platinum would welcome the opportunity to get the full details of exactly where samples were taken by ActionAid so that if there is indeed a water problem it can be addressed.*[4]

A second edition of 'The Facts' stated:

> *The results do indeed indicate a worrying level of nitrates at Langalibalele High School in Ga-Molekana, confirming ActionAids results. The other samples fall within Class I. However, ActionAid's assumption that elevated nitrate levels at the school are a result of mining is, from our comprehensive geohydrological modelling and water signature testing, unfounded and unproven. We maintain that these levels are caused by contamination from pit latrines located close to the school, agricultural practices and/or as a result of the underlying geology. Further independent studies will be commissioned by Anglo Platinum to double check these findings.*[5]

The SAHRC subsequently made investigations into and published a report on the resettlement process carried out by PPL. This 2008 report contained a number of recommendations regarding the environment and mine blasting, including the following:

> *PPL demonstrate its ability to constantly monitor the impacts of mining activities on surrounding communities and illustrate how this monitoring is used in conjunction with the grievance redress mechanism to ensure that any potentially negative impacts of the mine both from PPL's and the community's perspective are addressed promptly.*
>
> *PPL implement a process by which all community members are moved from the area during blasting to not only appease the potentially real risk posed to individuals from the blasting itself, but to address the perception of that risk felt in many communities in the area. Moving the community members at Ga-Chaba during the blasting would also ensure that those community members no longer feel isolated from the protection which PPL are demonstrably awarding members of surrounding communities.*
>
> *PPL adhere to the Anglo Platinum commitment 'to prevent or minimise adverse impacts arising from the Group's operations'* [6]
>
> *PPL inform the communities as to their long term plans for mining in the area. It is an apparent commercial reality that mining is undertaken in phases which are determined at various points in time. However, the very real and disruptive impact of this phasing of activities on the communities and the accompanying uncertainty with which these communities live must also be realised and addressed.*[7]

It was also noted in the SAHRC 2008 report that Amplats had carried out its own water testing which contradicted ActionAid's findings.[8] A 2009 report is also available containing the results of an in-house study carried out by Anglo American, which again disputes many of ActionAid's findings.[9] It is stated in the report that studies were carried out by both in-house and external independent researchers, and the report contained the results of the in-house study.[10] Also, despite much disagreement with ActionAid findings in the report, the report concluded with the statement:

> *The extent to which nitrate fluxes from the low ?15N-?18O nitrate end-member to the groundwater are natural or are enhanced/caused by mining-related activities is [sic] subject of ongoing investigation.*[11]

In conjunction with the above report the SAHRC published a report on community discussions it had carried out in Limpopo in December 2008. In discussions with the Ga-Chaba community, which is located near the PPL mine, complaints were made regarding the levels of dust pollution in the community.[12] Blasting and noise from the mine were also problems in this community. In discussions with the Motlhotlo community, which borders the PPL mine, community members complained about the quality of water in the area.[13]

It appears that these problems persist. In a 2013 news article, residents who had been resettled to make way for the PPL mine expansion made statements relating to Amplats' failure to keep promises made to those relocated. One resident stated, "(h)ow can you move into a place where, besides the water scarcity, has water that

has been polluted?"[14]

In a 2013 report on the Mogalakwena mine, prepared by mining consultants SRK Consulting on behalf of Amplats, it was recorded that environmental issues had been raised by local communities during the public participation process. Such problems included dust, noise, impacts on soil condition and agriculture, soil erosion, increase in salinity of underground water, contamination of rivers by water flowing from waste dump site, deterioration of water quality during heavy rains and uncontrolled disposal of waste.[15] More than once a complaint was made about "greenish substances" seen in the water.[16]

In a 2012 report by the non-profit Bench Marks Foundation, 'Communities in the Platinum Minefields', it is stated that, "Anglo Platinum itself admits to exceeding permitted emission levels of sulphur dioxide (SO?) and harmful impacts on water resources in the area. The Bench Marks Foundation is concerned that the corporation reports only a 63% compliance with 688 conditions requiring legal compliance."[17] The harmful impacts on water mentioned in the Bench Marks report included high concentrations of nitrates, chlorides and sulphates in ground and surface water around the company's mine tailings and rock dumps.[18]

In early 2015, the Department of Environmental Affairs granted Amplats' application for a postponement of its obligation to comply with new minimum emission standards for SO? under the National Environmental Management Air Quality Act. The new standards would have been applicable from 1 April 2015, but Amplats' exemption enables it to delay compliance, i.e. to emit more SO_2 than is allowed under the new legislation, until 2020.[19]

In response to a PAIA request submitted by the CER for records indicating the names of mines and industrial facilities in respect of which notices or directives under the National Water Act have been issued, the Department of Water & Sanitation responded with information which indicated that Bokani Platinum Mine was issued with a notice in terms of the National Water Act on 12 May 2015. Bokani Platinum Mine is wholly owned by Bokani Platinum Holdings. Amplats has a significant shareholding in Bokani Platinum Holdings.[20] The response also indicated that Modikwa Platinum Mine (a joint Amplats and ARM operation) was issued with a notice under the National Water Act on 29 January 2014. Amplats failed to report this in their 2014 annual report.

---

1. http://news.bbc.co.uk/2/hi/africa/7312018.stm (last accessed on 7 August 2015) and http://www.mining-technology.com/news/news4312.html (last accessed on 7 August 2015).
2. Precious Metal: The Impact of Anglo Platinum on poor communities in Limpopo, South Africa, by ActionAid, at p5, available at http://www.actionaid.org.uk/sites/default/files/doc_lib/angloplats_miningreport_aa.pdf
3. Precious Metal: The Impact of Anglo Platinum on poor communities in Limpopo, South Africa, by ActionAid, at p18, available at http://www.actionaid.org.uk/sites/default/files/doc_lib/angloplats_miningreport_aa.pdf
4. The Facts, First edition, by Anglo American Platinum, at p20.
5. The Facts, Second edition, by Anglo American Platinum, at p20, available at http://www.angloamerican.com/~/media/Files/A/Anglo-American-Plc/media/releases/2008pr/2008-04-14/2008-04-14.pdf
6. Anglo Platinum, 'Environmental Impacts', accessed 29 July 2008
7. Mining-related observations and recommendations: Anglo Platinum, affected communities and other stakeholders, in and around the PPL Mine, Limpopo, by the South African Human Rights Commission, at pviii to ix, available at http://www.reports-and-materials.org/sites/default/files/reports-and-materials/SAHRC-report-on-Anglo-Platinum-Nov-2008.pdf
8. Mining-related observations and recommendations: Anglo Platinum, affected communities and other stakeholders, in and around the PPL Mine, Limpopo, by the South African Human Rights Commission, at p31 to 32, available at http://www.reports-and-materials.org/sites/default/files/reports-and-materials/SAHRC-report-on-Anglo-Platinum-Nov-2008.pdf
9. Isotopic fingerprinting of groundwater nitrate sources around Anglo Platinum's RPM Mogalakwena operation (Limpopo Province, South Africa) by C. Ihlenfeld, C.J. Oates, S. Bullock and R. Van Zyl, available at http://www.imwa.info/docs/imwa_2009/IMWA2009_Ihlenfeld.pdf
10. Isotopic fingerprinting of groundwater nitrate sources around Anglo Platinum's RPM Mogalakwena operation (Limpopo Province, South Africa) by C. Ihlenfeld, C.J. Oates, S. Bullock and R. Van Zyl, at p882 available at http://www.imwa.info/docs/imwa_2009/IMWA2009_Ihlenfeld.pdf
11. Isotopic fingerprinting of groundwater nitrate sources around Anglo Platinum's RPM Mogalakwena operation (Limpopo Province, South Africa) by C. Ihlenfeld, C.J. Oates, S. Bullock and R. Van Zyl, at p891, available at http://www.imwa.info/docs/imwa_2009/IMWA2009_Ihlenfeld.pdf
12. Report on Limpopo Community Discussion Forums, 2-4 December 2008, by the South African Human Rights Commission, at p13, available at http://www.sahrc.org.za/home/21/files/Reports/Report%20on%20Site%20Visit%20to%20Mokopane%20-%20December%202008%20Final.pdf
13. Report on Limpopo Community Discussion Forums, 2-4 December 2008, by the South African Human Rights Commission, at p17, available at http://www.sahrc.org.za/home/21/files/Reports/Report%20on%20Site%20Visit%20to%20Mokopane%20-%20December%202008%20Final.pdf
14. http://www.bdlive.co.za/businesstimes/2013/09/08/villagers-take-on-platinum-giant?service=print (last accessed on 7 August 2015).
15. Anglo American Platinum Limited: Mogalakwena Platinum Mine – Issues & Response Report for Proposed Projects, by SRK Consulting, at p2, available at http://www.srk.co.za/files/File/South-Africa/publicDocuments/Groot_Sandsloot/issues_responses_report_oct_2013_owea.pdf
16. Anglo American Platinum Limited: Mogalakwena Platinum Mine – Issues & Response Report for Proposed Projects, by SRK Consulting, at p4, available at http://www.srk.co.za/files/File/South-Africa/publicDocuments/Groot_Sandsloot/issues_responses_report_oct_2013_owea.pdf
17. Communities in the Platinum Minefields, A Review of Platinum Mining in the Bojanala District of the North West Province: A Participatory Action Research (PAR) Approach, Policy Gap 6, The Bench Marks Foundation, at p vi, available at http://www.bench-marks.org.za/research/rustenburg_review_policy_gap_final_aug_2012.pdf
18. Communities in the Platinum Minefields, A Review of Platinum Mining in the Bojanala District of the North West Province: A Participatory Action Research (PAR) Approach, Policy Gap 6, The Bench Marks Foundation, at p 45, available at http://www.bench-marks.org.za/research/rustenburg_review_policy_gap_final_aug_2012.pdf
19. http://www.dailymaverick.co.za/opinionista/2015-03-09-breathing-space-for-polluters-but-what-about-public-health/#.VV23ofmqqko (last accessed on 7 August 2015) and https://www.environment.gov.za/sites/default/files/docs/airqualitymanagement_postponementapplications.pdf (last accessed on 7 August 2015).
20. http://www.atlatsaresources.co.za/about-us/group-structure

Anglo American Platinum Limited's response to the Full Disclosure findings

Each company assessed was given a month to respond to the *Full Disclosure* findings before we published our report.

See Anglo American Platinum Limited's response at: http://cer.org.za/full-disclosure/company/anglo-american-platinum-limited?correspondence.

Major shareholders

Amplats' 2014 Annual Report lists one company as holding shares equal to or in excess of 5% of the issued share capital of the company: Anglo South Africa Capital Proprietary Limited.[1]

1. Anglo American Platinum Annual Financial Statements 2014 at p56, available at http://www.angloamericanplatinum.com/~/media/Files/A/Anglo-American-Platinum/documents/afs-2014-040315.pdf

Membership of voluntary initiatives, accreditations and awards

JSE SRI	Amplats appeared on the SRI index every year from 2004 to 2014.
JSE SRI Best Performers	Amplats featured in the Best Performers category in 2005, 2006, 2013 and 2014.
Carbon Disclosure Project	Amplats has responded to the CDP on a number of occasions.
ISO 14001:2004	In the 2013 Sustainable Development Report Amplats stated that all managed operations had an environmental management system in place which was in compliance with ISO 14001:2004, and also that in the previous year there had been four major non-conformances and 70 minor non-conformances with this standard.[1]
World Business Council for Sustainable Development	Anglo American is a member of this Council, but Amplats is not.
Cement Sustainability Initiative	Not applicable
Green Building Council of South Africa	Not applicable
Global 100	Amplats does not appear in the Global 100.
United Nations Global Compact	Amplats is a participant in the UNGC through its parent company Anglo American.
International Council on Mining and Metals	Anglo American is a founding member and Amplats has adopted ICMM principles.
Extractive Industries Transparency Initiative	In its 2013 Sustainable Development Report, Amplats stated that it is bound by the EITI code via Anglo American plc.[2]
Cyanide Code	Not applicable

1. Anglo American Platinum Sustainable Development Report 2013 at p84, available at http://www.angloamericanplatinum.com/~/media/Files/A/Anglo-American-Platinum/annual-reports/aap-sd-report-2013.pdf
2. Anglo American Platinum Sustainable Development Report 2013 at p105, available at http://www.angloamericanplatinum.com/~/media/Files/A/Anglo-American-Platinum/annual-reports/aap-sd-report-2013.pdf

ANGLO AMERICAN PLC

Summary of findings and company response

Anglo American describes its “environmental vision” as follows:

> *The Anglo American Environmental Vision is to minimise harm to the environment by designing, operating and closing all of our operations in an environmentally responsible manner.*
>
> *We believe that robust management of environmental issues is a fundamental element of good overall operational management, and a source of competitive advantage. Poor management of environmental issues is inconsistent with Anglo American’s values and long-term business interests.*[1]

Given the size and scope of its operations, and the environmental impact of those operations. Anglo American provides surprisingly little data on environmental non-compliances and incidents to its shareholders. No information is provided at all about compliance inspections by regulatory authorities. What little information is provided raises serious concerns, in particular in relation to unauthorised water discharges and other water contamination.

The Department of Mineral Resources and the Department of Water and Sanitation are responsible for compliance monitoring and enforcement of environmental and water laws by mining companies. Thus far, unlike the Department of Environmental Affairs, neither department has published any information on its compliance monitoring and enforcement action. Both Departments however, in answers to Parliamentary Questions, insist that many inspections take place, many directives and compliance notices are issued, and many criminal prosecutions are instituted.

The fact that the Departments charged with regulating the mining sector do not publicise non-compliance findings or enforcement action means that it is impossible to know whether or not the level of disclosure on environmental non-compliances by mining companies in their annual reports is accurate or complete.

Anglo American’s Group Head of Safety and Sustainability, Dave Morris, in his response to *Full Disclosure,* provided clarification in relation to the classification of a tailings dam incident flagged in *Full Disclosure,* as well as useful comments on a number of the issues raised in the *Environmental Impacts reported by affected communities, the media & NGOs* section of the report. Mr Morris also acknowledged that the geographic location of environmental incidents is not always clear from the company’s reports, and stated that “this will be taken into consideration during the preparation of future reports”.

---

1. The Anglo Environmental Way at p5, available at http://angloamerican.com/~/media/Files/A/Anglo-American-PLC-V2/documents/approach-and-policies/environment/environmentway-v1.pdf

Company overview

Anglo American is a multinational mining company with a primary listing on the London Stock Exchange and a secondary listing on the JSE. It has 72,000 permanent employees in South Africa (including those in subsidiary companies)[1] and operates in the Free State, Gauteng, Limpopo, Mpumalanga, the Northern Cape and the North West Province.[2]

Anglo American mines platinum, iron ore and coal in South Africa. It also owns 85% of diamond mining company De Beers.

The company’s platinum business (Anglo American Platinum Limited) is the leading producer of platinum world-wide and has 10 mining operations in production, a tailings re-treatment facility, three smelters, a base metals refinery and a precious metals refinery.[3] This operation has been dealt with separately under the ‘Anglo American Platinum Limited’ section of this report.

Anglo American’s iron ore business consists primarily of a 69.7% shareholding in Kumba Iron Ore Limited. Kumba Iron Ore operates two mines in the Northern Cape and one mine in Limpopo.

Anglo American’s thermal coal business operates seven mines in South Africa and also has a 50% interest in the Mafube Colliery and Phola washing plant.[4]

---

1. Anglo American Annual Report 2014 at p5, available at http://southafrica.angloamerican.com/~/media/Files/A/Anglo-American-South-Africa-V2/documents/anglo-ar14-interactive.pdf
2. http://southafrica.angloamerican.com/about-us-in-south-africa/where-we-operate.aspx#/operations-projects/iron-coal-copper-nickel-niobium-platinum-diamonds (last accessed on 7 August 2015).
3. http://www.angloamerican.co.za/our-operations/platinum.aspx (last accessed on 7 August 2015).
4. http://www.angloamerican.co.za/our-operations/thermal-coal.aspx (last accessed on 7 August 2015).

Non-compliance with environmental laws as reported in the National Environmental Compliance and Enforcement Reports

Anglo American does not feature in the National Environmental Compliance and Enforcement Reports. However, as the Department of Environmental Affairs' Environmental Management Inspectors do not have jurisdiction over the environmental or water impacts of mining, this does not mean that the company has not been subject to compliance monitoring and/or enforcement action. The Department of Mineral Resources and the Department of Water and Sanitation are responsible for compliance monitoring and enforcement of environmental and water laws by mining companies. Unlike the Department of Environmental Affairs, thus far neither department has published any information on its compliance monitoring and enforcement action. Both Departments however, in answers to Parliamentary Questions, insist that many inspections take place, many directives and compliance notices are issued, and many criminal prosecutions are instituted.

With a few minor exceptions, the mining companies assessed in *Full Disclosure* did not refer to compliance monitoring inspections by the Department of Mineral Resources or Department of Water and Sanitation in their shareholder reporting.

The fact that the Departments charged with regulating the sector do not publicise non-compliance findings or enforcement action means that it is impossible to know whether or not the level of disclosure on environmental and water non-compliances by mining companies in their annual reports is accurate.

For more information please see *Enforcing the Law: the challenges undermining environmental compliance monitoring and enforcement in South Africa*.

Anglo American plc's disclosure of environmental non-compliances in annual reports

The company's sustainable development reports include data on "environmental incidents" which have occurred throughout the year (throughout Anglo American's worldwide operations and not just its South African operations). Such incidents are ranked from level 3 (medium environmental impact) to level 5 (high environmental impact).[1] Level 1 and 2 incidents are not reported publicly as they are regarded by the company as minor in nature.[2] This scale was introduced in 2011. Previously a three tiered scale was used.[3]

Anglo American's company reports do not contain any information on compliance monitoring and enforcement action by regulatory authorities.

2009 company reports

In 2009 the company reported 62 Level 2 incidents across the group, 42% of which were water related incidents.[4]

2010 company reports

In 2010 the company reported 61 Level 2 incidents across the group, including 38 water related incidents. It was reported that these were primarily as a result of high levels of rainfall in Australia and South Africa.[5]

2011 company reports

In 2011, the company reported 27 Level 3 environmental incidents and one Level 4 incident. The Level 4 incident occurred in Canada. It was reported that 12 of the Level 3 incidents related to water and more specifically included ineffective sewerage containment and contaminated water dam overflows. It is not clear from the 2011 Sustainable Development Report where the Level 3 incidents occurred.

2012 company reports

In 2012, the company reported 12 Level 3 incidents.[6] 7 of these related to water and there was also one Level 4 water related incident.[7] The Level 3 water incidents related to "unplanned discharges" and the Level 4 incident related to an operation in Brazil.

Also in relation to water it was stated that "Anglo American's exposure to acid rock drainage (ARD) in southern Africa is limited to some of our Thermal Coal mines in the country's Mpumalanga province."[8]

The above figure of 12 Level 3 incidents during the year excludes the number of environmental incidents at De Beers' operations, which amounted to 10 Level 3 incidents.[9] No details of these incidents are provided.

2013 company reports

In 2013, the company reported 30 Level 3 incidents.[10] In the same report it is stated that excluding De Beers there were 24 Level 3 incidents and 150 Level 2 incidents. 6 of the Level 3 incidents occurred at Thermal Coal (operating in South Africa, Colombia, Canada and Australia) and 1 at Platinum.[11] Further information is available regarding these "incidents", but it is not always clear whether or not such incidents relate to South African operations.

15 incidents during the 2013 reporting period related to water and "mostly to unauthorised discharges at the coal businesses in South Africa and Australia, following heavy rainfall".[12] Seven environmental incidents in 2013 related to land, which included three hydrocarbon spills at Thermal Coal in South Africa.[13]

The company reported five biodiversity related incidents in 2013, which included trees being cut down at De Beers' Voorspoed mine, three slime spills and an overflow of municipal raw sewerage into a rehabilitated mining area at Kimberley mine.[14]

The Mogalakwena mine, operated by Anglo American Platinum, experienced a Level 3 tailings spillage in 2013.[15] The tailings leaked into the Mohlosane River and extended for four kilometres into communal land.[16] It is notable that this incident was classified as only Level 3.[17]

2014 company reports

In 2014, the company reported one Level 4 incident and 14 Level 3 incidents.[18] One of the Level 3 incidents was a hydrocarbon spill at Kumba Iron Ore[19] and another involved damage to indigenous trees and natural vegetation at De Beers' Kimberley mine.[20] Other Level 3 incidents include unauthorised mine water discharges at coal operations in South Africa.[21]

The Level 4 incident occurred at a South African coal mine, where an acidic water discharge caused water discolouration and metal precipitation in a stream.[22]

---

1. Anglo American Sustainable Development Report 2013 at p16, available at http://www.angloamerican.co.za/~/media/Files/A/Anglo-American-South-Africa/Attachments/media/AA-SDR-2803.pdf
2. Anglo American Sustainable Development Report 2013 at p59, available at http://www.angloamerican.co.za/~/media/Files/A/Anglo-American-South-Africa/Attachments/media/AA-SDR-2803.pdf
3. Anglo American Sustainable Development Report 2011 at p49, available at http://www.angloamerican.co.za/~/media/Files/A/Anglo-American-South-Africa/Attachments/sustainable-development/SD-Report-2011a.pdf
4. Anglo American Sustainable Development Report 2010 at p50, available at http://www.angloamerican.com/~/media/Files/A/Anglo-American-PLC-V2/investors/reports/angloamerican-sd-reporthjz-2010.pdf
5. Anglo American Sustainable Development Report 2010 at p50, available at http://www.angloamerican.com/~/media/Files/A/Anglo-American-PLC-V2/investors/reports/angloamerican-sd-reporthjz-2010.pdf
6. Anglo American Sustainable Development Report 2012 at p74, available at http://southafrica.angloamerican.com/~/media/Files/A/Anglo-American-South-Africa/Attachments/media/sd-report-2012.pdf
7. Anglo American Sustainable Development Report 2012 at p59, available at http://southafrica.angloamerican.com/~/media/Files/A/Anglo-American-South-Africa/Attachments/media/sd-report-2012.pdf
8. Anglo American Sustainable Development Report 2012 at p59, available at http://southafrica.angloamerican.com/~/media/Files/A/Anglo-American-South-Africa/Attachments/media/sd-report-2012.pdf
9. Anglo American Sustainable Development Report 2012 at p76, available at http://southafrica.angloamerican.com/~/media/Files/A/Anglo-American-South-Africa/Attachments/media/sd-report-2012.pdf
10. Anglo American Sustainable Development Report 2013 at p17, available at http://www.angloamerican.co.za/~/media/Files/A/Anglo-American-South-Africa/Attachments/media/AA-SDR-2803.pdf
11. Anglo American Sustainable Development Report 2013 at p76, available at http://www.angloamerican.co.za/~/media/Files/A/Anglo-American-South-Africa/Attachments/media/AA-SDR-2803.pdf
12. Anglo American Sustainable Development Report 2013 at p59, available at http://www.angloamerican.co.za/~/media/Files/A/Anglo-American-South-Africa/Attachments/media/AA-SDR-2803.pdf
13. Anglo American Sustainable Development Report 2013 at p66, available at http://www.angloamerican.co.za/~/media/Files/A/Anglo-American-South-Africa/Attachments/media/AA-SDR-2803.pdf
14. Anglo American Sustainable Development Report 2013 at p66, available at http://www.angloamerican.co.za/~/media/Files/A/Anglo-American-South-Africa/Attachments/media/AA-SDR-2803.pdf
15. Anglo American Sustainable Development Report 2013 at p68, available at http://www.angloamerican.co.za/~/media/Files/A/Anglo-American-South-Africa/Attachments/media/AA-SDR-2803.pdf
16. Anglo American Sustainable Development Report 2013 at p68, available at http://www.angloamerican.co.za/~/media/Files/A/Anglo-American-South-Africa/Attachments/media/AA-SDR-2803.pdf

17. Anglo American provided an explanation for this classification in its response to Full Disclosure. Please see http://cer.org.za/full-disclosure/company/anglo-american-plc?correspondence
18. Anglo American Sustainable Development Report 2014 at p56, available at http://southafrica.angloamerican.com/~/media/Files/A/Anglo-American-South-Africa-V2/documents/sdr14-interactive-version.pdf
19. Anglo American Sustainable Development Report 2014 at p57, available at http://southafrica.angloamerican.com/~/media/Files/A/Anglo-American-South-Africa-V2/documents/sdr14-interactive-version.pdf
20. Anglo American Sustainable Development Report 2014 at p57, available at http://southafrica.angloamerican.com/~/media/Files/A/Anglo-American-South-Africa-V2/documents/sdr14-interactive-version.pdf
21. Anglo American Sustainable Development Report 2014 at p65, available at http://southafrica.angloamerican.com/~/media/Files/A/Anglo-American-South-Africa-V2/documents/sdr14-interactive-version.pdf
22. Anglo American Sustainable Development Report 2014 at p65, available at http://southafrica.angloamerican.com/~/media/Files/A/Anglo-American-South-Africa-V2/documents/sdr14-interactive-version.pdf

Environmental non-compliances reported by affected communities, the media, & NGOs

Affected communities have mobilised against Anglo American Thermal Coal and Vedanta Zinc International's plans to build a coal fired power station in the Waterberg region in Limpopo. In late 2013 it was reported that the companies had refused to supply civil society with copies of their applications for waste, water and atmospheric emission licences for the new operation, thereby preventing public participation in the decision making process.[1] In early 2014 it was reported that following the DEA's rejection of its application, Anglo American was reapplying for authorisation.[2] In its response to *Full Disclosure,* Anglo American stated that its memorandum of understanding with Vedanta was terminated in June 2014, and that EIA applications were terminated at scoping phase. Please see http://cer.org.za/full-disclosure/company/anglo-american-plc?correspondence.

In a report by the non-profit Bench Marks Foundation, "Policy Gap 9, South African Coal Mining", published in 2014, criticism is levelled at Anglo American's track record in relation to rehabilitation of the damage caused by its mining operations. Attention is drawn to the "Isibonelo wetland offset program", at the Isibonelo Colliery, which, according to the report, Anglo American sought to abandon after a few years due to non-achievement of goals and apparent problems with reclaiming or re-establishing mined pans at the Mafube Colliery.[3]

The report also stated that Anglo Coal conducted various public consultation processes in fulfilment of its EIA requirements to obtain a licence for its Largo mine in 2006 and later in 2010 and 2011, but that public meetings undertaken in order to obtain a water use licence only took place in 2011, five years after EIA consultations.[4] In Anglo American's response to Full Disclosure, the company states that after a postponement, a new application for environmental authorisation was lodged in 2010, and that "approval of an integrated water use license was applied for as part of the EIA process in 2012, following required consultation processes in 2011." The Bench Marks report also dealt more generally with pollution and environmental damage caused by mining in areas including those in which Anglo American operates.[5]

In 2014 Anglo American subsidiary De Beers Consolidated Mines was cited for its interest in litigation brought by Conservation South Africa (CSA) against the Department of Mineral Resources. CSA had sought access to information from that department, using the Promotion of Access to Information Act, concerning De Beers' Namaqualand Mines which De Beers was in the process of selling. The information requested included:

- financial provision for environmental rehabilitation at Namaqualand Mines (in response to rumours that the financial provision had been dramatically reduced in the process of finding a purchaser);
- De Beers' application to the Minister of Mineral Resources for approval of the transfer of the relevant mining rights to a subsidiary of Trans Hex Group Ltd (Trans Hex); and
- environmental and health and safety compliance inspection reports for a specified period.

The Department of Mineral Resources refused to disclose this information. After the launch of a High Court application by CSA to compel the Department to disclose, it did agree to do so. However, once the Department agreed to disclose, De Beers stepped in to oppose CSA's court proceedings. Rather than complying with the court rules applicable to parties opposing litigation, De Beers dragged its feet to delay progression of the matter. So serious was the delay that CSA was obliged to bring an interlocutory application to compel De Beers to file its answering papers. The court ordered De Beers to file its papers within 5 days, which it then did. The delay was clearly engineered to enable De Beers to finalise the transfer of Namaqualand Mines to Trans Hex (with the reduced financial provision) without public scrutiny: relatively swiftly after that transfer was finalised and De Beers withdrew its opposition to the court proceedings.[6]

A news article published in May 2015 details community objections to a planned Anglo American mine in Gauteng, said to threaten 20,000 hectares of land and water sources.[7]

In response to a PAIA request submitted by the CER for records indicating the names of mines and industrial facilities in respect of which notices or directives under the National Water Act have been issued, the Department of Water & Sanitation responded with information which indicated that the Greenside and Kreil Collieries in Mpumalanga were issued with notices in terms of the National Water Act on 19 February 2015 and 30 March 2015 respectively. The Greenside Colliery is wholly owned by Anglo American, and Anglo American has a 73% share ownership in the Kreil Colliery.[8]

---

1. http://www.news24.com/Columnists/AndreasSpath/Will-government-stand-up-to-Anglo-20131028 (last accessed on 7 August 2015).
2. http://earthlife.org.za/2014/04/press-release-earthlife-africa-jhb-to-protest-at-anglo-americans-agm/ (last accessed on 7 August 2015).
3. South African Coal Mining: Corporate Grievance Mechanisms, Community Engagement Concerns and Mining Impacts, Policy Gap 9, The Bench Marks Foundation, at p36, available at http://www.bench-marks.org.za/research/policy_gap_9.pdf
4. http://amandla.org.za/sinkholes-starvation-and-suffering-the-legacy-of-coal-mining-in-south-africa-by-david-van-wyk/ (last accessed on 7 August 2015).
5. South African Coal Mining: Corporate Grievance Mechanisms, Community Engagement Concerns and Mining Impacts, Policy Gap 9, The Bench Marks Foundation, at p38, available at http://www.bench-marks.org.za/research/policy_gap_9.pdf
6. http://cer.org.za/news/media-release-de-beers-uses-delaying-tactics-to-avoid-scrutiny-of-its-sale-of-namaqualand-mines (last accessed on 7 August 2015).
7. http://mg.co.za/article/2015-05-07-power-crisis-undermines-future-of-heidelberg-farmers (last accessed on 7 August 2015).
8. Anglo American plc Annual Report 2014, at p52, available at: http://www.angloamerican.com/~/media/Files/A/Anglo-American-PLC-V2/report-builder-2014/annual-report/aa-ar14-interactive-final.pdf

Anglo American plc's response to the Full Disclosure findings

Each company assessed was given a month to respond to the *Full Disclosure* findings before we published our report.

See Anglo American plc's response at: http://cer.org.za/full-disclosure/company/anglo-american-plc?correspondence.

Major shareholders

Anglo American plc lists the following as significant shareholdings in its 2014 report[1]:

- Public Investment Corporation
- Coronation Asset Management (Pty) Ltd
- Genesis Asset Managers, LLP
- Tarl Investment Holdings Limited
- Epoch Two Investment Holdings Limited.

1. Anglo American Annual Report 2014 at p212, available at http://www.angloamerican.com/~/media/Files/A/Anglo-American-PLC-V2/report-builder-2014/annual-report/aa-ar14-interactive-final.pdf

Membership of voluntary initiatives, accreditations and awards

JSE SRI	Anglo American appeared on the SRI index every year from 2004 to 2014.
JSE SRI Best Performers	Anglo American featured in the Best Performers category every year from 2005 to 2011 and again in 2014.
Carbon Disclosure Project	Anglo American has responded to the CDP on a number of occasions.
ISO 14001:2004	It was reported in 2013 that 96% of “relevant sites” had received certification.[1]
World Business Council for Sustainable Development	Anglo American is a member of this Council.
Cement Sustainability Initiative	Not applicable
Green Building Council of South Africa	Anglo Operations (Pty) Ltd, a subsidiary of Anglo American plc, is a member of the GBCSA.
Global 100	Anglo American does not appear in the Global 100.
United Nations Global Compact	Anglo American is a participant in the UNGC.
International Council on Mining and Metals	Anglo American is a founding member of the ICMM.
Extractive Industries Transparency Initiative	Anglo American is an EITI supporting company.
Cyanide Code	Not applicable

1. Anglo American Sustainable Development Report 2013 at p57, available at http://www.angloamerican.co.za/~/media/Files/A/Anglo-American-South-Africa/Attachments/media/AA-SDR-2803.pdf

ANGLOGOLD ASHANTI LIMITED

Summary of findings and company response

AngloGold's Environmental Policy is described in part as follows:

> *We are committed to responsible stewardship by monitoring, managing and minimising our impact on the environment.*[1]

AngloGold has its own incident reporting system, based on five levels of incident classification ranging from "minor" to "extreme". Only incidents falling into the top 3 levels are reported to shareholders or to the public. While the number of environmental incidents reported by the company over the assessment period has declined significantly, it is clear that the discharge and potential for discharge of polluted water into the environment remains an ongoing problem. In addition, AngloGold repeatedly refers, in its shareholder communications, to the major risks faced in relation to inter-mine flooding and associated pumping costs.

The Department of Mineral Resources and the Department of Water and Sanitation are responsible for compliance monitoring and enforcement of environmental and water laws by mining companies. Thus far, unlike the Department of Environmental Affairs, neither department has published any information on its compliance monitoring and enforcement action. Both Departments however, in answers to Parliamentary Questions, insist that many inspections take place, many directives and compliance notices are issued, and many criminal prosecutions are instituted.

AngloGold does not refer to any Department of Mineral Resources or Department of Water and Sanitation compliance inspections and findings in its shareholder reporting. The fact that the Departments charged with regulating the sector do not publicise non-compliance findings or enforcement action means that it is impossible to know whether or not the level of disclosure on environmental non-compliances by mining companies in their annual reports is accurate or complete.

AngloGold's Vice President: Investor Relations provided a comprehensive response to the *Full Disclosure* findings. The response clarified and expanded on a number of issues raised by the findings, and invited further engagement with the company. The response also stated that "all AngloGold Ashanti operations are required to be (and are) certified to ISO 14001. Recertification is required to be done at least every three years and is undertaken by an external auditor."

ISO 14001 (the current version being ISO 14001: 2004) sets out the criteria for an Environmental Management System. An Environmental Management System refers to the management of a company's environmental programmes in a comprehensive, systematic, planned and documented manner. ISO 14001 does not stipulate any requirements for environmental performance, but rather maps out a framework that companies can follow to set up and maintain an effective Environmental Management System.

Retention of ISO 14001 certification is therefore not an indication that a company is in compliance with environmental laws and permits, nor is it a substitute for reporting environmental non-compliance.

---

1. http://www.anglogoldashanti.com/en/sustainability/Pages/Environment.aspx (last accessed on 7 August 2015).

Company overview

AngloGold has 20 gold mining operations in 10 countries.[1] In South Africa AngloGold has five gold mines, three at its Vaal River operations (Great Noligwa, Kopanang and Moab Khotsong) and two at its West Wits operations (Mponeng and TauTona). AngloGold also has a number of surface operations at both of these locations.[2] The surface operations extract gold from marginal ore dumps and tailings storage facilities and uranium is also produced as a by-product. In 2014, AngloGold's total number of employees in South Africa was 29,511 (26,056 full-time employees and 3,455 contractors).[3]

---

1. http://www.anglogoldashanti.com/en/Pages/default.aspx (last accessed on 7 August 2015).
2. AngloGold Ashanti Integrated Report 2014 at p16, available at http://www.anglogoldashanti.com/en/Media/Reports/Annual%20Reports/AGA-IR14.pdf
3. AngloGold Ashanti Integrated Report 2014 at p73, available at http://www.anglogoldashanti.com/en/Media/Reports/Annual%20Reports/AGA-IR14.pdf

Non-compliance with environmental laws as reported in the National Environmental Compliance and Enforcement Reports

AngloGold does not feature in the National Environmental Compliance and Enforcement Reports. However, as the Department of Environmental Affairs' Environmental Management Inspectors do not have jurisdiction over the environmental or water impacts of mining, this does not mean that the company has not been subject to compliance monitoring and/or enforcement action. The Department of Mineral Resources and the Department of Water and Sanitation are responsible for compliance monitoring and enforcement of environmental and water laws by mining companies. Unlike the Department of Environmental Affairs, thus far neither department has published any information on its compliance monitoring and enforcement action. Both Departments however, in answers to Parliamentary Questions, insist that many inspections take place, many directives and compliance notices are issued, and many criminal prosecutions are instituted.

With a few minor exceptions, the mining companies assessed in *Full Disclosure* did not refer to compliance monitoring inspections by the Department of Mineral Resources or Department of Water and Sanitation in their shareholder reporting.

The fact that the Departments charged with regulating the sector do not publicise non-compliance findings or enforcement action means that it is impossible to know whether or not the level of disclosure on environmental and water non-compliances by mining companies in their annual reports is accurate.

For more information please see *Enforcing the Law: the challenges undermining environmental compliance monitoring and enforcement in South Africa*.

In 2005, the company received a directive from the then Department of Water Affairs, directing it and four other companies (Harmony Gold Mining Company Ltd, Simmer and Jack Mines and Simmer and Jack Investments (Pty) Ltd and Stilfontein Gold Mining Company Limited) to take anti-pollution measures in response to surface and groundwater pollution caused by acid mine drainage.[1]

---

1. *Harmony Gold Mining Company Ltd v Regional Director: Free State Department of Water Affairs and Others* (971/12) (2013) ZASCA 206, at para 1.

AngloGold Ashanti Limited's disclosure of environmental non-compliances in annual reports

AngloGold has its own incident reporting system, based on five levels of incident classification: minor, moderate, high, major and extreme.

2009 company reports

The 2009 Sustainable Development Report states that "all incidents are recorded at site level and reported locally as appropriate", and "incidents falling into the high, major and extreme categories are reported to the relevant board committee and in this report".[1] Incidents falling below such levels of severity are therefore not reported to shareholders or to the public. A separate document entitled 'Environmental Incident Classification Criteria' states that incidents in the high, major and extreme categories are reported to the 'corporate office', but in relation to minor and moderate incidents, only the number is reported to the 'corporate office'.[2]

Under the previous reporting criteria applicable prior to 2009, significantly more incidents were recorded. The previous criteria defined a major environmental incident as "an incident which could affect the company's reputation or which would result in a cost to the company exceeding $100 000, including fines, compensation, clean-up, loss of production, and anticipated litigation costs".[3]

The 2009 Sustainable Development Report provided incident statistics for 2007 to 2009 under both the current and previous criteria for comparison purposes. In 2007 there were 49 incidents under the new criteria and 48 under the old. In 2008 there were 55 incidents under the new criteria and 160 under the old. In 2009 there were 50 incidents under the new criteria and 195 under the old. The noticeable difference in figures is attributed by AngloGold to the fact that under the old criteria, SO? emissions (particularly at the East Gold Acid Float Plant Vaal River) which exceeded a guideline threshold were reported. This threshold was reported to be below regulatory limits, but exceedances were reported as they were regarded as relevant to the company's reputation. Under the new classification system, such incidents would be categorised as minor or moderate (unless there was a breach of a regulatory threshold).[4]

During the 2009 reporting period, of the 50 environmental incidents reported by the company, 35 occurred in South Africa.[5] 50% of the 50 related to unauthorised discharges, 34% related to pipeline failure, 10% related to air emissions and 6% were attributed to "other loss of containment".[6] The East Gold Acid Float Plant Vaal River, a 40 year old plant, was specifically mentioned in relation to SO? emissions, which were said to be a "continuing cause of concern" with 5 major incidents in the year.[7] The sulphuric acid section of this plant was subsequently closed.[8]

2010 company reports

In 2010 the company reported 27 incidents[9] including 10 in South Africa.[10] Of these 10, 1 occurred at Vaal River operations and the others occurred as West Wits operations.[11] In 2010 it was also reported that groundwater pollution due to seepage from mining activities was one of the main environmental challenges at Vaal River operations. All 2010 South African incidents were dam overflows.[12]

2011 company reports

In 2011 the company reported 27 incidents,[13] 12 of which occurred in South Africa.[14] Of these 12, 10 occurred at Vaal River operations and 2 occurred as West Wits operations.[15]

It was further reported that the company's dust mitigation programme was accelerated during the year as increased dust levels were measured at a community area near a tailings storage facility in the Vaal River area.[16]

Risks for the South African region were identified, including "the potential for discharge of polluted water into the environment, either directly or indirectly as a result of seepage from tailings facilities and polluted water; polluted land beyond current mining boundaries as a result of discharges; air pollution and land contamination as a result of windblown dust from tailings storage facilities".[17]

2012 company reports

In 2012 the company reported 16 incidents,[18] 10 of which occurred in South Africa at Vaal River operations.[19]

It was also stated in the 2012 report that "the potential for inter-mine flooding and water legacy issues continued to be environmental challenges" in the South African region.[20]

2013 company reports

In 2013 the company reported 10 incidents,[21] including 3 in South Africa.[22] The 3 South African incidents occurred at the Mine Waste Solutions (MWS) operation, one of AngloGold's surface operations. The following details are provided in the 2013 report: the tailings pipeline from Mine Waste Solutions to the tailings storage facility failed following the illegal removal of a part of the pipeline and this led to a spillage. Following this the company temporarily suspended operations and containment walls were built to contain the spill. It was also reported that after remediation efforts "water quality in the Koekemoer Spruit, near MWS, had largely returned to pre-spillage conditions in the weeks following the incident".[23] It is unclear whether these details relate solely to one of the reported environmental incidents, or to all of them.

Also noted here is the fact that "potential for inter-mine flooding at both the Vaal River and West Wits operations remains a risk and major focus area, compounded by the failure of neighbouring mines to contribute to pumping costs. At year-end, AngloGold Ashanti was pumping water from underground operations that it does not own and that have ceased working, to prevent flooding of its current mine workings."[24]

The 2013 report also contained information on AngloGold's contribution to acid mine drainage in the Witwatersrand Basin. It stated that, "(m)ost of the water used to transport process slurries to tailings storage facilities…drains to return water dams and is recycled into the water circuit; however some water evades capture and seeps into underground aquifers. Rainwater falling on waste rock dumps can also dissolve salts as it percolates through a dump and also end up underground. When this water and the water that has naturally seeped underground from elsewhere comes into contact with sulphide-bearing minerals (pyrites), possibly as a result of mining, the water can become acidic, and is known as acid rock drainage."[25]

2014 company reports

In 2014 the company reported 5 environmental incidents[26] including 1 in South Africa.[27] The incident in South Africa occurred at the Mine Waste Solutions operation and involved the overflow of water from the return water dam and slurry containment area and resulting discharge into the adjacent watercourse.[28]

In response to a PAIA request submitted by the CER for records indicating the names of mines and industrial facilities in respect of which notices or directives under the National Water Act have been issued, the Department of Water & Sanitation responded with information which indicated that Mine Waste Solutions was issued with

a directive under the National Water Act on 23 June 2014. As this presumably relates to the same 2014 incident, AngloGold failed to report that it had received a directive.

International Cyanide Management Code

The use of cyanide in the gold recovery process prompted the formation of the International Cyanide Management Code, a voluntary initiative set up by a multi-stakeholder steering committee under the guidance of the United Nations Environment Programme and the International Council on Mining and Metals (then the International Council on Metals and the Environment) to promote the responsible use of cyanide in gold mining and to reduce the potential environmental impacts of cyanide. Cyanide Code certification is available to certify proper management of this hazardous material.

In 2009, it was reported that 63% of AngloGold's operations were fully certified against the Code.[29] In 2010 it was reported that 15 of the 19 operations using cyanide were compliant,[30] in 2011 the number increased to 16[31] and in 2013 15 operations were said to be certified.[32] In 2014 it was reported that out of the 20 plants using cyanide 15 operations are certified.[33]

---

1. AngloGold Ashanti Sustainability Review 2009 at p33, available at http://www.anglogoldashanti.com/en/Media/Reports/Sustainability%20Reports/AGA-sustainable-gold-2009.pdf
2. 'Environmental Incident Classification Criteria' available at http://www.anglogoldashanti.com/en/About-Us/corporategovernance/Corporate%20Governance%20Documents/EnvironmentalIncidentReportingCriteria.pdf
3. AngloGold Ashanti Sustainability Review 2009 at p32, available at http://www.anglogoldashanti.com/en/Media/Reports/Sustainability%20Reports/AGA-sustainable-gold-2009.pdf
4. AngloGold Ashanti Sustainability Report 2009 at p33, available at http://www.anglogoldashanti.com/en/Media/Reports/Sustainability%20Reports/AGA-sustainable-gold-2009.pdf
5. AngloGold Ashanti Annual Integrated Report 2011 at p38, available at http://www.aga-reports.com/11/download/AGA-annual-integrated-report-2011.pdf
6. AngloGold Ashanti Sustainability Report 2009 at p33, available at http://www.anglogoldashanti.com/en/Media/Reports/Sustainability%20Reports/AGA-sustainable-gold-2009.pdf
7. AngloGold Ashanti Sustainability Report 2009 at p41, available at http://www.anglogoldashanti.com/en/Media/Reports/Sustainability%20Reports/AGA-sustainable-gold-2009.pdf
8. AngloGold Ashanti Sustainability Report 2010 at p52, available at http://www.anglogoldashanti.com/en/Media/Reports/Sustainability%20Reports/AGA-sustainable-gold-2010.pdf
9. AngloGold Ashanti Sustainability Report 2010 at p3, available at http://www.anglogoldashanti.com/en/Media/Reports/Sustainability%20Reports/AGA-sustainable-gold-2010.pdf
10. AngloGold Ashanti Annual Integrated Report 2011 at p38, available at http://www.aga-reports.com/11/download/AGA-annual-integrated-report-2011.pdf
11. AngloGold Ashanti Annual Integrated Report 2012 at p37, http://www.aga-reports.com/12/downloads/AGA-annual-integrated-report-2012.pdf
12. Uranium from Africa, Mitigation of uranium mining impacts on society and environment by industry and governments, by SOMO, at p67, available at http://www.somo.nl/publications-en/Publication_3688
13. AngloGold Ashanti Sustainability Report 2011 at p7, available at http://www.aga-reports.com/11/download/AGA-sustainability-report-2011.pdf
14. AngloGold Ashanti Annual Integrated Report 2011 at p38, available at http://www.aga-reports.com/11/download/AGA-sustainability-report-2011.pdf
15. AngloGold Ashanti Annual Integrated Report 2012 at p37, available at http://www.aga-reports.com/12/downloads/AGA-annual-integrated-report-2012.pdf
16. AngloGold Ashanti Sustainability Report 2011 at p52, available at http://www.aga-reports.com/11/download/AGA-sustainability-report-2011.pdf
17. AngloGold Ashanti Sustainability Report 2011 at p21, available at http://www.aga-reports.com/11/download/AGA-sustainability-report-2011.pdf
18. AngloGold Ashanti Annual Integrated Report 2012 at p5, available at http://www.aga-reports.com/12/downloads/AGA-annual-integrated-report-2012.pdf
19. AngloGold Ashanti Annual Integrated Report 2012 at p37, available at http://www.aga-reports.com/12/downloads/AGA-annual-integrated-report-2012.pdf
20. AngloGold Ashanti Annual Integrated Report 2012 at p43, available at http://www.aga-reports.com/12/downloads/AGA-annual-integrated-report-2012.pdf
21. AngloGold Ashanti Annual Sustainability Report 2013 at p11, available at http://www.anglogoldashanti.com/en/Media/Reports/Sustainability%20Reports/Sustainability%20Report%202013.pdf
22. AngloGold Ashanti Annual Integrated Report 2013 at p41, available at http://www.aga-reports.com/13/download/AGA-IR13.pdf
23. AngloGold Ashanti Annual Integrated Report 2013 at p43, available at http://www.aga-reports.com/13/download/AGA-IR13.pdf
24. AngloGold Ashanti Annual Integrated Report 2013 at p43, available at http://www.aga-reports.com/13/download/AGA-IR13.pdf
25. AngloGold Ashanti Sustainability Report 2013 at p62, available at http://www.anglogoldashanti.com/en/Media/Reports/Sustainability%20Reports/Sustainability%20Report%202013.pdf
26. AngloGold Ashanti Integrated Report 2014 at p65, available at http://www.anglogoldashanti.com/en/Media/Reports/Annual%20Reports/AGA-IR14.pdf
27. AngloGold Ashanti Integrated Report 2014 at p71, available at http://www.anglogoldashanti.com/en/Media/Reports/Annual%20Reports/AGA-IR14.pdf
28. http://www.aga-reports.com/14/sdr/material-issues/environmental-stewardship/approach (last accessed on 2 September 2015)
29. AngloGold Ashanti Sustainability Report 2009 at p41, available at http://www.anglogoldashanti.com/en/Media/Reports/Sustainability%20Reports/AGA-sustainable-gold-2009.pdf
30. AngloGold Ashanti Sustainability Report 2010 at p52, available at http://www.anglogoldashanti.com/en/Media/Reports/Sustainability%20Reports/AGA-sustainable-gold-2010.pdf
31. AngloGold Ashanti Sustainability Report 2011 at p51, available at http://www.aga-reports.com/11/download/AGA-sustainability-report-2011.pdf
32. AngloGold Ashanti Sustainability Report 2013 at p51, available at http://www.anglogoldashanti.com/en/Media/Reports/Sustainability%20Reports/Sustainability%20Report%202013.pdf
33. AngloGold Ashanti Integrated Report 2014 at p25, available at http://www.anglogoldashanti.com/en/Media/Reports/Annual%20Reports/AGA-IR14.pdf

Environmental non-compliances reported by affected communities, the media, & NGOs

In a 2011 report entitled 'Uranium from Africa', published by the Netherlands-based Centre for Research on Multinational Corporations, AngloGold's management of tailings dams was questioned and it was noted that there were no concrete or other layers under the tailings dams (which would prevent seepage and resulting pollution). When this was put to AngloGold, a spokesperson for the company made comments about finding a new destination after processing and reprocessing of the tailings dams, and stated that while the land could not be used for farming it could be used for industrial purposes.[1] The report noted that no further information could be found regarding tailings dams management, nor could much information be found on issues such as water, biodiversity and greenhouse gas emissions in relation to AngloGold.[2]

In late 2013, it was reported that a toxic waste spill from the Mine Waste Solutions unit of the company had affected 1.6 kilometres of a tributary of the Vaal River and that this had been at least the second spillage from this unit in 5 months.[3] The company claimed that the spillage "could be detrimental to flora and fauna but not to human life". The South African non-profit organisation the Federation for a Sustainable Environment said that leakages from the company's tailings dam in Stilfontein were spilling onto an area of dolomitic rock which affects groundwater and could contaminate the Vaal River, which poses a serious health risk. The FSE said that the dangers were evidenced by the death of grazing cattle as a result of radioactive contamination.[4] Charges were laid against the company.[5]

It was also reported in May 2014 that the Public Protector had begun an investigation into allegations of water pollution made against a number of companies, including AngloGold, and that a complaint had been made against AngloGold's Mine Waste Solutions unit.[6]

In 2012, the Council on Ethics of the Norwegian 'Government Pension Fund Global' recommended the exclusion of AngloGold from the investment universe of the pension fund due in part to severe environmental damage caused by the company in Ghana.[7] The environmental damage caused by the company in Ghana also contributed to the company being awarded the 'Public Eye Award' in 2011, a 'shame award' given to the company with the worst environmental and social offences worldwide.[8]

---

1. Uranium from Africa, Mitigation of uranium mining impacts on society and environment by industry and governments, by SOMO, at p67, available at http://www.somo.nl/publications-en/Publication_3688
2. Uranium from Africa, Mitigation of uranium mining impacts on society and environment by industry and governments, by SOMO, at p68, available at http://www.somo.nl/publications-en/Publication_3688
3. AngloGold Toxic Mine-Waste Spill Affects Mile of Vaal Tributary, Bloomberg, 2 September 2013, available at http://www.bloomberg.com/news/2013-09-02/anglogold-toxic-mine-waste-spill-affects-mile-of-vaal-tributary.html (last accessed on 7 August 2015).
4. http://www.environment.co.za/pollution/anglogold-faces-water-spillage-charge.html (last accessed on 7 August 2015).
5. http://www.mining.com/anglogold-ashanti-faces-charges-for-polluting-south-africas-vaal-river-66700/ (last accessed on 7 August 2015).
6. http://www.bloomberg.com/news/2014-05-21/water-pollution-near-mines-prompts-south-african-ombudsman-probe.html (last accessed on 7 August 2015).
7. Recommendation to exclude AngloGold Ashanti Limited from the investment universe of the Government Pension Fund Global, by Council on Ethics, Government Pension Fund Global, available at https://www.regjeringen.no/contentassets/9fe7c1c650f94eb8bda42f3bc84b97f4/aga_eng.pdf
8. http://www.greenpeace.org/africa/en/News/news/South-African-Corp-Wins-Public-Eye-Award/ (last accessed on 7 August 2015).

AngloGold Ashanti Limited's response to the Full Disclosure findings

Each company assessed was given a month to respond to the *Full Disclosure* findings before we published our report.

See AngloGold Ashanti Limited's response at: http://cer.org.za/full-disclosure/company/anglogold-ashanti-ltd?correspondence.

Major shareholders

AngloGold's top ten shareholders are[1]:

- Public Investment Corporation of South Africa
- First Eagle Investment Management LLC
- Investec Asset Management Pty Limited (South Africa)
- Paulson & Co., Inc.
- Van Eck Global
- Dimensional Fund Advisors, Inc.
- The Vanguard Group, Inc.
- BlackRock Fund Advisors
- First State Investment Management (UK) Ltd
- Deutsche Bank AG (Broker)

1. http://www.aga-reports.com/14/ir/shareholders/shareholder-information (last accessed on 7 August 2015).

Membership of voluntary initiatives, accreditations and awards

JSE SRI	AngloGold appeared on the SRI index every year from 2004 to 2014.
JSE SRI Best Performers	AngloGold featured in the Best Performers category every year from 2007 to 2011.
Carbon Disclosure Project	AngloGold has responded to the CDP on a number of occasions.
ISO 14001:2004	ISO 14001:2004 is reportedly incorporated at all AngloGold operations.[1]
World Business Council for Sustainable Development	AngloGold is not a member of the WBCSD.
Cement Sustainability Initiative	Not applicable
Green Building Council of South Africa	Not applicable
Global 100	AngloGold does not appear in the Global 100.
United Nations Global Compact	AngloGold is a participant in the UNGC.
International Council on Mining and Metals	AngloGold is a member of the ICMM.
Extractive Industries Transparency Initiative	AngloGold is an EITI supporting company.
Cyanide Code	AngloGold is a signatory to the code.

1. Uranium from Africa, Mitigation of uranium mining impacts on society and environment by industry and governments, by SOMO, at p67, available at http://www.somo.nl/publications-en/Publication_3688

DRDGOLD LIMITED

Summary of findings and company response

DRD published the following statement as part of its 2014 Sustainable Development Policy:

> *DRDGOLD shall endorse and actively pursue best practical environmental practice for each activity that may potentially negatively affect the environment and concerned communities and shall continuously evaluate, through a process of monitoring and management review, the success of the management and mitigation measures applied.*[1]

Full Disclosure reveals that DRD operations appear to be frequently in breach of environmental laws and permits, in particular in relation to:

- Spills and water pollution caused by burst pipes and breaches and overflows of tailings dams;
- Exceedences of permitted dust emissions;
- Conducting operations without water use licences; and
- Failures to rehabilitate environmental damage in accordance with DRD's legal obligations.

DRD is also the subject of multiple complaints and legal proceedings instituted by communities living in the vicinity of the company's operations, as described in the *Environmental non-compliances reported by affected communities, the media & NGOs* section of this report.

DRD's company reports contain no information on environmental compliance inspections, other than one reference in the 2014 Integrated Report to an audit carried out by the Department of Water and Sanitation in June 2014, at which, DRD states, "minor findings were established". Considering the multiple problems with spillages and water pollution referred to by DRD in its company reports, it is reasonable to assume that DRD's shareholders would be interested in the details of the findings by the Department, but no further information is provided.

The Department of Mineral Resources and the Department of Water and Sanitation are responsible for compliance monitoring and enforcement of environmental and water laws by mining companies. Thus far, unlike the Department of Environmental Affairs, neither department has published any information on its compliance monitoring and enforcement action. Both Departments however, in answers to Parliamentary Questions, insist that many inspections take place, many directives and compliance notices are issued, and many criminal prosecutions are instituted.

The fact that the Departments charged with regulating the sector do not publicise non-compliance findings or enforcement action means that it is impossible to know whether or not the level of disclosure on environmental non-compliances by mining companies in their annual reports is accurate or complete.

In his response to *Full Disclosure,* Niël Pretorius, DRD's CEO, stated that he would not comment on excerpts from the company's reports prior to 2013 as he had "not verified whether these are correct or quoted in the proper context".

Mr Pretorius stated that the Minister of Water and Sanitation's response to Parliamentary Questions, to the effect that some DRD operations do not have water use licences, is incorrect.

Mr Pretorius vehemently disputed the contents of an article on acid mine drainage published in *The Star.* However no such article is referenced in *Full Disclosure.*

Mr Pretorius disputes the claims made in various media reports and by the Federation for a Sustainable Environment, stating that he cannot comment further on this issue as "it has now become the subject of legal proceedings".

Mr Pretorius extends invitations to the CER to attend a "demonstration of our environmental management system and protocols" via a "fully interactive web-based system with real time updates", and also to conduct a site visit at DRD operations.

---

1. DRDGold Sustainability Policy 2014, available at http://www.drd.co.za/sustainability/DRDGOLD-sustainable-policy-2014.pdf

Company overview

DRD is a gold producer specialising in the re-mining of surface gold tailings. DRD's primary listing is on the JSE Limited and its secondary listing is on the New York Stock Exchange.[1] DRD's assets are held through its interest in Ergo Mining Operations (Proprietary) Limited (EMO), which owns 100% of ERGO Mining (Proprietary) Limited (ERGO) and East Rand Proprietary Mines Limited (ERPM).[2] DRD states that it disposed of underground mine Blyvooruitzicht Gold Mining Company (Proprietary) Limited, to Village Main Reef Limited, in 2012.[3]

ERGO is the world's largest surface re-treatment facility and operates in the East Rand goldfields in Gauteng Province.[4] It operates a metallurgical plant in Brakpan, east of Johannesburg, the Knights plant in Germiston and a milling and pump station at Crown Mines and City Deep.[5]

ERPM is an underground mining operation located in the east of Johannesburg.[6]

In 2014, DRD had 2329 employees, including 989 permanent employees.[7]

---

1. http://www.drd.co.za/about-us/corporate-profile (last accessed on 7 August 2015).
2. http://www.drd.co.za/about-us/group-structure (last accessed on 7 August 2015) and http://www.drd.co.za/investors-and-media/media-releases/2014/drdgold-bee-partners-sign-new-agreement-03-18-2014 (last accessed on 7 August 2015).
3. http://www.drd.co.za/about-us/group-structure (last accessed on 7 August 2015).
4. Manual on access to information held by DRDGOLD Limited, at p3, available at www.drd.co.za/sustainability/DRDGold_Limited_PAIA_manual.pdf
5. http://www.drd.co.za/our-business/ergo (last accessed on 7 August 2015).

6.'Manual on access to information held by DRDGOLD Limited', at p3, available at www.drd.co.za/sustainability/DRDGold_Limited_PAIA_manual.pdf

7.DRDGOLD Integrated Report 2014, at p12, available at http://www.drd.co.za/investors-and-media/annual-reports/2014/DRDGOLD-integrated-report-2014.pdf

Non-compliance with environmental laws as reported in the National Environmental Compliance and Enforcement Reports

DRD does not feature in the National Environmental Compliance and Enforcement Reports. However, as the Department of Environmental Affairs' Environmental Management Inspectors do not have jurisdiction over the environmental or water impacts of mining, this does not mean that the company has not been subject to compliance monitoring and/or enforcement action. The Department of Mineral Resources and the Department of Water and Sanitation are responsible for compliance monitoring and enforcement of environmental and water laws by mining companies. Unlike the Department of Environmental Affairs, thus far neither department has published any information on its compliance monitoring and enforcement action. Both Departments however, in answers to Parliamentary Questions, insist that many inspections take place, many directives and compliance notices are issued, and many criminal prosecutions are instituted.

With a few minor exceptions, the mining companies assessed in *Full Disclosure* did not refer to compliance monitoring inspections by the Department of Mineral Resources or Department of Water and Sanitation in their shareholder reporting.

The fact that the Departments charged with regulating the sector do not publicise non-compliance findings or enforcement action means that it is impossible to know whether or not the level of disclosure on environmental and water non-compliances by mining companies in their annual reports is accurate.

For more information please see *Enforcing the Law: the challenges undermining environmental compliance monitoring and enforcement in South Africa*.

DRDGOLD Limited's disclosure of environmental non-compliances in annual reports

DRD's company reports provide some information on environmental non-compliances.

2009 company reports

In the company's 2009 Annual Report, it was recorded that in 2006 two applications had been brought against DRD by non-profit law clinic the Legal Resources Centre on behalf of the residents of two communities situated near DRD tailings sites. It was stated that the communities sought orders for the revision of the Environmental Management Programmes of both sites and for the sites to be rehabilitated and closed.[1]

In the 2009 Sustainable Development Report it was noted that acid mine drainage in the Witwatersrand Basin is an environmental threat and a challenge DRD faces alongside other companies in the region, a frequently repeated statement in later reports.[2]

It was also recorded that during the reporting period 11 spills had occurred at Blyvooruitzicht, the volume of which was estimated to be approximately 8000 tonnes. It was stated that the spills were all on mine property and did not affect any watercourses.[3]

There was also one "reportable incident" when spillage control dams were breached at the Crown plant. This breach resulted in 600 tonnes of slime flowing into the Russel stream, which affected an area 30 metres long. It was stated that the area was in the process of being cleaned up.[4]

The quality of water discharged from underground into the Wonderfontein Spruit was also considered in the 2009 Sustainable Development Report. Figures were given for components such as suspended solids in the water and the pH level, and it was stated that the water was of "relatively good quality" (frequently restated in later reports).[5]

It was also noted that pending the decision of regulators on proposals regarding a water treatment plant and a pipeline, in the Western Basin water was being discharged into the Tweelopies Spruit after being only partially treated, when it still contained high sulphate levels.[6]

Particular attention is given in the 2009 Sustainable Development Report to the "anticipated significant impacts" on biodiversity of the Daggafontein Tailings Storage Facility. These were said to include: water quality in the Bleskbok Spruit, destruction or degradation of wetland habitat and a reduction in species diversity.[7]

2010 company reports

In the 2010 Annual Report it was stated that during the reporting period there had been one reportable environmental incident. It was stated that vandalism to a pipe resulted in the spillage of 1500 tonnes of slime.[8]

The 2010 Annual Report stated that there had been a 20% decrease (to 115) in the number of instances where levels of dust exceeded the SANS standard.[9] This of course still leaves a large number of exceedances and many of DRD's operations are in very close proximity to residential areas. There were nine complaints about dust received by Crown during the year.[10]

It was noted that due to concerted efforts there were no reportable slime spillages at Blyvooruitzicht.[11] There were however six spills on mine property at Blyvooruitzicht which apparently did not affect any watercourses.[12]

The 2010 Annual Report also contained details of a civil suit brought against DRD for the pollution of peat reserves. It was noted that the action was being defended, but that the matter was suspended due to the possibility of a settlement being agreed upon.[13] It appears from the 2011 Annual Report that the matter had failed to settle.[14] A 2014 circular to DRD shareholders described the litigation and reported that: "(t)he parties will now apply to court for a date of hearing", but also, "(t)he plaintiffs withdrew the action against all defendants".[15] The current status of the litigation is therefore unclear.

2011 company reports

In the 2011 financial year the company reported 16 environmental incidents. These included water pollution caused by burst pipes and storm water run-off, dust-related incidents and radiation incidents.[16] Dust levels also exceeded the SANS standard on 18 occasions and complaints were received relating to dust.[17]

2012 company reports

In the 2012 report it was stated that five water pollution incidents had been reported to the Department of Water Affairs in the financial year, which included the contamination of the Withok River due to the failure of the Ergo residue line. This river provides drinking water for livestock and also for human consumption. A directive was issued by the Department of Water Affairs and DRD states that it spent R2.3 million repairing the damage, which gives an indication of the severity of the incident.[18]

There were two spillages at Crown operations and three at Ergo during the year, but the 2012 report is unclear as to whether these are the same five water pollution incidents reported to the Department of Water Affairs.[19]

There were also 155 instances where dust levels exceeded the SANS standard.[20] The increase from 2011 was said to be due to the decommissioning of the Crown tailings facility, which led to the dust drying out when deposition stopped. It was stated that this was only a temporary situation.[21]

2013 company reports

In the 2013 Sustainable Development Report one of the challenges of the previous year was said to be spillage during commissioning of a new pipeline, as was dust blown from reclamation sites and the closeness of local communities.[22] There were 51 dust level exceedances of the SANS standard in the 2012-2013 financial year.[23]

Acid mine drainage is an issue consistently reported on in DRD's reports and associated with DRD in the media.[24] Particular attention is given in each year's annual report to the polluted water in the central basin of the Witwatersrand, which is rising year after year. It is repeatedly noted that this water cannot be allowed to rise above 150 meters below surface level, or groundwater pollution will occur.[25]

In 2013 it was stated that the central basin was currently flooding and water was expected to decant around the ERPM Cinderella Shaft unless preventative measures were taken. The water was said to be contaminated with metal sulphides. DRD stated that government had rejected the proposal submitted jointly by a number of mining companies, including DRD, to contain the problem.[26] This rejection has been associated with some controversy.[27]

In the company's 2013 Annual Report DRD also stated that progressive flooding could eventually cause the discharge of acid mine drainage at the surface and into

local water sources and also that “estimates of the probable rate of rise of water are contradictory and lack scientific support”.[28]

It was also reported in the 2013 report that there were two spillage incidents, one at Crown and one at Ergo.[29] At Ergo there were also two pollution incidents due to pipe bursts and dam overflows.[30]

2014 company reports

The 2014 Integrated Report stated that an audit had been carried out by the Department of Water and Sanitation in June 2014 and that some “minor findings were established”.[31]

Two dust complaints were received during the financial year[32] and there were 27 dust exceedances (no detail is provided on what limit the exceedances related to).[33]

Included under a list of “challenges” experienced during the year was “spillage from burst pipelines”.[34]

In relation to the acid mine drainage problem, the 2014 report stated that in the central basin of the Witwatersrand, the water level had risen to 120 meters below surface (i.e. above the 150 meter limit reported in the 2012 report as the level beyond which the water could not be allowed to rise).[35] It was reported that government authorities are implementing a solution to the problem and had appointed the Trans Caledon Tunnel Authority as the main contractor to implement the plan. Water will be treated to a “grey” (industrial) standard before being released to the environment.[36]

In its 2014 Annual Report DRD reported that “WUL applications for Crown, City Deep and Knights are still awaiting approval.” This statement is contrary to the information provided by the Minister of Water and Sanitation (see below), which confirms that as of the end of July 2014, some DRD operations had not even submitted applications for WULs.[37]

In a response to a parliamentary question, the Minister of Water and Sanitation stated that as at 25 July 2014, ‘Crown Gold Recoveries’ and ‘Crown Mine: Ergo Mine Knights’, both DRD operations, were operating without water use licences and no applications for authorisation had been received by the Department of Water and Sanitation. The application for authorisation submitted by a mining operation called ‘Knights Gold’ in Gauteng was reportedly in process, as was that of another unnamed DRD mine.[38]

Another 2014 parliamentary reply also listed ‘Crown Gold Recoveries’ and ‘Crown Mine: Ergo Mine Knights Section’ as not having applied for WULs, and stated that in relation to both operations investigations had been conducted, and that in relation to ‘Crown Gold Recoveries’, a Notice of Intention to Issue a Directive had been issued.[39]

---

1. DRDGOLD Annual Report 2009 at p113, available at http://www.drd.co.za/assets/files/annual/ar_2009/files/DRDGOLD_AR2009.pdf
2. DRDGOLD Sustainable Development Report 2009 at p7, available at http://www.drdgold.com/assets/sustainability/reports/2009/DRDGOLD_SD2009.pdf
3. DRDGOLD Sustainable Development Report 2009 at p35, available at http://www.drdgold.com/assets/sustainability/reports/2009/DRDGOLD_SD2009.pdf
4. DRDGOLD Sustainable Development Report 2009 at p36, available at http://www.drdgold.com/assets/sustainability/reports/2009/DRDGOLD_SD2009.pdf
5. DRDGOLD Sustainable Development Report 2009 at p38, available at http://www.drdgold.com/assets/sustainability/reports/2009/DRDGOLD_SD2009.pdf
6. DRDGOLD Sustainable Development Report 2009 at p39, available at http://www.drdgold.com/assets/sustainability/reports/2009/DRDGOLD_SD2009.pdf
7. DRDGOLD Sustainable Development Report 2009 at p45, available at http://www.drdgold.com/assets/sustainability/reports/2009/DRDGOLD_SD2009.pdf
8. DRDGOLD Annual Report 2010 at p29, available at http://www.drd.co.za/assets/files/annual/ar_2010/f/DRDGOLD_AR2010.pdf
9. DRDGOLD Annual Report 2010 at p29, available at http://www.drd.co.za/assets/files/annual/ar_2010/f/DRDGOLD_AR2010.pdf
10. DRDGOLD Sustainable Development Report 2010 at p41, available at http://www.drd.co.za/assets/sustainability/reports/2010/f/DRDGOLD_SD2010.pdf
11. DRDGOLD Annual Report 2010 at p29, available at http://www.drd.co.za/assets/files/annual/ar_2010/f/DRDGOLD_AR2010.pdf
12. DRDGOLD Sustainable Development Report 2011 at p40, available at http://www.drd.co.za/assets/sustainability/reports/2011/downloads/DRDGOLD-sustainable-development-report-2011.pdf
13. DRDGOLD Annual Report 2010 at p124, available at http://www.drd.co.za/assets/files/annual/ar_2010/f/DRDGOLD_AR2010.pdf
14. DRDGOLD Annual Report 2011 at p155, available at http://www.drd.co.za/assets/files/annual/ar_2011/downloads/DRDGOLD-annual-report-2011.pdf
15. Circular to DRDGold shareholders, Date of issue: 6 May 2014, at p16, available at http://www.drd.co.za/investors-and-media/circulars/drd-gold-circular_6may14.pdf
16. DRDGOLD Sustainable Development Report 2011 at p37, available at http://www.drd.co.za/assets/sustainability/reports/2011/downloads/DRDGOLD-sustainable-development-report-2011.pdf
17. DRDGOLD Sustainable Development Report 2011 at p42, available at http://www.drd.co.za/assets/sustainability/reports/2011/downloads/DRDGOLD-sustainable-development-report-2011.pdf
18. DRDGOLD Sustainability Report 2012 at p35, available at http://integrated-report.com/drdgold/sd-2012/downloads/DRDGOLD-sustainable-development-report-2012.pdf
19. DRDGOLD Sustainability Report 2012 at p40, available at http://integrated-report.com/drdgold/sd-2012/downloads/DRDGOLD-sustainable-development-report-2012.pdf
20. DRDGOLD Sustainability Report 2012 at p40, available at http://integrated-report.com/drdgold/sd-2012/downloads/DRDGOLD-sustainable-development-report-2012.pdf
21. DRDGOLD Sustainability Report 2012 at p40, available at http://integrated-report.com/drdgold/sd-2012/downloads/DRDGOLD-sustainable-development-report-2012.pdf
22. DRDGOLD Sustainability Report 2013 at p46, available at http://drdgold.integrated-report.com/2013/sd/download/DRDGOLD-sustainable-development-report-2013.pdf
23. DRDGOLD Sustainability Report 2013 at p50, available at http://drdgold.integrated-report.com/2013/sd/download/DRDGOLD-sustainable-development-report-2013.pdf
24. http://earthlife.org.za/2010/01/latest-acid-mine-drainage-crisis-calls-for-a-constructive-response-from-civil-society/ (last accessed on 7 August 2015).
25. DRDGOLD Sustainability Report 2012 at p41, available at http://integrated-report.com/drdgold/sd-2012/downloads/DRDGOLD-sustainable-development-report-2012.pdf
26. DRDGOLD Sustainability Report 2013 at p50, available at http://drdgold.integrated-report.com/2013/sd/download/DRDGOLD-sustainable-development-report-2013.pdf
27. http://www.miningmx.com/news/gold_and_silver/WUC%20to%20list%20as%20acid%20water%20issue%20burns%20DRDGold.htm (last accessed on 7 August 2015).
28. DRDGOLD Annual Report 2013 at p30, available at http://drdgold.integrated-report.com/2013/download/DRDGOLD-integrated-report-2013.pdf
29. DRDGOLD Sustainability Report 2013 at p50, available at http://drdgold.integrated-report.com/2013/sd/download/DRDGOLD-sustainable-development-report-2013.pdf
30. DRDGOLD Sustainability Report 2013 at p51, available at http://drdgold.integrated-report.com/2013/sd/download/DRDGOLD-sustainable-development-report-2013.pdf
31. DRDGOLD Integrated Report 2014 at p69, available at http://www.drd.co.za/investors-and-media/annual-reports/2014/DRDGOLD-integrated-report-2014.pdf
32. DRDGOLD Integrated Report 2014 at p69, available at http://www.drd.co.za/investors-and-media/annual-reports/2014/DRDGOLD-integrated-report-2014.pdf
33. DRDGOLD Integrated Report 2014 at p71, available at http://www.drd.co.za/investors-and-media/annual-reports/2014/DRDGOLD-integrated-report-2014.pdf
34. DRDGOLD Integrated Report 2014 at p74, available at http://www.drd.co.za/investors-and-media/annual-reports/2014/DRDGOLD-integrated-report-2014.pdf
35. DRDGOLD Integrated Report 2014 at p79, available at http://www.drd.co.za/investors-and-media/annual-reports/2014/DRDGOLD-integrated-report-2014.pdf
36. DRDGOLD Integrated Report 2014 at p79, available at http://www.drd.co.za/investors-and-media/annual-reports/2014/DRDGOLD-integrated-report-2014.pdf
37. DRDGOLD Integrated Report 2014 at p72, available at http://www.drd.co.za/investors-and-media/annual-reports/2014/DRDGOLD-integrated-report-2014.pdf

38. Question No. 1716, Date of publication in internal question paper: 19 September 2014, available at https://www.dwa.gov.za/communications/Q&A/2014/NA%201716.pdf
39. Question No. 735, Date of publication in internal question paper: 25 July 2014, at p5, available at https://www.dwa.gov.za/communications/Q&A/2014/NA%20735.pdf

Environmental non-compliances reported by affected communities, the media, & NGOs

Abandoned mines and rehabilitation obligations

An oft-repeated criticism of DRD relates to its alleged failure to rehabilitate its operations in accordance with its legal obligations to do so. A spokesperson for the non-profit organisation, the Federation for a Sustainable Environment (FSE), has been reported as stating that "DRD is known to alienate its mines when the cost of liabilities exceeds the profits".[1] This statement was made in relation to the Blyvooruitzicht mine near Johannesburg.

The Blyvooruitzicht mine was sold by DRD to Village Main Reef in 2012, although questions have been raised as to whether the shares that Village Main Reef acquired in Blyvooruitzicht were ever properly transferred to it. Village Main Reef commenced operations that year but then pulled out and stated that the sale had not gone through. The mine then went into liquidation and both companies denied ownership, resulting in the stoppage of environmental control measures, including dampening of the dust. Residents living near the mine then made complaints to the FSE.

Environmental problems experienced by residents (who have also experienced numerous other disruptions as a result of the liquidation of the mine) included dust and the "near certainty" that water sources had been contaminated by uranium and other toxic metals. In a 2012 parliamentary reply the Minister of Water and Environmental Affairs confirmed that at "the Blyvoorzicht mine of a certain company", there had been an accidental spillage of tailings resulting in pollution of the Wonderfontein Spruit in July of that year.[2]

There is uncertainty as to whether the liquidation process will enable funds that were set aside for financial provision for environmental rehabilitation at the mine to be used for this purpose. In the meantime the situation at the mine continues to be environmentally and socially chaotic. The situation at Blyvooruitzicht is a chilling example of the ease with which mining companies in South Africa can avoid their environmental obligations.

The FSE reported similar issues surrounding the sale by DRD of its West Rand operations to the company Mintails.[3] In February 2014 the FSE instigated a criminal investigation into this matter, on the grounds of alleged violations of the Environmental Management Programme.[4]

A recent article published in the Guardian also implicates DRD in the problem of abandoned and unrehabilitated mines around Johannesburg and the harm caused by the toxic waste from these mines. The article notes that wind blows dust from the mine dumps into residential areas and that this dust can contain traces of everything from copper and lead to cyanide and arsenic.

Inhalation of this dust results in serious health problems. In a clinic in Riverlea, Soweto, respiratory problems such as asthma and tuberculosis and also rashes and skin diseases are commonplace. The danger inherent in the estimated 600,000 metric tonnes of radioactive uranium buried in mine dumps around Johannesburg is also linked to gold mines. A DRD official is quoted as saying that DRD utilises dust suppression measures such as vegetation growth and netting, but the article notes that neither of these measures were visible on the Diepkloof dump, currently being re-mined by the company.[5]

Litigation and other legal challenges

DRD's 2014 Form 20-F, submitted to the United States Securities and Exchange Commission, details litigation instigated against the company by the Legal Resources Centre on behalf of two communities residing adjacent to the Durban Roodepoort Deep mine and the West Witwatersrand mine. It is reported that the communities are seeking orders for the revision of the environmental management programmes of both sites and for the sites to be rehabilitated and closed in accordance with the Mineral and Petroleum Resources Development Act. DRD stated that it had filed its appearance to defend and answering affidavits in the High Court.[6] This is presumably the litigation reported on in DRD's 2009 Annual Report.

In 2013, a number of groups also instigated litigation against DRD in order to obtain information on the company's dust emissions, due to the harm caused to the residents of Riverlea by such emissions from DRD's Riverlea operation.[7]

The FSE and other groups have opposed the granting of a mining right to Ergo to re-mine the Soweto Cluster Mine Dumps in Roodeport, in part on the basis of DRD's history of non-rehabilitation.[8]

Parliamentary Q&As

Questions asked by a member of the Democratic Alliance to the Minister of Water Affairs and Forestry in 2008 related in part to the "mine sludge spillages occurring at regular intervals above surface" at the ERPM mine in Boksburg. In response the Minister stated that the Department had never been informed of the spillages.[9]

In a response to a parliamentary question, the Minister of Water and Sanitation stated that as at 25 July 2014, 'Crown Gold Recoveries' and 'Crown Mine: Ergo Mine Knights', both DRD operations, were operating without water use licences and no applications for authorisation had been received by the Department of Water and Sanitation. The application for authorisation submitted by a mining operation called 'Knights Gold' in Gauteng was reportedly in process, as was that of another unnamed DRD mine.[10]

Another 2014 parliamentary reply also listed 'Crown Gold Recoveries' and 'Crown Mine: Ergo Mine Knights Section' as not having applied for WULs, and stated that in relation to both operations investigations had been conducted, and that in relation to 'Crown Gold Recoveries', a Notice of Intention to Issue a Directive had been issued.[11]

---

1. http://mg.co.za/article/2013-11-21-legal-minefield-is-a-deadly-hazard (last accessed on 7 August 2015).
2. Question No. 2815, Date of publication in internal question paper: 12 October 2012, available at https://www.dwa.gov.za/communications/Q&A/2012/NA%202815.pdf
3. http://mg.co.za/article/2013-11-21-legal-minefield-is-a-deadly-hazard (last accessed on 7 August 2015).
4. Comments on the Environmental Impact Assessment and Environmental Management Programme for the Reclamation of the Soweto Cluster Mine Dumps, by the Federation for a Sustainable Environment, at p2-3, available at http://www.fse.org.za/index.php/comment/item/download/22_265538b591914263acd51433326c1c5f

5. Radioactive city: how Johannesburg's townships are paying for its mining past, The Guardian, 6 July 2015, available at http://www.theguardian.com/cities/2015/jul/06/radioactive-city-how-johannesburgs-townships-are-paying-for-its-mining-past (last accessed on 7 August 2015).
6. Form 20-F, for the fiscal year ended June 30, 2014, at p42, available at http://www.drd.co.za/investors-and-media/20f/2014/20-f-2014_31oct14.pdf
7. Riverlea to sue state depts, DRD Gold over poisonous dust, Mail & Guardian, 25 April 2013, available at http://mg.co.za/article/2013-04-25-riverlea-to-sue-water-minerals-depts-drd-gold (last accessed on 7 August 2015).
8. Comments on the Environmental Impact Assessment and Environmental Management Programme for the reclamation of the Soweto cluster mine dumps, by the Federation for a Sustainable Environment, at p2-3, available at http://www.fse.org.za/index.php/comment/item/download/22_265538b591914263acd51433326c1c5f. Also, http://www.fse.org.za/index.php/mining-nuclear/item/358-re-mining-could-mean-double-the-toxic-trouble-for-residents (last accessed on 7 August 2015); and http://www.fse.org.za/index.php/comment/item/407-reclamation-of-the-soweto-cluster-mine-dumps (last accessed on 7 August 2015).
9. Question No. 753, Date of publication in internal question paper: 16 May 2008, available at http://pmg.org.za/questions-and-replies/2008/11/27/question-replies-no-751-800
10. Question No. 1716, Date of publication in internal question paper: 19 September 2014, available at https://www.dwa.gov.za/communications/Q&A/2014/NA%201716.pdf
11. Question No. 735, Date of publication in internal question paper: 25 July 2014, at p5, available at https://www.dwa.gov.za/communications/Q&A/2014/NA%20735.pdf

DRDGOLD Limited's response to the Full Disclosure findings

Each company assessed was given a month to respond to the *Full Disclosure* findings before we published our report.

See DRDGOLD Limited's response at: http://cer.org.za/full-disclosure/company/drdgold-limited?correspondence.

Major shareholders

The main shareholders of DRDGOLD Limited are the following[1]:

- Bank of New York
- Investec
- Soges Fiducem SA (Brussels)
- Citibank
- State Street Bank and Trust
- Clearstream Banking S.A. Luxembourg
- Ergo Mining Operations Proprietary Limited
- KBC Securities N.V. Clients
- Eskom Pension Fund (Equities-lam)
- HSBC
- GEPF Equity

1.http://www.drd.co.za/investors-and-media/share-info (last accessed on 7 August 2015).

Membership of voluntary initiatives, accreditations and awards

JSE SRI	DRD appeared on the SRI index every year between 2009 and 2013, but not in 2014.
JSE SRI Best Performers	DRD has never featured in the Best Performers category.
Carbon Disclosure Project	DRD has not engaged with the CDP.
ISO 14001:2004	DRD reported in 2006 that its environmental management systems are based on the ISO 14001:2004 standard, but in more recent years has not specified whether its operations are accredited.[1]
World Business Council for Sustainable Development	DRD is not a member of the WBCSD.
Cement Sustainability Initiative	Not applicable
Green Building Council of South Africa	Not applicable
Global 100	DRD does not appear in the Global 100.
United Nations Global Compact	DRD is not a participant in the UNGC.
International Council on Mining and Metals	DRD is not a member of the ICMM.
Extractive Industries Transparency Initiative	DRD is not an EITI supporting company.
Cyanide Code	DRDGold is not a signatory to the Cyanide Code.

1.DRDGold Annual Report 2006 at p57, available at http://www.drd.co.za/assets/files/annual/ar_2006/files/safety_health.pdf

EXXARO RESOURCES LIMITED

Summary of findings and company response

Exxaro has professed the following commitment to environmental performance:

> *Exxaro has a moral and legal obligation to ensure responsible and sound environmental management performances. Over and above obligation, however, Exxaro strives to go beyond regulatory compliance in order to enhance its sustainability objectives.*[1]

The findings in *Full Disclosure* cast doubt on this assertion.

Exxaro does not make particularly detailed information on its environmental non-compliances available to its shareholders. However, what information is included in Exxaro's annual reports reveals a pattern of serious breaches of environmental laws, in particular in relation to water use. This is confirmed by other publicly available information about the company's operations.

In 2012 alone, Exxaro reported 6 separate instances in which it was issued with a fine, directive or compliance notice by the Department of Water Affairs.

Also in 2012, the Department of Water Affairs laid criminal charges against Exxaro's Glisa mine for contraventions of the National Water Act. This is not mentioned in Exxaro's company reports.

Despite having committed breaches of environmental laws serious enough to warrant fines, directives, compliance notices and criminal charges, Exxaro nevertheless appeared on the JSE SRI Index for 2011 and 2012, and was listed as a "Best Performer" in 2011.

The CER wrote to Exxaro's CEO on 21 July 2015, inviting the company to respond to the findings in *Full Disclosure* by 18 August 2015. No response has been received to date.

The Department of Mineral Resources and the Department of Water and Sanitation are responsible for compliance monitoring and enforcement of environmental and water laws by mining companies. Thus far, unlike the Department of Environmental Affairs, neither department has published any information on its compliance monitoring and enforcement action. This means that it is impossible to know whether or not the level of disclosure on environmental non-compliances by mining companies in their annual reports is accurate or complete.

For more information please see *Enforcing the Law: the challenges undermining environmental compliance monitoring and enforcement in South Africa*.

1. http://www.exxaro.com/index.php/sustainability/managing-environmental-issues/ (last accessed on 7 August 2015).

Company overview

Exxaro is a South African based company operating in South Africa, Botswana, the Republic of the Congo and Australia.[1] It operates primarily within the coal and ferroalloys industries.[2] In 2014, Exxaro had 7,841 employees, including 3626 in Mpumalanga, 2970 in Limpopo, 62 in KwaZulu-Natal and 948 in Gauteng.[3]

1. http://www.exxaro.com/ (last accessed on 7 August 2015).
2. http://www.exxaro.com/index.php/where-we-operate/ (last accessed on 7 August 2015).
3. Exxaro Supplementary Report 2014 at p59, available at http://www.exxaro.com/ar/2014/Report%20_2014_Exxaro_Supplementary_Report_2014_FINAL.pdf

Non-compliance with environmental laws as reported in the National Environmental Compliance and Enforcement Reports

Exxaro's mines in Limpopo include the Grootegeluk and Tshikondeni mines and in Mpumalanga include the Matla, Arnot, Inyanda, Leeuwpan, New Clydesdale, Matube, Glisa South and Glisa North Block Complex mines.[1]

Exxaro's mining operations do not feature in the National Environmental Compliance and Enforcement Reports. However, as the Department of Environmental Affairs' Environmental Management Inspectors do not have jurisdiction over the environmental or water impacts of mining, this does not mean that the company has not been subject to compliance monitoring and/or enforcement action. The Department of Mineral Resources and the Department of Water and Sanitation are responsible for compliance monitoring and enforcement of environmental and water laws by mining companies. Unlike the Department of Environmental Affairs, thus far neither department has published any information on its compliance monitoring and enforcement action. Both Departments however, in answers to Parliamentary Questions, insist that many inspections take place, many directives and compliance notices are issued, and many criminal prosecutions are instituted.

With a few minor exceptions, the mining companies assessed in *Full Disclosure* did not refer to compliance monitoring inspections by the Department of Mineral Resources or Department of Water and Sanitation in their shareholder reporting.

The fact that the Departments charged with regulating the sector do not publicise non-compliance findings or enforcement action means that it is impossible to know whether or not the level of disclosure on environmental and water non-compliances by mining companies in their annual reports is accurate.

For more information please see *Enforcing the Law: the challenges undermining environmental compliance monitoring and enforcement in South Africa*.

Exxaro also operated the Zincor Refinery in Gauteng prior to the closure of that facility in 2011.[2] The Zincor Refinery featured in the National Environmental Compliance and Enforcement Reports for 2012, 2013 and 2014.

Department of Environmental Affairs' compliance monitoring and enforcement action

Zincor Refinery, Gauteng		
NECER	**Significant Inspection Findings**	**Further Developments and Status of Enforcement Process**
2009	-	-
2010	-	-
2011	-	-
2012[3]	In the 2012 report it was recorded that the following non-compliances had been found at an inspection carried out in October 2011: *Non-compliances to conditions of authorisations. Disposal of hazardous waste on an unlined dam without waste management licenses. Groundwater contamination as a result of activities on site. Failure to comply with general duty of care in respect of waste management on site. Surface and groundwater pollution from [sic]. Groundwater contamination at the refinery area and an old neutral leach residue storage area with an extremely damaged liner. Potential ground and surface water pollution from the Plant Storm and Waste Water Retention Dam with liner a [sic] damaged at the spillways.*	The following was stated regarding the status of the enforcement process: *An enforcement strategy is in process of being developed which will take into account that the facility is scheduled to cease operations.*
2013[4]	The 2013 report listed the same non-compliances, with the omission of "*surface and groundwater pollution from [sic].*"	The status of the enforcement process was recorded as follows: *A S31H NEMA Notice was issued to the facility on 9 October 2012 in order to obtain further information prior to taking any enforcement action. Representations have been received on 31 October 2012 and the facility informed the DEA that it is planning to decommission the facility. A follow-up inspection is planned in order to confirm cessation of operations and the environmental status of the site.*
2014[5]		In the 2014 report it was stated that: *A decision is still required in relation to enforcement action based on the findings of the final inspection report.*

The Zincor refinery also featured in the National Air Quality Officer's 2012-2013 report. The following findings were recorded from the October 2011 inspection:

- *Undertaking of scheduled processes without authorisation.*
- *Dust accumulating at the Materials handling and off-loading area.*
- *Fugitive dust was observed in the Melt house.*
- *Lack of air quality monitoring on site.*[6]

An inspection had also been carried out in June 2013, and the findings were as follows:

Non-compliance with conditions in the APPA[7] *R/C (Reference No: 50/3) dated 10 February 2005, APPA R/C (Reference No: 50/4) dated 10 February 2005.*[8]

The “outcome” was stated as above in the 2012/2013 National Environmental Compliance and Enforcement report, with the addition of more recent information, as the June 2013 inspection also “confirmed that scheduled process areas were either decommissioned or not operational.”[9]

The Zincor refinery ceased production in 2011[10] and was sold in 2013.[11]

---

1. Exxaro Integrated Report 2014 at p6, available at http://www.exxaro.com/ar/2014/Exxaro_IR_2014.pdf and Exxaro Supplemental Report information 2013 at p66 – 67, available at http://www.exxaro.com/wp-content/uploads/2012/11/Exxaro_WEB_2014_web1.pdf
2. Zincor closure bodes well for zinc industry’s future, Mining Weekly, 20th April 2012, available at http://www.miningweekly.com/article/zincor-closure-bodes-well-for-zinc-industrys-future-2012-04-20 (last accessed on 7 August 2015).
3. National Environmental Compliance and Enforcement Report 2011-2012, at p46, available at http://cer.org.za/wp-content/uploads/2012/11/NECER-2011-12.pdf
4. National Environmental Compliance and Enforcement Report, 2012-2013, at p46-47, available at http://cer.org.za/wp-content/uploads/2013/11/NECER-2012-13.pdf
5. National Environmental Compliance and Enforcement Report, 2013-2014, at p47, available at http://cer.org.za/wp-content/uploads/2014/10/NECER-2013-14.pdf
6. 2012 -2013 National Air Quality Officer’s Report on Air Quality Management in the Republic of South Africa, at p179, available at http://www.saaqis.org.za/filedownload.aspx?fileid=863
7. Atmospheric Pollution Prevention Act, 1965. The APPA regulated air pollution prior to the National Environmental Management Air Quality Act.
8. 2012 -2013 National Air Quality Officer’s Report on Air Quality Management in the Republic of South Africa, at p179, available at http://www.saaqis.org.za/filedownload.aspx?fileid=863
9. 2012 -2013 National Air Quality Officer’s Report on Air Quality Management in the Republic of South Africa, at p179, available at http://www.saaqis.org.za/filedownload.aspx?fileid=863
10. Company Announcement: Exxaro confirms cessation of Zinc production, Mining Weekly, 10th October 2011, available at http://www.miningweekly.com/article/company-announcement-exxaro-confirms-cessation-of-zinc-production-2011-10-10 (last accessed on 7 August 2015).
11. EXXARO Integrated report 2013 at p15, available at http://www.exxaro.com/wp-content/uploads/2012/11/Exxaro_IR_2014-final_web.pdf

Exxaro Resources Limited's disclosure of environmental non-compliances in annual reports

Exxaro's company reports contain some information on environmental non-compliances.

2009 company reports

During the 2009 reporting period, dust rates exceeded permitted standards 12 times.[1] There were also 5 exceedances of the permitted particulate matter (PM) rate at KZN Sands and 1 exceedance of SO? at Zincor.[2] Exxaro has an incident reporting system which categorises incidents on a level of 1 to 3 depending on severity (3 being the most severe). The 2009 report reported 20 Level 2 incidents.[3] These included:

- overflow of contaminated water into a clean area;
- stack exceedance of Atmospheric Pollution Prevention Act permit requirements;
- pollution dam spill into clean area;
- excessive smoke and particulate matter;
- soil pollution from coal spillage;
- water and soil pollution caused by flooding of sewage treatment plant;
- leaching of run-of-mine pipeline into neighbouring property;
- erosion of sensitive area following rainfall; and
- coal and hydrocarbon spillage.[4]

There were also 1361 Level 1 incidents during the reporting period.[5]

2010 company reports

Exceedance of the permitted dust rate was also reported in the 2010 Annual Report[6] as were 2 exceedances of PM at KZN Sands.[7] A directive was also issued by the Department of Water Affairs due to mining operations intruding onto a wetland area during the year.[8] During the reporting period, there were 931 Level 1 incidents and 30 Level 2 incidents.[9] The Level 2 incidents included:

- accidental diversion of reclaimed slimes dam water to an unlined slimes dam causing localised pollution;
- discovery of graves during mining;
- the breaking of a slit damwall resulting in slurry running into field;
- the failure of a slimes transfer pipeline;
- sediment washing into river due to breach in berm;
- discoloration of river;
- slimes spraying onto neighbouring property;
- surface runoff to neighbouring properties resulting in damage to crops;
- stack emission exceedance;
- sewage discharge;
- coal sediment and contaminated water spill into clean environment;
- pollution dam overflow; and
- evaporation dam overflow.[10]

2011 company reports

In the 2011 Annual Report it was reported that there had been 28 Level 2 incidents and again exceedances of the dust limit.[11] In this report it was also noted that the company's compliance with environmental and water use legislation at mines in Mpumalanga "was an issue raised by stakeholders".[12]

No further information on environmental non-compliances is provided, other than the statement by Exxaro that "no material incidents of non-compliance occurred in 2011?.[13]

2012 company reports

In 2012, exceedances of permitted dust limits were again reported.[14] The following fines and directives were also reported to have been issued during the reporting period:

- at the North Block Complex, the above ground diesel tank was authorised following a fine for non-compliance;
- Grootegeluk was instructed to clean up its industrial waste;
- Leeuwpan received notices from Department of Water Affairs for mining activities close to a wetland area (dealt with below under 'Community, media and NGO reports');
- at the North Block Complex a directive was received from the Department of Water Affairs for not having a water use licence;
- a directive was also issued by the Mpumalanga Department of Mineral Resources requesting information on rehabilitation activities and water management; and
- Tshikondeni received a notice from the Department of Water Affairs Limpopo on water compliance gaps.[15]

There were also 11 Level 2 incidents and 411 Level 1 incidents.[16] The Level 2 incidents included the following:

- overspray from mining activities;

- exceedances of stack emission limits and air quality standards;
- smelter spillages;
- overflow of subsurface drainage;
- oil spill;
- water overflow into Veld; and
- water flowing into mini-pits resulting in potential groundwater pollution.[17]

2013 company reports

In the 2013 report it was reported that there had been 7 Level 2 incidents.[18] There had also been 175 Level 1 incidents.[19] The Level 2 incidents related to:

- the overflow of a dam;
- a slimes line spill resulting in ground pollution;
- major water overflow from a pollution control dam leading to ground and surface water pollution;
- exceedance of dust threshold; and
- dam overflows leading to potential ground water and surface water pollution.[20]

Exxaro's dust fallout rate had also exceeded the industrial limit for three months.[21] In the 2013 report it was also stated that no material fines or penalties had been received for non-compliance during the reporting period.[22]

2014 company reports

In 2014 it was reported that there had been 152 Level 1 incidents and 3 Level 2 incidents. The three Level 2 incidents related to dam and reticulation system overflows, and in two of the incidents there was "possible soil/groundwater pollution".[23] Two operations also exceeded the non-residential limit for dust fallout during the reporting period.[24]

---

1. Exxaro Annual Report 2009 at p99, available at http://financialresults.co.za/2010/exxaro_ar2009/downloads/exarro_ar2009.pdf
2. Exxaro Annual Report 2009 at p100, available at http://financialresults.co.za/2010/exxaro_ar2009/downloads/exarro_ar2009.pdf
3. Exxaro Annual Report 2009 at p108, available at http://financialresults.co.za/2010/exxaro_ar2009/downloads/exarro_ar2009.pdf
4. Exxaro Annual Report 2009 at p109, available at http://financialresults.co.za/2010/exxaro_ar2009/downloads/exarro_ar2009.pdf
5. Exxaro Annual Report 2009 at p109, available at http://financialresults.co.za/2010/exxaro_ar2009/downloads/exarro_ar2009.pdf
6. Exxaro Annual Report 2010 at p106, available at http://financialresults.co.za/2011/exxaro_ar2010/downloads/exxaro_ar2010.pdf
7. Exxaro Annual Report 2010 at p107, available at http://financialresults.co.za/2011/exxaro_ar2010/downloads/exxaro_ar2010.pdf
8. Exxaro Annual Report 2010 at p109, available at http://financialresults.co.za/2011/exxaro_ar2010/downloads/exxaro_ar2010.pdf
9. Exxaro Annual Report 2010 at p115, available at http://financialresults.co.za/2011/exxaro_ar2010/downloads/exxaro_ar2010.pdf
10. Exxaro Annual Report 2010 at p116, available at http://financialresults.co.za/2011/exxaro_ar2010/downloads/exxaro_ar2010.pdf
11. Exxaro Annual Report 2011 at p66, available at http://www.exxaro-reports.co.za/reports/ar_2011/integrated/pdf/integrated_annual_report.pdf
12. Exxaro Annual Report 2011 at p38,available at http://www.exxaro-reports.co.za/reports/ar_2011/integrated/pdf/integrated_annual_report.pdf
13. Exxaro Annual Report 2011 at p52,available at http://www.exxaro-reports.co.za/reports/ar_2011/integrated/pdf/integrated_annual_report.pdf
14. Exxaro Annual Report 2012 at p124, available at http://www.exxaro-reports.co.za/reports/ar_2012/integrated/pdf/integrated.pdf
15. Exxaro Annual Report 2012 at p124, available at http://www.exxaro-reports.co.za/reports/ar_2012/integrated/pdf/integrated.pdf
16. Exxaro Annual Report 2012 at p125, available at http://www.exxaro-reports.co.za/reports/ar_2012/integrated/pdf/integrated.pdf
17. Exxaro Annual Report 2012 at p126, available at http://www.exxaro-reports.co.za/reports/ar_2012/integrated/pdf/integrated.pdf
18. Exxaro Annual Report 2013 at p20, available at http://www.exxaro.com/wp-content/uploads/2012/11/Exxaro_IR_2014-final_web.pdf
19. Exxaro Supplemental information 2013 at p34, available at http://www.exxaro.com/wp-content/uploads/2012/11/Exxaro_WEB_2014_web1.pdf
20. Exxaro Supplemental information 2013 at p34, available at http://www.exxaro.com/wp-content/uploads/2012/11/Exxaro_WEB_2014_web1.pdf
21. Exxaro Annual Report 2013 at p56, available at http://www.exxaro.com/wp-content/uploads/2012/11/Exxaro_IR_2014-final_web.pdf
22. Exxaro Annual Report 2013 at p74, available at http://www.exxaro.com/wp-content/uploads/2012/11/Exxaro_IR_2014-final_web.pdf
23. Exxaro 2014 Supplementary Report at p86, available at http://www.exxaro.com/ar/2014/Supplementary_Our_environment.pdf
24. Exxaro 2014 Supplementary Report at p88, available at http://www.exxaro.com/ar/2014/Supplementary_Our_environment.pdf

Environmental non-compliances reported by affected communities, the media, & NGOs

Various reports detail alleged destruction of wetlands by Exxaro, both at Weltevreden Farm[1] and at Mooifontein[2] in Mpumalanga. In early 2014, the non-profit organisation the Federation for a Sustainable Environment reported on illegal mining which had been and probably was still being carried out by Exxaro at Weltevreden. In 2012, the Department of Water Affairs had ordered Exxaro to cease mining in the area, as it was doing so without a water use licence. Exxaro then appealed the Department of Water Affair's decision to the Water Tribunal. However, the subsequent disbandment of the Tribunal prompted Exxaro to apply to the High Court on the basis that the disbandment left them without the legal recourse of appeal. The High Court granted Exxaro's application and set the directive aside on the basis of the absence of the Tribunal. The Federation for a Sustainable Environment report stated that Exxaro itself recognised that mining would destroy the wetland as reflected by the following statement on Exarro's website:

> *Probable impacts on the wetland within the boundaries of Block OWM include the total removal of the soil and vegetation, and thus the permanent destruction of the existing wetlands and the associated habitats for fauna and flora. If the wetlands are removed, the likelihood of successfully rehabilitating and restoring the wetlands subsequent to mining is very low; thus, the impact would be permanent.*
>
> *Destruction of the wetlands will take place due to opencast mining activities.*[3]

Exxaro published a statement refuting the allegation that it was mining the wetland without permission, detailing the permissions held by it permitting mining in the relevant area. The publication included the above statements relating to destruction of the wetland and also noted that mining was to recommence in the area.[4] The Federation for a Sustainable Environment however claimed that the co-ordinates of the area covered by the water use licence held by Exxaro excluded the wetland.

Exxaro has also recently been implicated in investigations being carried out by the Public Protector relating to water pollution caused by mining activities. It was reported in 2014 that a criminal complaint had been laid against the company by the Federation for a Sustainable Environment for alleged violations of environmental laws.[5]

In a parliamentary question by a member of the Inkatha Freedom Party to the Minister of Water and Environmental Affairs in 2010, it was queried how many mining companies had contravened the conditions of their water licences and what penalties had been handed out as a result. The Minister responded with a list of mines, which included an Exxaro mine in Limpopo (the name of the mine is not provided). It was stated that no penalties were imposed as the mine took remedial action. The pollution control dam had been overflowing and the quantity was reduced by a recycling method.[6]

A 2012 news report stated that Exxaro's Glisa mine had been criminally charged by the Department of Water Affairs for contravening the National Water Act. Exxaro's offences included the storage of dirty water in an open pit rather than in a pollution control dam, which could lead to pollution of ground water, operating without a water use licence and diverting natural water courses without authorisation.[7] A 2012 response by the Minister of Water and Environmental Affairs to a question posed by a member of the Democratic Alliance also noted that a criminal case had been opened against Exxaro's Glisa operation.[8] This was further confirmed in response to a PAIA request submitted by the CER to the Department of Water & Sanitation for records indicating the names of mines and industrial facilities in respect of which criminal dockets have been opened with the SAPS for failure to comply with the National Water Act. Exxaro's Glisa operation was on the list received from the Department of Water & Sanitation, indicating that a criminal investigation had been opened against Exxaro in 2012 for "use of water otherwise than as permitted under this Act [National Water Act]" and for "failure to comply with a directive issued under section 19, 20, 53 or 118".

As of 25 July 2014, Glisa colliery, Arnot colliery and Durnacol mine did not have Water Use Licences. The authorisation of the Glisa colliery licence was said to be in process, but Arnot colliery and Durnacol mine had not yet applied for the authorisations.[9] Exxaro has a history of non-compliance with the obligation to obtain water use licences.[10]

Other relevant media reports include reports on community opposition to Exxaro operations due to the potential for significant negative environmental effects.[11]

---

1. Farmer goes to Blue Scorpions over Exxaro, News24, 14th May 2012, available at http://www.news24.com/SouthAfrica/News/Farmer-goes-to-Blue-Scorpions-over-Exxaro-20120514 (last accessed on 7 August 2015).
2. Exxaro denies report of environmental-related Mooifontein closure, Mining Weekly, 5th November 2010, available at http://www.miningweekly.com/article/exxaro-denies-report-of-environmental-related-mooifontein-closure-2010-11-05 (last accessed on 7 August 2015).
3. http://www.fse.org.za/index.php/water/item/338-ways-to-kill-a-wetland (last accessed on 7 August 2015).
4. http://www.exxaro.com/index.php/sustainability/mining-at-block-owm-leeuwpan/ (last accessed on 7 August 2015).
5. Water Pollution Near Mines Prompts South African Probe, Bloomberg, 22nd May 2014, available at http://www.bloomberg.com/news/2014-05-21/water-pollution-near-mines-prompts-south-african-ombudsman-probe.html (last accessed on 7 August 2015).
6. Question No. 927, Date of publication in internal question paper: 23 March 2010, available at https://pmg.org.za/question_reply/175/
7. Coal mine in hot water, Bizcommunity, 14 September 2012, available at http://www.bizcommunity.com/Article/196/608/81716.html (last accessed on 7 August 2015).
8. Question No. 2114, Date of publication in internal question paper: 17 August 2012, available at https://pmg.org.za/question_reply/417/
9. Question No. 1716, Date of publication in internal question paper: 19 September 2014, available at https://www.dwa.gov.za/communications/Q&A/2014/NA%201716.pdf
10. http://cer.org.za/wp-content/uploads/2010/12/Joint-letter-to-JSE-SRI-Dec-2010.pdf at p3-4 (last accessed on 7 August 2015).
11. http://www.wattnow.co.za/article.php?id=534 (last accessed on 7 August 2015).

Exxaro Resources Limited's response to the Full Disclosure findings

Each company assessed was given a month to respond to the *Full Disclosure* findings before we published our report.

See Exxaro Resources Limited's response at: http://cer.org.za/full-disclosure/company/exxaro-resources-ltd?correspondence.

Major shareholders

According to Exxaro's 2014 Annual Report,[1] the following shareholders each hold in excess of 3% of the issued share capital of Exxaro:

- Coronation Assest Management Proprietary Limited
- Government Employees Pension Fund
- Main Street 333 Proprietary Limited
- Anglo South Africa Capital Proprietary Limited
- Public Investment Corporation
- Coronation Top20Fund

1. Exxaro Group Annual Financial Statements 2014 at p171, available at http://www.exxaro.com/ar/2014/Report_Exxaro_AFS_2014_FINAL.pdf

Membership of voluntary initiatives, accreditations and awards

JSE SRI	Exxaro appeared on the SRI index every year from 2007 to 2014.
JSE SRI Best Performers	Exxaro featured in the Best Performers category from 2008 until 2011.
Carbon Disclosure Project	Exxaro has responded to the CDP on a number of occasions.
ISO 14001:2004	Exxaro states that all of its business units have ISO 14001:2004 certification.[1]
World Business Council for Sustainable Development	Exxaro is not a member of the WBCSD.
Cement Sustainability Initiative	Not applicable
Green Building Council of South Africa	Not applicable
Global 100	Exxaro does not appear in the Global 100.
United Nations Global Compact	Exxaro is a participant in the UNGC.
International Council on Mining and Metals	Exxaro is not a member of the ICMM.
Extractive Industries Transparency Initiative	Exxaro is not an EITI supporting company.
Cyanide Code	Not applicable

1. Exxaro Annual Integrated Report 2014 at p56, available at http://www.exxaro.com/ar/2014/Exxaro_IR_2014.pdf

GOLD FIELDS LIMITED

Summary of findings and company response

Gold Fields has published the following Environmental Policy Statement:

> *Gold Fields Limited undertakes its activities in a manner that strives to minimise or rectify adverse impacts and maximise positive impacts of an environmental or socio-economic nature. The company is committed to responsible stewardship of natural resources and the ecological environment for present and future generations.*[1]

Gold Fields makes very little information on environmental non-compliances available to its shareholders. The information that is provided, however, is indicative of serious environmental harm, in particular in relation to tailings spillages and the discharge of untreated sewage into the environment. The company also provides no information about compliance inspections at its operations.

The Department of Mineral Resources and the Department of Water and Sanitation are responsible for compliance monitoring and enforcement of environmental and water laws by mining companies. Thus far, unlike the Department of Environmental Affairs, neither department has published any information on its compliance monitoring and enforcement action. This means that it is impossible to know whether or not the level of disclosure on environmental non-compliances by mining companies in their annual reports is accurate or incomplete.

For more information please see *Enforcing the Law: the challenges undermining environmental compliance monitoring and enforcement in South Africa*.

In his response to *Full Disclosure,* Nick Holland, Gold Fields' CEO, provided some clarification on incidents mentioned in the company's annual reports. He also referred to the water stewardship initiatives undertaken by the company at South Deep, and the consequent reduction in level 3 environmental incidents at the mine during heavy rains.

Mr Holland invited the CER to meet with the company "in order to obtain your input as we commence with planning the content of our 2015 Integrated Annual Report".

1. Gold Fields Limited Environmental Policy Statement, available at https://www.goldfields.co.za/pdf/policies/evironmental_statement.pdf

Company overview

Gold Fields is a gold producer with mines in South Africa, Peru, Ghana and Australia. It has a primary listing on the JSE, and secondary listings on the New York Stock Exchange (NYSE), NASDAQ Dubai Limited (NYX) and the Swiss Exchange (SWX).[1] In South Africa, Gold Fields operates the South Deep mine in Gauteng, south-west of Johannesburg.[2] This is Gold Field's sole remaining mine in South Africa following the unbundling of its other operations into Sibanye Gold Limited in February 2013.[3] South Deep is the world's second largest gold deposit.[4] Gold Fields employs a total of 5,246 employees at South Deep.[5]

1. https://www.goldfields.co.za/reports/annual_report_2014/integrated/int-about-gold-fields.php (last accessed on 7 August 2015).
2. https://www.goldfields.co.za/gl_sa_south.php (last accessed on 7 August 2015).
3. https://www.goldfields.co.za/gl_sa_south.php (last accessed on 7 August 2015) and https://www.sibanyegold.co.za/investors/news/company-announcements/2015/item/141-sibanye-released-as-guarantor-of-gold-fields-bond (last accessed on 7 August 2015).
4. Gold Fields shuts South Deep after deaths, IOL, 24th May 2014, available at http://www.iol.co.za/business/companies/gold-fields-shuts-south-deep-after-deaths-1.1696005#.VC0mwfmSzE5 (last accessed on 7 August 2015).
5. Gold Fields Annual Report 2014 at p5, available at https://www.goldfields.co.za/reports/annual_report_2014/integrated/pdf/full.pdf

Non-compliance with environmental laws as reported in the National Environmental Compliance and Enforcement Reports

Gold Fields does not feature in the National Environmental Compliance and Enforcement Reports. However, as the Department of Environmental Affairs' Environmental Management Inspectors do not have jurisdiction over the environmental or water impacts of mining, this does not mean that the company has not been subject to compliance monitoring and/or enforcement action. The Department of Mineral Resources and the Department of Water and Sanitation are responsible for compliance monitoring and enforcement of environmental and water laws by mining companies. Unlike the Department of Environmental Affairs, thus far neither department has published any information on its compliance monitoring and enforcement action. Both Departments however, in answers to Parliamentary Questions, insist that many inspections take place, many directives and compliance notices are issued, and many criminal prosecutions are instituted.

With a few minor exceptions, the mining companies assessed in *Full Disclosure* did not refer to compliance monitoring inspections by the Department of Mineral Resources or Department of Water and Sanitation in their shareholder reporting.

The fact that the Departments charged with regulating the sector do not publicise non-compliance findings or enforcement action means that it is impossible to know whether or not the level of disclosure on environmental and water non-compliances by mining companies in their annual reports is accurate.

For more information please see *Enforcing the Law: the challenges undermining environmental compliance monitoring and enforcement in South Africa*.

Gold Fields Limited's disclosure of environmental non-compliances in annual reports

The company reports on environmental incidents in its own reports using a five level incident classification system. Level 5 incidents constitute the most severe incidents and Level 1 incidents are not reported on in the annual reports.

2009 company reports

In the 2009 reporting period, the company reported 181 Level 2 incidents and 7 Level 3 incidents. The Level 3 incidents included the following incidents at Driefontein mine, located west of Johannesburg:

- a spillage of 600 cubic metres of tailings;
- a separate spillage of 800 cubic metres of tailings near a mine workers' hostel;
- a spillage of 300 cubic metres of tailings on a road near a tailings dam; and
- 3 other tailings spills.[1]

It was also reported in the 2009 Annual Report that "in terms of issues related to water quality in the Wonderfonteinspruit…Gold Fields has continued…to engage proactively with all stakeholders."[2]

Another issue mentioned was that of the excessive amount of total dissolved solids at a tailings storage facility, which was said to have been reported on in 2008.[3]

2010 company reports

In the 2010 Annual Report, it was stated that there had been no "major environmental incidents" or fines for non-compliance.[4] However there were 7 Level 3 incidents and 223 Level 2 incidents in the 2010 financial year.[5] No information is provided as to the nature of these incidents.[6]

2011 company reports

In the 2011 Annual Report, 56 Level 2 and 3 incidents were recorded.[7] The Level 3 incidents included:

- possible subsidence and ground movement resulting in cracks in houses and pooling of water in a village;
- the release of 6.6 million litres of untreated sewage water into the Leeuwspruit;
- the discharge of water for a shaft into a bio-monitoring dam;
- the release of 4.7 million litres of untreated sewage water into the environment; and
- the spillage of 40 tonnes of tailings into a river and nearby shops.[8]

2012 company reports

In the 2012 Annual Report, it was recorded that there had been 69 Level 2 and 3 incidents during the year.[9] Details are available regarding the 6 Level 3 incidents which occurred at South Deep and the 1 Level 3 incident which occurred at KDC (the KDC operation is also located in South Africa and was subsequently unbundled into Sibanye Gold Limited). At KDC, there was a tailings spillage resulting in soil contamination. The volume of the spillage was said to be unknown. At South Deep the following incidents occurred:

- Overflow of pollution control dam resulting in the discharge of an unknown quantity of water into the Kariegaspruit stream;
- Failure of both pumps at the sewage plant and heavy rainfall, resulting in the release of approximately 2,453m^3 of untreated sewage effluent into the Leeuspruit stream;
- Exhaustion of chlorine gas supplies at the sewage plant resulting in e-coli in the sewage effluent exceeding the water use licence limit, and resulting in the release of 1,490 KL of untreated sewage water;
- Sinkhole created near an access road due to a build-up of water, resulting in loss of vegetation and a possible safety hazard;
- Rupture in the tailings pipeline due to abrasion, resulting in the spillage of 2.5 KL tailings into the storm water trenches and surrounding area; and
- Power failure at the sewage treatment plant due to a burnt-out transformer, resulting in the release of approximately 3,400 KL of untreated sewerage into the environment.[10]

2013 company reports

In the 2013 Annual Report it was reported that during the year there had been 49 Level 2 incidents and 3 Level 3 incidents.[11] 2 of the Level 3 incidents were in South Africa at the South Deep operation, where process water overflowed into the Leeuspruit River, and there was a discharge of water from the sewage plant into the environment (reportedly allowable under the Water Use Licence) which contained elevated levels of sulphates, total dissolved solids and conductivity.[12]

The 2013 report stated that all eligible operations are compliant with the International Cyanide Management Code.[13]

2014 company reports

In 2014 the company reported 4 Level 3 incidents and 58 Level 2 incidents.[14] The 4 Level 3 incidents, all of which occurred at South Deep, were as follows:

- a pipe burst resulting in the spillage of about 2,000 litres of oil;
- overflow of the pollution control dam and the return water dam into adjacent rivers;
- discharges of process water via an unauthorised installed pipeline; and
- water seepage at the Doornpoort return water dam.[15]

1. Gold Fields Annual Report 2009 at p77, available at https://www.goldfields.co.za/reports/annual_report_2009/pdf/full.pdf
2. Gold Fields Annual Report 2009 at p77, available at https://www.goldfields.co.za/reports/annual_report_2009/pdf/full.pdf
3. Gold Fields Annual Report 2009 at p78, available at https://www.goldfields.co.za/reports/annual_report_2009/pdf/full.pdf

4. Gold Fields Annual Report 2010 at p95, available at https://www.goldfields.co.za/reports/annual_report_2011/pdf/full_new.pdf
5. Gold Fields Annual Report 2010 at p113, available at https://www.goldfields.co.za/reports/annual_report_2011/pdf/full_new.pdf
6. Gold Fields' response to *Full Disclosure* contained the following clarification, "Due to changes in Gold Fields financial reporting year from a June year end to a December year end, two reports were released: One for the year ended 30 June 2010 and a separate report covering the remaining 6 months of 2010 (till 31 December 2010). A description of all level 3 environmental incidents reported for the period 1 January 2010 to 31 December 2010 is provided on pg.79 of the aforementioned report (See https://goldfields.co.za/inv_rep_ar.php)."
7. Gold Fields Annual Review 2011 at p61, available at https://www.goldfields.co.za/reports/ar_dec_2011/pdf/integrated_ann_rev_2011.pdf
8. Gold Fields Annual Review 2011 at p62, available at https://www.goldfields.co.za/reports/ar_dec_2011/pdf/integrated_ann_rev_2011.pdf
9. Gold Fields Annual Review 2012 at p90, available at https://www.goldfields.co.za/reports/annual_report_2012/pdf/integrated.pdf
10. https://www.goldfields.co.za/reports/annual_report_2012/ops-promoting-lifecycle.php (last accessed on 3 September 2015)
11. Gold Fields Annual Review 2013 at p84, available at https://www.goldfields.co.za/reports/annual_report_2013/pdf/annual-review-2013.pdf
12. Gold Fields Annual Review 2013 at p85, available at https://www.goldfields.co.za/reports/annual_report_2013/pdf/annual-review-2013.pdf. Gold Fields' response to *Full Disclosure* contained the following clarification, "South Deeps Water Use Licence (WUL) stipulates that sewage water (treated to the required standard) is required to be discharged into the Leeuspruit. As explained in Gold Fields Integrated Annual Report (2013), '*It is unclear why these parameters (i.e. sulphates TDS and conductivity) were found in elevated levels in the sewage water as these are typical of mine process water. Sample analysis records are being checked to determine the reasons for this possible anomaly'.* Since these parameters are not typically found in sewage water, the most plausible explanation is that this was a sampling anomaly." See http://cer.org.za/full-disclosure/company/gold-fields-limited?correspondence
13. Gold Fields Annual Review 2013 at p37, available at https://www.goldfields.co.za/reports/annual_report_2013/pdf/annual-review-2013.pdf
14. Gold Fields Annual Report at p72, available at https://www.goldfields.co.za/reports/annual_report_2014/integrated/pdf/full.pdf
15. Gold Fields Annual Report at p73, available at https://www.goldfields.co.za/reports/annual_report_2014/integrated/pdf/full.pdf

Environmental non-compliances reported by affected communities, the media, & NGOs

Media reports on Gold Field's South Deep mine include those dealing with the harm caused by pollution from the mine to the health of those living nearby. According to the doctor of an individual living a half a kilometre from the South Deep mine, the patient's lung disease was "definitely aggravated by the nearby mine dump and the secondary dust cloud".[1]

Such pollution has also affected the livelihoods of nearby farmers, due to pollution of water supply. The non-profit Federation for a Sustainable Environment has reported that in an attempt to obtain compensation for these farmers, information was obtained from the South Deep Environment Management Programme which showed that the Department of Environmental Affairs had previously written to Gold Fields informing the company that the water supply was unfit for irrigation, drinking or watering of cattle due to leaks from the mine. Gold Fields did not accept responsibility for the pollution, but bought the farmers' land from them.[2]

---

1. http://carinsmit.co.za/blog/environmental-issues/mine-waste-destroying-lives/ (last accessed on 7 August 2015).
2. http://www.saha.org.za/publications/paia_case_studies_from_civil_society_dvd/segment_4.htm (last accessed on 7 August 2015).

Gold Fields Limited's response to the Full Disclosure findings

Each company assessed was given a month to respond to the *Full Disclosure* findings before we published our report.

See Gold Fields Limited's response at: http://cer.org.za/full-disclosure/company/gold-fields-limited?correspondence.

Major shareholders

In Gold Fields' 2014 annual report,[1] the following is listed as the only beneficial shareholder holding 3% or more of the issued share capital: Government Employees Pension Fund. The following Fund Managers are also listed as each holding 3% or more:

- Public Investment Corporation Limited
- First Eagle Investment Management, L.L.C.
- Investec Asset Management (Pty) Ltd
- Van Eck Associates Corporation
- Allan Gray Proprietary Limited
- Black Rock Investment Management (UK) Ltd
- Dimensional Fund Advisors L.P.

The following are 'foreign custodians' holding 3% or more:

- The Bank of New York Mellon DR
- State Street Bank & Trust Company
- JPMorgan Chase
- Brown Brothers Harriman & Co.

1.Gold Fields Annual Financial Report 2014 at p141, available at https://www.goldfields.co.za/reports/annual_report_2014/afs/pdf/full-afs.pdf

Membership of voluntary initiatives, accreditations and awards

JSE SRI	Gold Fields appeared on the SRI index every year from 2004 – 2014.
JSE SRI Best Performers	Gold Fields featured in the Best Performers category in 2005 and from 2007 until 2010.
Carbon Disclosure Project	Gold Fields has responded to the CDP on a number of occasions.
ISO 14001:2004	South Deep has ISO 14001:2004 certification.[1]
World Business Council for Sustainable Development	Gold Fields is not a member of the WBCSD.
Cement Sustainability Initiative	Not applicable
Green Building Council of South Africa	Not applicable
Global 100	Gold Fields does not appear in the Global 100.
United Nations Global Compact	Gold Fields is a participant in the UNGC.
International Council on Mining and Metals	Gold Fields is a member of the ICMM.
Extractive Industries Transparency Initiative	Gold Fields is an EITI supporting company.
Cyanide Code	Gold Fields is a signatory to the Cyanide Code.

1.https://www.goldfields.co.za/gl_sa_south.php (last accessed on 7 August 2015).

HARMONY GOLD MINING COMPANY LIMITED

Summary of findings and company response

Harmony Gold has published the following Environmental Policy:

> *By the very nature of our business we impact on the environment yet we aspire to leaving a net positive legacy wherever we operate. Excellence in environmental performance is essential to our business success.*[1]

Harmony Gold's company reports reveal a number of serious non-compliances with environmental laws, in particular multiple unlawful discharges and overflows, and ongoing excessive dust emissions.

The 2009 company report makes reference to "compliance audits" undertaken that year, including by the Department of Mineral Resources. The company states that "areas of non-compliance identified by the audits have been and are being addressed". However, no further information is provided as to the nature or severity of these non-compliances.

In 2011 the company received four directives from the Department of Mineral Resources and the Department of Water Affairs. Harmony Gold appears to dispute the content of two of these directives.

Harmony Gold's 2012 annual report refers to litigation brought by Harmony Gold in relation to its obligation, pursuant to a directive issued by the Department of Water Affairs, to deal with acid mine drainage at an operation that it had sold to a company that subsequently went into liquidation. Despite the fact that the North Gauteng High Court and the Supreme Court of Appeal found against Harmony Gold, and the Constitutional Court denied Harmony Gold's application for leave to appeal, the company extraordinarily still denies liability for the cost of the pumping required by the directive.

The Department of Mineral Resources and the Department of Water and Sanitation are responsible for compliance monitoring and enforcement of environmental and water laws by mining companies. Thus far, unlike the Department of Environmental Affairs, neither department has published any information on its compliance monitoring and enforcement action. This means that it is impossible to know whether or not the level of disclosure on environmental non-compliances by mining companies in their annual reports is accurate or incomplete.

For more information please see *Enforcing the Law: the challenges undermining environmental compliance monitoring and enforcement in South Africa*.

The CER wrote to Harmony's Environmental Management Executive on 22 July 2015, inviting the company to respond to the findings in *Full Disclosure* by 19 August 2015. No response has been received to date.

---

1. http://www.harmony.co.za/downloads/finish/30-policies/573-environmental-policy (last accessed on 7 August 2015).

Company overview

Harmony Gold is a gold producer operating in South Africa and Papua New Guinea.[1] Harmony Gold operates 9 underground mines, one open pit mine and several surface operations in South Africa, which are predominantly located in the Witwatersrand Basin and the Kraaipan Greenstone Belt in North West Province.[2] 34,686 people are employed by Harmony Gold in South Africa, including both permanent employees and contractors.[3]

---

1. http://www.harmony.co.za/our-business (last accessed on 7 August 2015)
2. Harmony Integrated Annual Report 2014 at p4, available at http://www.harmony.co.za/frames/notice-ir14.html
3. Harmony Integrated Annual Report 2014 at p67, available at http://www.harmony.co.za/frames/notice-ir14.html

Non-compliance with environmental laws as reported in the National Environmental Compliance and Enforcement Reports

Harmony Gold does not feature in the National Environmental Compliance and Enforcement Reports. However, as the Department of Environmental Affairs' Environmental Management Inspectors do not have jurisdiction over the environmental or water impacts of mining, this does not mean that the company has not been subject to compliance monitoring and/or enforcement action. The Department of Mineral Resources and the Department of Water and Sanitation are responsible for compliance monitoring and enforcement of environmental and water laws by mining companies. Unlike the Department of Environmental Affairs, thus far neither department has published any information on its compliance monitoring and enforcement action. Both Departments however, in answers to Parliamentary Questions, insist that many inspections take place, many directives and compliance notices are issued, and many criminal prosecutions are instituted.

With a few minor exceptions, the mining companies assessed in *Full Disclosure* did not refer to compliance monitoring inspections by the Department of Mineral Resources or Department of Water and Sanitation in their shareholder reporting.

The fact that the Departments charged with regulating the sector do not publicise non-compliance findings or enforcement action means that it is impossible to know whether or not the level of disclosure on environmental and water non-compliances by mining companies in their annual reports is accurate.

For more information please see *Enforcing the Law: the challenges undermining environmental compliance monitoring and enforcement in South Africa*.

Harmony Gold Mining Company Limited's disclosure of environmental non-compliances in annual reports

Some environmental non-compliances are reported in the company's own reports.

2009 company reports

In 2009 it was stated that compliance audits had been undertaken that year, including by the Department of Mineral Resources, and that "areas of non-compliance identified by the audits have been and are being addressed".[1] No further information is provided as to the nature of these non-compliances.

There were also four "significant environmental incidents". The company defines such incidents as those which have an impact outside the company's boundaries, which may cause irreparable harm or require significant expenditure to remedy. The significant incidents in 2009 were the following: one incident of seepage from slimes dams, two incidents of unexpected water discharge, and one incident of flooding of an agricultural area.[2]

2010 company reports

The 2010 Sustainable Development Report reported that there had been five significant environmental incidents. These incidents were the following:

- spillage of 30m³ of gold-bearing slime into the Winkelhaak Spruit (Mpumalanga);
- an overflow of seepage into the Loopspruit tributary (Randfontein);
- floods in catchment areas of the Winkelhaak Spruit and Grootspruit streams (Mpumalanga);
- overflow of surface water holding tanks resulting in the spillage of process water into a storm water trench; and
- the spillage of raw sewage onto neighbouring land.[3]

The Sustainable Development Report states that no environmental fines or sanctions were received in the 2010 financial year.[4]

2011 company reports

In the 2011 financial year, Harmony Gold stated that it received no environmental fines or sanctions in South Africa.[5] However, four directives were issued.

Firstly, a condition accompanying an Environmental Management Programme approval stipulated a requirement to "backfill a D-zone pit". The company stated that scientific studies have shown that backfilling the pit would have a negative impact on the environment and therefore the company was working to seek revocation of the approval.

Secondly, there was a directive received from the Department of Mineral Resources relating to airborne dust.

Thirdly, there was a directive from the Department of Water Affairs relating to the release of underground water. The company stated that the mine had proved that discharge does not impact on river water quality.

Finally, the Department of Mineral Resources requested Kusasalethu (on the border of Gauteng and the North West province) to improve access control of communities to the return water dam for safety reasons.[6]

There were also a number of significant environmental incidents reported by the company during the 2011 reporting period which included:

- underground water discharge at Doornkop;
- non-compliance with water licence discharge conditions at Pres Steyn;
- water discharge from Nyala wash bay to the environment;
- overflow of return water dams at Doornkop, Kusasalethu and Evander;
- overflow of Nyala shaft water discharge into receiving environment;
- Steyn 9 discharge overflow into receiving environment;
- treated sewage water discharge at Kusasalethu; and
- dust pollution from Steyn 9 slimes dam (for which a directive was received from the Department of Mineral Resources).[7]

2012 company reports

Harmony Gold states that no environmental fines or sanctions were received in during the 2012 reporting period.[8] However, it was reported that the Department of Mineral Resources in the Free State region had received a community request to reduce dust exposure (although it was also stated that monitoring results had been within compliance limits) and an issue being addressed was said to be the unlicensed storage of low-grade ore at Kalgold (located close to Mafikeng in the North West province).[9]

The following significant environmental incidents were reported by the company in the 2012 reporting year:

- return water dam overflow at Kusasalethu;
- shaft sewage overflow at Doornkop;
- failure of drain at Kalgold;
- unauthorised stockpile of low-grade ore at Kalgold;
- return water dam overflow into Grootspruit at Evander;
- municipal sewage discharge into dam resulting in overflow into receiving environment at Steyn 9;
- slimes delivery pipeline burst at Saaiplaas; and

- a ‘Section 55’ issued by the Department of Mineral Resources for dust pollution.[10]

The 2012 report also contains information about litigation brought by Harmony Gold in relation to its obligation to deal with acid mine drainage. In 2005, the Department of Water Affairs issued a series of directives to Harmony Gold and three other gold mining companies operating in the Klerksdorp, Orkney, Stilfontein and Hartbeesfontein (KOSH) Basin. The directive ordered the companies to take measures to prevent pollution of underground and surface water resources in the vicinity of their mining operations.[11]

Harmony Gold sold its mines operating in the KOSH Basin to Pamodzi Gold Orkney (Pty) Ltd in 2008. Not long after acquiring the mines, Pamodzi ran into financial difficulties and went into provisional liquidation in 2009, rendering it unable to comply with the directive.

Harmony Gold contended that the directive issued by the Department of Water Affairs no longer applied to it since it had sold the mines to Pamodzi and was no longer the owner. Harmony Gold asked the Minister of Water Affairs to withdraw the directive. The Minister refused, and Harmony Gold made application to the North Gauteng High Court to review the decision and withdraw the directive. The North Gauteng High Court dismissed the company’s application, and Harmony Gold then appealed the judgment.

Harmony Gold’s appeal was unsuccessful.[12] The Supreme Court of Appeal assessed section 19 of the National Water Act, which deals with the prevention and remediation of pollution. The Supreme Court of Appeal held that section 19 of the National Water Act provides no limitation that a directive may only bind the owner, occupier or user of the affected land to take remedial measures. The Supreme Court of Appeal concluded that the directive remains in force until Harmony Gold fully complies with it, the rationale behind the provision in the National Water Act being “to direct the landholder to address the pollution or risk of pollution however long it may take to do so” and that “the rationale does not fall away when the landholder ceases to own, control, occupy or use the land”.[13] In February 2014, the Constitutional Court dismissed Harmony Gold’s application for leave to appeal. The Supreme Court of Appeal’s judgment is an important endorsement of the principle that the polluter must pay the costs associated with preventing, minimising and remedying the pollution which it has caused. This judgment means that companies can no longer avoid environmental obligations by selling their assets to a third party.

Despite the very clear terms of the Supreme Court of Appeal’s judgment, Harmony Gold still denies that it is responsible for the pollution prevention measures required by the directive (see update under “2014 company reports” below).

2013 company reports

In 2013 Harmony Gold reported that no environmental sanctions or fines had been received during the year.[14] Significant environmental incidents in South Africa included the following:

- residue spillage from plant at Saaiplaas;
- two return water dam overflows at Kusasalethu; and
- spillage after slimes delivery pipeline burst at Harmony Gold plant 1.[15]

2014 company reports

The 2014 Annual Report recorded three Level 3 incidents in South Africa:[16]

- overflow of the return water dam resulting in breach of permit conditions;
- a third party company operating a waste water treatment works adjacent to Harmony Gold’s pollution control dam discharged raw sewage into the dam resulting in the death of fish and Harmony Gold received a section 55 instruction from the Department of Water Affairs directing improvement of access control measures; and
- a pump motor failed resulting in water overflowing into the storm water stream for 72 hours.[17]

The company states that no fines or sanctions were received during the reporting year for non-compliance with environmental laws and regulations at any of its operations.[18]

It was reported by the Minister of Water Affairs that as of 25 July 2014 a Harmony Gold mine was operating without a water use licence, as the authorisation was still in process.[19]

Despite the findings of the Supreme Court of Appeal and the Constitutional Court in the case of *Harmony Gold Mining Company Limited v Regional Director: Free State Department of Water Affairs,* discussed under “2012 company reports” above, the following denial of responsibility for addressing water pollution in the KOSH basin appears in Harmony Gold’s 2014 Annual Report:

> *NOTEWORTHY ACTION KLERKSDORP, ORKNEY, STILFONTEIN AND HARTBEESFONTEIN (KOSH) BASIN AND ACID MINE DRAINAGE*
>
> *Though we [sic], AngloGold Ashanti and Simmer & Jack (Simmers) are continuing with efforts to find a mutually agreeable outcome to the KOSH pumping issue. On 13 February 2014, Harmony received an unfavourable ruling from the Constitutional Court on our 15 January 2014 appeal on the constitutionality of an earlier ruling by the Supreme Court of Appeal that the company was obliged to participate in the KOSH pumping in accordance with the directive issued in terms of the Act. We argue that in terms of the National Water Act 36 of 1998, responsibility for addressing pollution lies with the owner, occupier, controller or user of the land on which the pollution takes place. Harmony is none of these things and we therefore contend that we are not liable for the cost of pumping.*[20]

1. Harmony Gold Sustainable Development Report 2009 at p72, available at https://www.harmony.co.za/assets/investors/reporting/annual-reports/2009/files/Harmony_SD09.pdf
2. Harmony Gold Sustainable Development Report 2009 at p72, available at https://www.harmony.co.za/assets/investors/reporting/annual-reports/2009/files/Harmony_SD09.pdf
3. Harmony Gold Sustainable Development Report 2010 available at http://www.harmony.co.za/assets/sd/reports/2010/environment.htm
4. Harmony Gold Sustainable Development Report 2010 available at http://www.harmony.co.za/assets/sd/reports/2010/environment.htm
5. Harmony Gold Annual Report 2011 at p14, available at http://www.financialresults.co.za/2011/harmony_ar2011/downloads/harmony_integrated_ar2011.pdf
6. Harmony Gold Sustainable Development Report 2011 at p72, available at http://www.financialresults.co.za/2011/harmony_ar2011/downloads/harmony%20AR%20SD%20Low%20res.pdf
7. Harmony Gold Sustainable Development Report 2011 at p78, available at http://www.financialresults.co.za/2011/harmony_ar2011/downloads/harmony%20AR%20SD%20Low%20res.pdf

8. Harmony Gold Sustainable Development Report 2012 at p107, available at https://www.harmony.co.za/assets/investors/reporting/annual-reports/2012/harmony_sd2012.pdf
9. Harmony Gold Sustainable Development Report 2012 at p107, available at https://www.harmony.co.za/assets/investors/reporting/annual-reports/2012/harmony_sd2012.pdf
10. Harmony Gold Sustainable Development Report 2012 at p124, available at https://www.harmony.co.za/assets/investors/reporting/annual-reports/2012/harmony_sd2012.pdf
11. http://www.digbywells.com/en/wp-content/themes/ColdStone/PDF-Downloads/Harmony%20Gold%20Mining%20Company%20Limited.pdf (last accessed on 7 August 2015).
12. http://cer.org.za/virtual-library/harmony-gold-mining-company-ltd-v-regional-director-free-state-department-water-affairs-others (last accessed on 7 August 2015).
13. http://cer.org.za/wp-content/uploads/2013/12/Harmony-Gold-Mining-Company-v-Free-State-Regional-Department-of-Water-Affairs-and-others.pdf at para24
14. Harmony Gold Environmental Performance 2013 at p4, available at http://www.financialresults.co.za/2013/harmony_ir2013/harmony_ep2013/index.php
15. Harmony Gold Environmental Performance 2013 at p16, available at http://www.financialresults.co.za/2013/harmony_ir2013/harmony_ep2013/index.php
16. Harmony Integrated Annual Report 2014 at p80, available at http://www.harmony.co.za/frames/notice-ir14.html
17. Harmony Integrated Annual Report 2014 at p82, available at http://www.harmony.co.za/frames/notice-ir14.html
18. Harmony Integrated Annual Report 2014 at p82, available at http://www.harmony.co.za/frames/notice-ir14.html
19. Question No. 1716, Date of publication in internal question paper: 19 September 2014, available at https://www.dwa.gov.za/communications/Q&A/2014/NA%201716.pdf
20. Harmony Integrated Annual Report 2014 at p 94, available at http://www.harmony.co.za/frames/notice-ir14.html

Environmental non-compliances reported by affected communities, the media, & NGOs

The death of nine workers at Harmony Gold's Doornkop mine in early 2014 resulted in investigations by the Department of Mineral Resources.[1] Recent media reports deal predominantly with this incident and also with the litigation relating to Harmony Gold's obligations to treat acid mine drainage in the KOSH basin (dealt with under "Harmony Gold Mining Company Limited's disclosure of environmental non-compliances in annual reports"). Various other reports consider Harmony Gold's contribution to the pollution of South African waterways.[2]

A number of online reports implicate Harmony Gold in the findings of the 'Brenk report', a 2007 study commissioned by the National Nuclear Regulator, which found that over 400,000 people living along the Wonderfontein Spruit in Gauteng were being exposed to dangerous levels of radioactive pollutants in the water as a result of mining.[3]

---

1. http://www.sabc.co.za/news/a/3f8e660042e12f17958fff56d5ffbd92/Memorial-for-Harmony-miners-set-for-Wednesday-20141002 (last accessed on 7 August 2015) and http://www.enca.com/south-africa/could-harmony-mining-accident-have-been-prevented (last accessed on 7 August 2015).
2. http://www.irinnews.org/report/76780/south-africa-paying-the-price-for-mining (last accessed on 7 August 2015).
3. http://www.ipsnews.net/2007/12/environment-south-africa-radioactive-water-the-price-of-gold/, http://www.rense.com/general77/sarad.htm (last accessed on 7 August 2015) and http://www.environment.co.za/poisoning-carcinogens-heavy-metals-mining/radioactive-rivers-the-brenk-report.html (last accessed on 7 August 2015).

Harmony Gold Mining Company Limited's response to the Full Disclosure findings

Each company assessed was given a month to respond to the *Full Disclosure* findings before we published our report.

See Harmony Gold Mining Company Limited's response at: http://cer.org.za/full-disclosure/company/harmony-gold-mining-company-limited?correspondence.

Major shareholders

Harmony's 2014 Annual Report lists the following as the principal shareholders of the company[1]:

- ARM Ltd
- Allan Gray Unit Trust Management Ltd
- Public Investment Corporation of South Africa
- BlackRock Investment Management (United Kingdom) Ltd.
- Van Eck Global
- Retail Brokers (ADR)
- Dimensional Fund Advisors, Inc.
- BlackRock Fund Advisors
- The Vanguard Group, Inc.
- Wellington Management Co. LLP

1. Harmony Integrated Annual Report 2014 at p189, available at http://www.harmony.co.za/frames/notice-ir14.html

Membership of voluntary initiatives, accreditations and awards

JSE SRI	Harmony Gold appeared on the SRI index every year from 2004 to 2014.
JSE SRI Best Performers	Harmony Gold has never featured in the Best Performers category.
Carbon Disclosure Project	Harmony Gold has responded to the CDP on a number of occasions.
ISO 14001:2004	Not all of Harmony Gold's operations have ISO 14001:2004 certification.[1]
World Business Council for Sustainable Development	Harmony Gold is not a member of the WBCSD.
Cement Sustainability Initiative	Not applicable
Green Building Council of South Africa	Not applicable
Global 100	Harmony Gold does not appear in the Global 100.
United Nations Global Compact	Harmony Gold is not a participant in the UNGC.
International Council on Mining and Metals	Harmony Gold is not a member of the ICMM.
Extractive Industries Transparency Initiative	Harmony Gold is not an EITI supporting company.
Cyanide Code	Harmony Gold is a signatory to the Cyanide Code.

1. https://www.harmony.co.za/sustainability/environment (last accessed on 7 August 2015).

IMPALA PLATINUM HOLDINGS LIMITED

Summary of findings and company response

Implats published the following Environmental Policy Statement in 2013:

> *Implats is a PGE[1]-focused mining company that undertakes its activities in a manner that strives to minimise or eliminate negative impacts and maximise positive impacts of an environmental nature. The Company is committed to responsible stewardship of natural resources and the ecological environment in a sustainable manner.*[2]

Implats approved a five level incident classification system for managing environmental performance was in 2013. The system is not due to be implemented until 2015. Over the period covered in *Full Disclosure* therefore, reporting conventions were not standardised across the group. No information is provided on compliance inspections at Implats' operations.

In his response to *Full Disclosure,* Paul Finney, Group Executive: Refining and Marketing, stated that "environmental incidences will be reported as per the then fully tested and functional five-tier matrix in the relevant public reports for FY 2016 (spanning the period 1 July 2015 to 30 June 2016), onwards."

The Department of Mineral Resources and the Department of Water and Sanitation are responsible for compliance monitoring and enforcement of environmental and water laws by mining companies. Thus far, unlike the Department of Environmental Affairs, neither department has published any information on its compliance monitoring and enforcement action. This means that it is impossible to know whether or not the level of disclosure on environmental non-compliances by mining companies in their annual reports is accurate or incomplete.

For more information please see *Enforcing the Law: the challenges undermining environmental compliance monitoring and enforcement in South Africa.*

A Technical Memorandum attached to an Implats Environmental Impact Assessment indicates a number of non-compliances, in relation to waste activities in particular, at the Impala Springs Refinery.

Mr Finney referred to an error pertaining to the entity discussed in the Technical Memorandum. He also sought to clarify the group structure of Implats, which he stated we had incorrectly represented in *Full Disclosure.* Mr Finney provided a detailed explanation of the status of the waste management licence application process for Impala Refinery in his response, which can be viewed at http://cer.org.za/full-disclosure/company/impala-platinum-holdings-limited?correspondence, as well as clarification and further information on the other areas of concern raised in the Environmental Impact Assessment.

Mr Finney extended an invitation on behalf of the Implats Management Team for the CER to visit the Impala Platinum Refineries.

---

1. Platinum Group Element
2. http://www.implats.co.za/implats/downloads/2013/environmental_policy_statement.pdf (last accessed on 7 August 2015).

Company overview

Impala Platinum Holdings Limited (Implats) mines, refines and markets platinum group metals, copper, nickel and cobalt.[1] Implats' main operating unit is Impala Platinum Limited (Impala), which consists of mining operations outside Rustenberg (North West province) on the western limb of the Bushveld Complex and Impala Refineries (in Springs, east of Johannesburg). Implats also consists of Marula mine (73% owned by Implats) (Limpopo) and Two Rivers mine (45% owned by Implats, managed by African Rainbow Minerals) (Mpumalanga) on the eastern limb of the Bushveld Complex; Impala Refining Services (in Springs, east of Johannesburg), which provides smelting and refining services to group companies apart from Impala and other parties; and operations in Zimbabwe. Including contractors, in 2014 Impala employed 44,608 people, Marula employed 4,304 people and Two Rivers employed 3,416 people.[2]

---

1. http://www.implats.co.za/implats/Company-profile.asp (last accessed on 7 August 2015).
2. Impala Annual Report 2014 at p 10, available at http://www.implats.co.za/implats/downloads/2014/Implats_integrated_report_2014.pdf

Non-compliance with environmental laws as reported in the National Environmental Compliance and Enforcement Reports

Implats does not feature in the National Environmental Compliance and Enforcement Reports. However, as the Department of Environmental Affairs' Environmental Management Inspectors do not have jurisdiction over the environmental or water impacts of mining, this does not mean that the company has not been subject to compliance monitoring and/or enforcement action. The Department of Mineral Resources and the Department of Water and Sanitation are responsible for compliance monitoring and enforcement of environmental and water laws by mining companies. Unlike the Department of Environmental Affairs, thus far neither department has published any information on its compliance monitoring and enforcement action. Both Departments however, in answers to Parliamentary Questions, insist that many inspections take place, many directives and compliance notices are issued, and many criminal prosecutions are instituted.

With a few minor exceptions, the mining companies assessed in *Full Disclosure* did not refer to compliance monitoring inspections by the Department of Mineral Resources or Department of Water and Sanitation in their shareholder reporting.

The fact that the Departments charged with regulating the sector do not publicise non-compliance findings or enforcement action means that it is impossible to know whether or not the level of disclosure on environmental and water non-compliances by mining companies in their annual reports is accurate.

For more information please see *Enforcing the Law: the challenges undermining environmental compliance monitoring and enforcement in South Africa*.

Impala Platinum Holdings Limited's disclosure of environmental non-compliances in annual reports

Implats' annual reports contain very little detail on environmental non-compliances, and no information on compliance monitoring and enforcement action. A five level incident classification system for managing environmental performance was only approved in 2013,[1] and this is not being implemented until 2015.[2]

The company stated in its 2011 Sustainable Development Report that reporting conventions were not standardised across the Implats Group and a process was under way to finalise definitions for environmental incidents.[3] It was also stated in the 2011 Sustainable Development Report that the only operations for which the company reports in detail on environmental incidents are the Rustenburg operations, which during that year had had no critical incidents and 152 high-level incidents.[4]

Reporting on non-compliances in Implats' reports therefore consists mainly of occasional references to non-compliance.

2009 company reports

In the 2009 Sustainable Development Report it was stated that there were minor and infrequent exceedances against national ambient air quality standards.[5] It was also stated that fugitive dust from the tailings dam at Mimosa was "a challenge".[6] The same statement was made in 2010.[7]

The 2009 Sustainable Development Report stated that during the 2009 financial year there had been no critical level environmental incidents and no significant breaches of environmental laws, regulations or standards reported.[8]

2010 company reports

In the company's 2010 Annual Report, it was acknowledged that the business has a direct impact on the environment, including through air, water and land pollution.[9] Again, as in 2009, it was stated that there were minor and infrequent exceedances against national ambient air quality standards.[10]

2011, 2012 and 2013 company reports

The 2011, 2012 and 2013 reports also contain references to general environmental issues, but no reporting on non-compliances.

2014 company reports

In the 2014 report it was stated that there were no "critical" incidents reported during the year.[11] It was also reported that during the year Marula and Refineries had applied for waste licences for their waste management activities and the outcomes were still pending.[12]

Impala Platinum Springs Environmental Impact Assessment

In a September 2013 Technical Memorandum attached to Implat's 2013 Environmental Impact Assessment for Impala Platinum Springs, published on the website of environmental consultants Golder Associates, it is noted that:[13]

> *The following waste activities identified at Impala Springs Refinery are not in compliance with the licensing requirements of the National Environmental Management: Waste Act, 2008 (Act 59 of 2008) (NEMWA):*
>
> - *BMR pond;*
> - *New BMR pond;*
> - *EESS;*
> - *Main salvage yard;*
> - *RWR pond;*
> - *Nickel sulphate storage;*
> - *RO & ETP crystalliser;*
> - *Ash storage silo's;*
> - *PMR open area;*
> - *2 x Oil skimmers at BMR;*
> - *PMR crystalliser 1; and*
> - *PMR crystalliser 2.*[14]

The Memorandum states that:

> *[a]ll the waste activities to be licensed have the potential to impact severely on surface and ground water at and around the refinery. Most of the wastes are hazardous and have the potential to contaminate soil, air, surface and ground water as well as cause harm to humans. Some of the plants such as RO's, pumps, ash, dust and related logistical activities have an impact on air quality as well as environmental noise.*[15]

In a separate appendix to the Environmental Impact Assessment, dealing with air quality, it is noted that:

> *Results from Impala's HR and MMS stations located adjacent to the site indicate that the PM10 concentrations exceed the national ambient standards. The number of daily exceedances of the limit is higher than the maximum allowed number (4 days per annum).*[16]

The other appendices to the EIA also raised matters of concern. In the groundwater assessment, it is stated that "the future land use will be affected by the surface contamination as well as the run-off from the sources"[17] and that the "simulated sulphate and chloride plumes will, regardless of the scenario, impact on the groundwater quality beyond the site boundaries."[18]

In the surface water assessment, it is stated that, "in a case of a spillage, the BMR (Base Metals Refinery pond) water would not meet the RWQO (Resource Water Quality Objectives) for Conductivity, Ammonia, Sulphate, Sodium, Nickel and Chloride. The high conductivity levels, high sulphates and high ammonia levels would have health risks to livestock drinking water downstream and will have a negative impact on the aquatic life in the stream"[19] and that water quality is not monitored in

the Precious Metals Refinery pond.[20]

In the Baseline Monitoring Survey of Potentially Receiving Water Bodies it is stated that the "present ecological state of the aquatic ecosystems in the vicinity of Implats is currently in a highly degraded state, ranging from 'largely modified' (category D) to 'critically modified' (category F) from natural conditions. This is the result of impacts and exposure to a variety (mining, industrial and urban) of activities over the long term." This document also states that "the toxicity tests revealed that the surface water pools in the vicinity of the slimes dams (currently being rehabilitated) pose a high acute and short chronic hazard to aquatic biota, should it come into contact with the aquatic ecosystems."[21]

One of the comments in the Comment and Response Report is that "historically, there has been pollution associated with the operation of the Enhanced Evaporation and Spray System, which contaminated immediately surrounding land and may have caused a groundwater pollution plume. In addition, there is a possible leak from the liner of the BMR pond."[22]

That document also contains the following comments by neighbouring landowners:

> *(d)uring the rainy months, the streams overflow with rain water, causing it to flow in the direction of the houses;*[23]
>
> *(w)ind blows in the direction of houses causing a strong odour from the PMR Crystalliser 1 and 2. When the second one was built two years ago the odour became worse;*[24]
>
> *(t)he trees in our garden on the side facing the site are dead. It is due to the pollution from the refinery;*[25] *and*
>
> *smoke from Impala causes pollution and poses a health risk.*[26]

---

1. Impala Annual Report 2013 at p44, available at http://www.implats.co.za/implats/implats_reports_2013/downloads/Implats_integrated_annual_report_%202013.pdf
2. Impala Sustainable Development Report 2014 at p86, available at http://www.implats.co.za/implats/downloads/2014/Implats_sustainability_report_2014.pdf
3. Impala Sustainable Development Report 2011 at p83, available at http://www.implats.co.za/implats/downloads/2011/annual%20reports/Implats%20SD%20Combined_LoRes.pdf
4. Impala Sustainable Development Report 2011 at p83, available at http://www.implats.co.za/implats/downloads/2011/annual%20reports/Implats%20SD%20Combined_LoRes.pdf
5. Impala Sustainable Development Report 2009 at p154, available at http://www.implats.co.za/implats/downloads/2009/annual_report/SD/f/IMPLATS_SD09.pdf
6. Impala Sustainable Development Report 2009 at p154, available at http://www.implats.co.za/implats/downloads/2009/annual_report/SD/f/IMPLATS_SD09.pdf
7. Impala Annual Report 2010 at p126, available at http://financialresults.co.za/2010/implats_ar2010/downloads/implats_ar2010.pdf
8. Impala Sustainable Development Report 2009 at p139, available at http://www.implats.co.za/implats/downloads/2009/annual_report/SD/f/IMPLATS_SD09.pdf
9. Impala Annual Report 2010 at p38, available at http://financialresults.co.za/2010/implats_ar2010/downloads/implats_ar2010.pdf
10. Impala Annual Report 2010 at p126, available at http://financialresults.co.za/2010/implats_ar2010/downloads/implats_ar2010.pdf
11. Impala Sustainable Development Report at p86, available at http://www.implats.co.za/implats/downloads/2014/Implats_sustainability_report_2014.pdf
12. Impala Sustainable Development Report at p93, available at http://www.implats.co.za/implats/downloads/2014/Implats_sustainability_report_2014.pdf
13. EIA for Waste Management Activities Impala Platinum Springs, available at http://www.golder.com/af/modules.php?name=Pages&sp_id=1485 (last accessed on 7 August 2015).
14. Technical Memorandum, 'Impala Springs Refinery licensing of various waste management activities: Waste background information to be included in EIA report', at p1, available at http://www.golder.com/af/modules.php?name=Documents&op=viewlive&sp_id=2088 (last accessed on 7 August 2015).
15. Technical Memorandum, 'Impala Springs Refinery licensing of various waste management activities: Waste background information to be included in EIA report', at p14, available at http://www.golder.com/af/modules.php?name=Documents&op=viewlive&sp_id=2088 (last accessed on 7 August 2015).
16. 'Air quality impact of waste handling activities at Impala Platinum Springs Refinery', at p4, available at http://www.golder.com/af/modules.php?name=Documents&op=viewlive&sp_id=2086 (last accessed on 7 August 2015).
17. 'Quantification of groundwater impacts at Impala Platinum Refineries', at p4, available at http://www.golder.com/af/modules.php?name=Documents&op=viewlive&sp_id=2090 (last accessed on 7 August 2015).
18. 'Quantification of groundwater impacts at Impala Platinum Refineries', at p3, available at http://www.golder.com/af/modules.php?name=Documents&op=viewlive&sp_id=2090 (last accessed on 7 August 2015).
19. 'Environmental impact investigation – Surface water management', at p2, available at http://www.golder.com/af/modules.php?name=Documents&op=viewlive&sp_id=2087 (last accessed on 7 August 2015).
20. 'Environmental impact investigation – Surface water management', at p3, available at http://www.golder.com/af/modules.php?name=Documents&op=viewlive&sp_id=2087 (last accessed on 7 August 2015).
21. 'Baseline biomonitoring survey of potential receiving water bodies in the vicinity of Impala Platinum Refineries, Springs, South Africa', at p14, available at http://www.golder.com/af/modules.php?name=Documents&op=viewlive&sp_id=2091 (last accessed on 7 August 2015).
22. 'Impala Platinum Refineries environmental impact assessment for waste management activities: Comment and response report' at p3, available at http://www.golder.com/af/modules.php?name=Documents&op=viewlive&sp_id=2093 (last accessed on 7 August 2015).
23. 'Impala Platinum Refineries environmental impact assessment for waste management activities: Comment and response report' at p4, available at http://www.golder.com/af/modules.php?name=Documents&op=viewlive&sp_id=2093 (last accessed on 7 August 2015).
24. 'Impala Platinum Refineries environmental impact assessment for waste management activities: Comment and response report' at p9, available at http://www.golder.com/af/modules.php?name=Documents&op=viewlive&sp_id=2093 (last accessed on 7 August 2015).
25. 'Impala Platinum Refineries environmental impact assessment for waste management activities: Comment and response report' at p9, available at http://www.golder.com/af/modules.php?name=Documents&op=viewlive&sp_id=2093 (last accessed on 7 August 2015).
26. 'Impala Platinum Refineries environmental impact assessment for waste management activities: Comment and response report' at p11, available at http://www.golder.com/af/modules.php?name=Documents&op=viewlive&sp_id=2093 (last accessed on 7 August 2015).

Environmental non-compliances reported by affected communities, the media, & NGOs

In a 2010 minor dissertation considering the correlation between rainfall and groundwater quality on the Impala Platinum Refineries site, it is noted that “[t]he pollution of water resources including groundwater from mining operations is seen as significant. Due to historical mining operations and effluent treatment practices on the study site various pathways for pollution exist. Although the groundwater in the area is not used for irrigation or domestic use the deterioration in the vicinity of the East Geduld No. 1 tailings dam is concerning in light of the close proximity to the Blesbok Spruit RAMSAR wetland.”[1]

The dissertation also states that “[t]his research is important because some effluent treatment activities impact the immediate surroundings and groundwater quality. Degraded groundwater quality can impact surface water which both in turn can affect the agricultural sector that uses the water for irrigation. Livestock exposed to the water can also be negatively affected. Movement of an underground pollution plume may also affect communities downstream which are dependent on groundwater for domestic purposes.”[2]

In response to a PAIA request submitted by the CER for records indicating the names of mines and industrial facilities in respect of which notices or directives under the National Water Act have been issued, the Department of Water & Sanitation responded with information which indicated that Marula Platinum Mine (an Implats operation) was issued with a notice under the National Water Act on 19 November 2014.

---

1. ‘The correlation between rainfall and groundwater quality on the Impala Platinum Refineries site’, by Johanna Burger, at pxi and 7, available at https://ujdigispace.uj.ac.za/bitstream/handle/10210/4711/Burger.pdf?sequence=1&isAllowed=y
2. The correlation between rainfall and groundwater quality on the Impala Platinum Refineries site’, by Johanna Burger, at p5-6, available at https://ujdigispace.uj.ac.za/bitstream/handle/10210/4711/Burger.pdf?sequence=1&isAllowed=y

Impala Platinum Holdings Limited's response to the Full Disclosure findings

Each company assessed was given a month to respond to the *Full Disclosure* findings before we published our report.

See Impala Platinum Holdings Limited's response at: http://cer.org.za/full-disclosure/company/impala-platinum-holdings-limited?correspondence.

Major shareholders

Implats reported in its 2014 Annual Report that the following are beneficial shareholders holding more than 5% of the issued share capital[1]:

- Royal Bafokeng Holdings Proprietary Limited
- Public Investment Corporation Limited

1. Impala Annual Report 2014 at p 121, available at http://www.implats.co.za/implats/downloads/2014/Implats_integrated_report_2014.pdf

Membership of voluntary initiatives, accreditations and awards

JSE SRI	Implats appeared on the SRI index every year from 2004 to 2014.
JSE SRI Best Performers	Implats featured in the Best Performers category in 2006, 2008, 2010 and 2011.
Carbon Disclosure Project	Implats has responded to the CDP on a number of occasions.
ISO 14001:2004	Implats states that all of its operations are ISO 14001:2004 certified.[1]
World Business Council for Sustainable Development	Implats is not a member of the WBCSD.
Cement Sustainability Initiative	Not applicable
Green Building Council of South Africa	Not applicable
Global 100	Implats does not appear in the Global 100.
United Nations Global Compact	Implats is a participant in the UNGC.
International Council on Mining and Metals	Implats is not a member of the ICMM.
Extractive Industries Transparency Initiative	Implats is an EITI supporting company.
Cyanide Code	Not applicable

1. Implats Sustainable Development Report 2014 at p86, available at http://www.implats.co.za/implats/downloads/2014/Implats_sustainability_report_2014.pdf

LONMIN PLC

Summary of findings and company response

The following statement is published in Lonmin's 2014 Sustainable Development Report:

> *At a minimum, the Company seeks legislative compliance, while aiming for industry-leading practice and continual improvement.*[1]

What little information is publicly available, in Lonmin's annual reports and elsewhere, reveals an apparent significant number of serious non-compliances with environmental laws and permits, including incidents causing harm to the environment at and around Lonmin operations, a failure to meet air quality permit requirements, repeated exceedances of dust emission limits, poor water management systems and non-functional sewage systems.

Lonmin provides no information about compliance inspections at its operations. The Department of Mineral Resources and the Department of Water and Sanitation are responsible for compliance monitoring and enforcement of environmental and water laws by mining companies. Thus far, unlike the Department of Environmental Affairs, neither department has published any information on its compliance monitoring and enforcement action. This means that it is impossible to know whether or not the level of disclosure on environmental non-compliances by mining companies in their annual reports is accurate or incomplete.

For more information please see *Enforcing the Law: the challenges undermining environmental compliance monitoring and enforcement in South Africa*.

Lonmin has been under scrutiny ever since the events of August 2012, when 34 striking Lonmin miners were killed, and another 78 injured, by the South African Police Service at Marikana. The Presidential Commission of Inquiry into the Marikana massacre devoted an entire chapter of its final report to Lonmin's failure to comply with its social and labour plan at Marikana, in particular its obligations to provide housing for workers as required by that plan. The social and labour plan operates alongside the environmental management programme under the Mineral and Petroleum Resources Development Act, 2002.[2] The report found that Lonmin's failure to comply with its housing obligations "created an environment conducive to the creation of tension, labour unrest, disunity among its employees or other harmful conduct".[3]

The direct and indirect harm caused by Lonmin's operations prompted the non-profit Bench Marks Foundation to recommend the cancellation or suspension of Lonmin's mining right, due to the breach of several terms and conditions of that right.[4] The recommendation was based in part on Lonmin's failures to comply with environmental laws.

Lonmin's Peter McElligott provided a brief response to *Full Disclosure.* Mr McElligott referred to the CER's reliance on statements in the Bench Marks Foundation Report of 2013, and stated that we are "no doubt aware that Lonmin provided a detailed response to that report at the time of its publication. Our response is not repeated here. We note however, that you have quoted selectively from the report and elected not to include or consider in your baseline assessment the responses previously provided by Lonmin."

However, the only response to Bench Marks' 2013 report from Lonmin of which we are aware is a media release issued on 31 October 2013.[5] In the media release, Lonmin indicates that "we acknowledge that some of the data contained in Lonmin's reports is not accurate across the entire period and that some of the standards and measures have changed." The media release does not address any of the specific allegations in the Bench Marks' report.

While Lonmin indicates on its website that it has published a formal response to a previous Bench Marks report, published in 2012, the link to Lonmin's response does not work.[6]

In his response, Mr McElligott refers to Lonmin's ISO 14001 Environmental Management System (EMS) certification, which Lonmin has retained for the last 12 years. He states that "[o]ver this period, we have maintained a measure of continual improvement and have significantly reduced non-conformance levels".

ISO 14000 is a set of standards related to environmental management. Adherence to these standards is intended to assist companies in minimising their negative environmental impact and to comply with laws and regulations applicable in their countries of operation. It is run by independent private companies and does not, in any way, guarantee that a certified company is complying with applicable environmental laws. Certification merely means that the company has systems in place which should, theoretically, help it comply with applicable laws and minimise its environmental impact.

ISO 14001 (the current version being ISO 14001:2015) sets out the criteria for an Environmental Management System. An Environmental Management System refers to the management of a company's environmental programmes in a comprehensive, systematic, planned and documented manner. ISO 14001 does not stipulate any requirements for environmental performance, but rather maps out a framework that companies can follow to set up and maintain an effective Environmental Management System.

Retention of ISO 14001 certification is therefore not an indication that a company is in compliance with environmental laws and permits, nor is it a substitute for reporting environmental non-compliance.

---

1. Lonmin Sustainable Development Report 2014 at p83, available at http://sd-report.lonmin.com/2014/download_manager/Lonmin%20Sustain_Final_8547_WEB.pdf
2. Chapter 24, Marikana Commission of Inquiry: Report on matters of public, national and international concern arising out of the tragic incidents at the Lonmin mine in Marikana, in the North West province, available at: http://www.justice.gov.za/legislation/notices/2015/20150710-gg38978_gen699_3-marikana.pdf
3. Marikana Commission of Inquiry: Report on matters of public, national and international concern arising out of the tragic incidents at the Lonmin mine in Marikana, in the North West province, para37, available at: http://www.justice.gov.za/legislation/notices/2015/20150710-gg38978_gen699_3-marikana.pdf
4. 'Coping with Unsustainability, Policy Gap 7, Lonmin 2003 – 2012', at p30, available at http://www.bench-marks.org.za/press/lonmin_report_print.pdf
5. Media Release available at: http://business-humanrights.org/sites/default/files/media/documents/lonmin-media-update-bench-marks-foundation-policy-gap-7-report-31-oct-2013.pdf (last accessed on 3 September 2015).
6. http://sd-report.lonmin.com/2012/our-performance/critical-review-bench-marks-foundation

Company overview

Lonmin is a producer of platinum group metals. Aside from its Marikana mine in North West Province, the source of 95% of the company's production, Lonmin is also part of a joint venture in which it has a 42.5% interest (Pandora, a mine in North West Province) and it has a mine in Limpopo which is under "care and maintenance". Lonmin also operates a smelter and a base metal refinery at Marikana and a precious metal refinery at Brakpan, Gauteng.[1] Lonmin has 28,276 full time employees and

10,016 contractors in South Africa.[2] It has a primary listing on the London Stock Exchange and a secondary listing on the JSE.[3]

1. Lonmin Sustainable Development Report 2014 at p4, available at http://sd-report.lonmin.com/2014/download_manager/Lonmin%20Sustain_Final_8547_WEB.pdf
2. Lonmin Sustainable Development Report 2014 at p4, available at http://sd-report.lonmin.com/2014/download_manager/Lonmin%20Sustain_Final_8547_WEB.pdf
3. http://www.nelida.co.za/pdf/lonmin.pdf at p169, (last accessed on 7 August 2015).

Non-compliance with environmental laws as reported in the National Environmental Compliance and Enforcement Reports

Lonmin does not feature in the National Environmental Compliance and Enforcement Reports. However, as the Department of Environmental Affairs' Environmental Management Inspectors do not have jurisdiction over the environmental or water impacts of mining, this does not mean that the company has not been subject to compliance monitoring and/or enforcement action. The Department of Mineral Resources and the Department of Water and Sanitation are responsible for compliance monitoring and enforcement of environmental and water laws by mining companies. Unlike the Department of Environmental Affairs, thus far neither department has published any information on its compliance monitoring and enforcement action. Both Departments however, in answers to Parliamentary Questions, insist that many inspections take place, many directives and compliance notices are issued, and many criminal prosecutions are instituted.

With a few minor exceptions, the mining companies assessed in *Full Disclosure* did not refer to compliance monitoring inspections by the Department of Mineral Resources or Department of Water and Sanitation in their shareholder reporting.

The fact that the Departments charged with regulating the sector do not publicise non-compliance findings or enforcement action means that it is impossible to know whether or not the level of disclosure on environmental and water non-compliances by mining companies in their annual reports is accurate.

For more information please see *Enforcing the Law: the challenges undermining environmental compliance monitoring and enforcement in South Africa*.

Lonmin plc's disclosure of environmental non-compliances in annual reports

Some non-compliances are reported in Lonmin's annual reports. The company has its own incident classification system.

2009 company reports

In 2009, the company reported seven level three incidents and one level four incident. The level four incident related to the illegal disposal of hazardous waste resulting in the death of fish and aquatic organisms in a dam, with the possibility of soil and ground water contamination. The level three incidents related to the following:

- discharge of process water into environment due to a burst pipe, leading to possible soil and ground water contamination;
- historical and continuous poor house-keeping at a storage and waste separation facility, leading to an impact on soil resources;
- three occasions of seepage of process water from unlined dams leading to soil and possible ground water contamination;
- burning of waste resulting in toxic fumes; and
- discharge of sewage into the environment leading to soil and possible ground water contamination.[1]

2010 company reports

In 2010 the company reported 23 level three incidents. Fourteen of these related to water, four related to waste, four related to air quality management and one related to land management. It was also reported that three of the water incidents had been resolved, two of the waste incidents had been resolved and one of the air quality management incidents had been resolved.[2]

2011 company reports

In 2011 the company reported 22 level three incidents; two of these related to land, one related to air quality and 19 related to water.[3] The nineteen water related incidents all concerned discharges into the environment: six at Western Platinum Limited into the tributary of the Maretlwane River, six at Eastern Platinum Limited into the tributary of the Modderspruit River and seven at Karee into the tributaries of the Brakspruit River and Hoedspruit River. However, it was also stated in the same paragraph that "we are not authorised to discharge any water and therefore need to contain our process water in a closed dam".[4]

2012 company reports

In the 2012 Sustainable Development Report the company reported 19 level three incidents. These included:

- a tailings spillage into the environment;
- contaminated water seeping into the environment from a settling dam on more than one occasion;
- exceedances of the dust limit;
- discharges of water from return water dam into the environment and discharge of water through dam wall cracks;
- poor hydrocarbon management;
- congested medical waste store due to waste collection delay;
- dumping of hazardous waste on top of rock dump;
- spillage of 5500 litres of oil;
- sewage flow into the veld and sewage water running from waste rock dump to sewage plant.[5]

2013 company reports

In 2013 the company reported 9 level three incidents. Seven of these related to unplanned water discharges from return water dams and settling dams around operations, one was an SO? exceedance which occurred while the sulphur fixation plant was undergoing maintenance and one was a diesel spill at the smelter.[6]

2014 company reports

In 2014 the company reported 10 Level three incidents, 8 of which related to water discharges and 2 relating to air emissions. The majority of the water discharges were reportedly as a result of less water being used from water storage facilities for production due to the halt in production because of an extended strike. Rainfall also reportedly contributed to the number of discharges. 9 of the incidents occurred at Marikana.[7]

---

1. Lonmin Sustainable Development Report 2009 at p59 – 60, available at https://www.lonmin.com/downloads/Sustainable_Development_Report_2009.pdf
2. Lonmin Sustainable Development Report 2010 at p45, available at https://www.lonmin.com/downloads/pdf/sustainable%20development%20report%202010.pdf
3. Lonmin Sustainable Development Report 2011 at p42, available at https://www.lonmin.com/downloads/pdf/Sustainable_Development/Lonmin_WBR11.pdf
4. Lonmin Sustainable Development Report 2011 at p48, available at https://www.lonmin.com/downloads/pdf/Sustainable_Development/Lonmin_WBR11.pdf
5. Lonmin Sustainable Development Report 2012 at p74, available at http://sd-report.lonmin.com/2012/download/lonmin-summary-sustainable-development-report-2012.pdf
6. Lonmin Sustainable Development Report 2013 at p169, available at http://sd-report.lonmin.com/2013/download/lonmin-sustainable-development-report-2013.pdf
7. Lonmin Sustainable Development Report 2014 at p83, available at http://sd-report.lonmin.com/2014/download_manager/Lonmin%20Sustain_Final_8547_WEB.pdf

Environmental non-compliances reported by affected communities, the media, & NGOs

The non-profit Bench Marks Foundation published a detailed report on Lonmin in 2013, entitled 'Coping with Unsustainability: Policy Gap 7 – Lonmin 2003-2012'. The report examines Lonmin's sustainability performance by analysing the company's sustainable development reports from 2003 to 2012. It noted that, "(a) single report, read in isolation, can give the impression that Lonmin is seriously committed to sustainability, human goodness and truth. Already in 2004, Lonmin is 'committed to doing no permanent environmental damage'. But that impression is belied by the enormity of the problems which remain in 2011 and 2012."[1]

In relation, for example, to dust emission limits, the Bench Marks report notes that a commitment repeated in the 2003 and 2004 reports was to meet new air quality permit requirements and keep dust releases below 50mg/m3.[2] The 2005 and 2006 reports contained no data on dust emission levels.[3] In 2007, it is stated that mitigation measures were deliberately not employed at some sites to establish baseline conditions.[4] The Bench Marks report goes on to note the repeated exceedances of both residential and industrial dust emission limits by Lonmin and the failure to explain such exceedances.[5] The Bench Marks report also records that 10 years after the initial commitment was made in 2003, dust emissions remain at only around 90% in compliance with legal limits.[6]

The same exercise is undertaken by Bench Marks in relation to commitments made in relation to SO? emission limits and water pollution. In relation to water, attention is drawn to the statement made in Lonmin's 2011 report relating to the company's lack of authorisation to discharge any water and the obligation to contain process water in a closed system – despite the 19 unplanned discharges that year, and the claim in the following sentence that the company's aim was to prevent discharges into the environment by September 2014. It is noted in the Bench Marks report that despite the fact that Lonmin plans to comply with legislation only by September 2014, no fines or sanctions were reported.[7]

In response to this Bench Marks report, Lonmin issued a Media Release on 31 October 2013.[8] In its Media Release, Lonmin indicate that "we acknowledge that some of the data contained in Lonmin's reports is not accurate across the entire period and that some of the standards and measures have changed." Lonmin's Media Release does not address any of the specific allegations in the Bench Marks' report.

Bench Marks also implicated Lonmin in an earlier exposé of pollution in the platinum minefields, entitled "A Review of Platinum Mining in the Bojanala District of the North West Province".[9] While Lonmin indicates on its website that it has published a formal response to this Bench Marks report, the link to Lonmin's response does not work.[10]

In a report by the Community Monitors Action Network, a community activist network affiliated with Bench Marks, it is noted that despite assurances from the Lonmin Environmental Department that there are dust suppression systems on tailings dams and that the level of dust on tailings dams is monitored, following a sighting of a cloud of dust in 2009 a group of individuals investigated the source of the dust and found that the relevant tailings dam had no dust suppression system. The dust bucket used for monitoring was also full of water, thereby inhibiting monitoring of air pollution.[11]

Non-profit environmental justice organisation groundWork and the Bench Marks Foundation nominated Lonmin for the 2013 Public Eye Awards, citing in support of the nomination the pollution of the Sterkstroom River due to poor water management systems, slime dams and non-functional sewage systems and the resulting effect on agriculture.[12]

In June 2015, the women of Marikana lodged a complaint with the ombudsman of the World Bank in relation to the International Finance Corporation's investment in Lonmin. The International Finance Corporation is the private sector investment arm of the World Bank. The complaint alleges that Lonmin failed to comply with the social and environmental conditions attached to the investment and the International Finance Corporation failed to enforce such conditions.[13]

---

1. 'Coping with Unsustainability, Policy Gap 7, Lonmin 2003 – 2012', at p30, available at http://www.bench-marks.org.za/press/lonmin_report_print.pdf
2. 'Coping with Unsustainability, Policy Gap 7, Lonmin 2003 – 2012', at p30, available at http://www.bench-marks.org.za/press/lonmin_report_print.pdf
3. 'Coping with Unsustainability, Policy Gap 7, Lonmin 2003 – 2012', at p30, available at http://www.bench-marks.org.za/press/lonmin_report_print.pdf
4. 'Coping with Unsustainability, Policy Gap 7, Lonmin 2003 – 2012', at p31, available at http://www.bench-marks.org.za/press/lonmin_report_print.pdf
5. 'Coping with Unsustainability, Policy Gap 7, Lonmin 2003 – 2012', at p31, available at http://www.bench-marks.org.za/press/lonmin_report_print.pdf
6. 'Coping with Unsustainability, Policy Gap 7, Lonmin 2003 – 2012', at p32, available at http://www.bench-marks.org.za/press/lonmin_report_print.pdf
7. 'Coping with Unsustainability, Policy Gap 7, Lonmin 2003 – 2012', at p35, available at http://www.bench-marks.org.za/press/lonmin_report_print.pdf
8. Response available at: http://business-humanrights.org/sites/default/files/media/documents/lonmin-media-update-bench-marks-foundation-policy-gap-7-report-31-oct-2013.pdf (last accessed on 3 September 2015).
9. 'Communities in the Platinum Minefields, Policy Gap 6, A Review of Platinum Mining in the Bojanala District of the North West Province: A Participatory Action Research (PAR) Approach', available at http://www.bench-marks.org.za/research/rustenburg_review_policy_gap_final_aug_2012.pdf
10. http://sd-report.lonmin.com/2012/our-performance/critical-review-bench-marks-foundation
11. 'Marikana' at p44, available at http://communitymonitors.net/wp-content/uploads/2012/07/Marikane-Report.pdf
12. 'groundWork (Friends of the Earth South Africa) and The Bench Marks Foundation submission to The Public Eye Awards 2013 nominations (Berne Declaration / Greenpeace) for the People's Award' at p3, available at http://www.groundwork.org.za/archives/2013/groundWork%20Bench%20Marks%20Fndn%20PEA%202013%20Submission%20Lonmin.docx
13. http://www.wits.ac.za/academic/clm/law/cals/newsitems/201506/26724/news_item_26724.html (last accessed on 7 August 2015).

Lonmin plc's response to the Full Disclosure findings

Each company assessed was given a month to respond to the *Full Disclosure* findings before we published our report.

See Lonmin plc's response at: http://cer.org.za/full-disclosure/company/lonmin-plc?correspondence.

Major shareholders

In Lonmin's 2014 Annual Report, the following are listed as beneficial shareholders holding interests of 3% or more in the company:[1]

- Glencore Plc
- Old Mutual Investment Group (South Africa) Limited
- Investec Asset Management (Pty) Limited

1.Lonmin Annual Report 2014 at p61, available at https://www.lonmin.com/Online_Annual_report_20141/pdfs/Lonmin_AR2014.pdf

Membership of voluntary initiatives, accreditations and awards

JSE SRI	Lonmin appeared on the SRI index every year from 2007 to 2014.
JSE SRI Best Performers	Lonmin featured in the Best Performers category from 2008 until 2011 and again in 2014.
Carbon Disclosure Project	Lonmin has responded to the CDP on a number of occasions.
ISO 14001:2004	All Lonmin operations have ISO 14001:2004 certification.[1]
World Business Council for Sustainable Development	Lonmin is not a member of the WBCSD.
Cement Sustainability Initiative	Not applicable
Green Building Council of South Africa	Not applicable
Global 100	Lonmin does not appear in the Global 100.
United Nations Global Compact	Lonmin is a participant in the UNGC.
International Council on Mining and Metals	Lonmin is a member of this Council.
Extractive Industries Transparency Initiative	Lonmin is an EITI supporting company.
Cyanide Code	Not applicable

1.Lonmin Sustainable Development Report 2013, available at http://sd-report.lonmin.com/2013/capitals/natural/environmental-auditing-and-incident-management

MERAFE RESOURCES LIMITED

Summary of findings and company response

Merafe has the following environmental policy:

> *The Venture is committed to identifying, understanding and minimising its impacts throughout the life of its operations and rehabilitating land once its operations have ceased…The Venture focuses on identifying and using opportunities to help protect and improve the environment.*[1]

The only information provided by Merafe in its company reports on environmental incidents is the number of "category 1" and "category 2" incidents in the reporting year, presumably referring to the categorisation of incidents under its Environmental Management System. Each annual report contains only one line on environmental incidents, such as "[i]n 2014 the company reported 111 category 1 incidents and 11 category 2 incidents". No further information is provided, so it is impossible to ascertain the nature of the incidents.

Merafe also provides no information about compliance inspections at its operations, despite one of the Glencore-Merafe Venture operations featuring repeatedly in the National Environmental Compliance and Enforcement Reports due to non-compliance with environmental laws, including operating without a water use licence, exceeding permitted levels of emissions and operating unauthorised waste disposal sites. These inspections are not mentioned. Instead, Merafe states in its annual reports only that the Venture has had no environmental fines, penalties or prosecutions at its operations.

This failure to disclose is further complicated by the fact that the Department of Mineral Resources and the Department of Water and Sanitation are responsible for compliance monitoring and enforcement of environmental and water laws by mining companies. Thus far, unlike the Department of Environmental Affairs, neither department has published any information on its compliance monitoring and enforcement action. This means that it is impossible to know whether or not the level of disclosure on environmental non-compliances by mining companies in their annual reports is accurate or complete.

For more information please see *Enforcing the Law: the challenges undermining environmental compliance monitoring and enforcement in South Africa*.

The CER wrote to Merafe's CEO on 22 July 2015, inviting the company to respond to the findings in *Full Disclosure* by 19 August 2015. No response has been received to date.

---

1. http://www.meraferesources.co.za/inv-environment.php#.VC5opvmSzE4 (last accessed on 7 August 2015).

Company overview

Merafe is a ferrochrome producer with a 20.5% interest in the Glencore-Merafe Chrome Venture. Merafe participates in this venture through its wholly owned subsidiary Merafe Ferrochrome and Mining Proprietary Limited. The venture is currently the main focus of Merafe's business and is one of the largest ferrochrome producers in the world.[1]

The following mines are operated by the venture in the Bushveld Complex in Mpumalanaga and North West Province: Waterval mine, Kroondal mine, Boshoek mine, Horizon mine, Wonderkop mine, Magareng mine, Helena mine and Thorncliffe mine.[2] The venture also has the following operations in the North West Province: Wonderkop, Rustenburg and Boshoek (pelletising and sintering plants and furnaces), and the Lydenburg and Lion operations (kilns and furnaces) in Mpumalanga and Limpopo.[3]

The total number of people employed by the venture, including temporary workers and contractors, is 13,385. This figure includes 6,282 full-time employees.[4]

---

1. http://www.meraferesources.co.za/ovr-profile.php#.VC5bt_mSzE4 (last accessed on 7 August 2015).
2. http://www.meraferesources.co.za/reports/ir_2013/per-abr-min.php (last accessed on 7 August 2015).
3. http://www.meraferesources.co.za/inv-operations.php#.VC5hh_mSzE5 (last accessed on 7 August 2015).
4. Merafe Resources Annual Report 2014 at p30, available at http://www.meraferesources.co.za/reports/ir_2014/pdf/integrated-full-new.pdf

Non-compliance with environmental laws as reported in the National Environmental Compliance and Enforcement Reports

Merafe's mining operations do not feature in the National Environmental Compliance and Enforcement Reports. However, as the Department of Environmental Affairs' Environmental Management Inspectors do not have jurisdiction over the environmental or water impacts of mining, this does not mean that the company has not been subject to compliance monitoring and/or enforcement action. The Department of Mineral Resources and the Department of Water and Sanitation are responsible for compliance monitoring and enforcement of environmental and water laws by mining companies. Unlike the Department of Environmental Affairs, thus far neither department has published any information on its compliance monitoring and enforcement action. Both Departments however, in answers to Parliamentary Questions, insist that many inspections take place, many directives and compliance notices are issued, and many criminal prosecutions are instituted. With a few minor exceptions, the mining companies assessed in *Full Disclosure* did not refer to compliance monitoring inspections by the Department of Mineral Resources or Department of Water and Sanitation in their shareholder reporting. The fact that the Departments charged with regulating the sector do not publicise non-compliance findings or enforcement action means that it is impossible to know whether or not the level of disclosure on environmental and water non-compliances by mining companies in their annual reports is accurate. For more information please see *Enforcing the Law: the challenges undermining environmental compliance monitoring and enforcement in South Africa*. However, one of the non-mining operations in the Glencore-Merafe Venture has repeatedly featured in the National Environmental Compliance and Enforcement Reports.

Department of Environmental Affairs' compliance monitoring and enforcement action

Xstrata Wonderkop		
NECER	**Significant Inspection Findings**	**Further Developments and Status of Enforcement Process**
2009[1]	An inspection in January 2008 revealed 38 non-compliances including the following: *Lack of adequate monitoring; Air emission exceedances; Unauthorised waste disposal sites; ROD contraventions; Environmentally harmful activities that could be prevented /rehabilitated in terms of the NEMA duty of care; Lack of water use licence.*	The following information was also provided in the 2009 report: *Xstrata argued that it is situated on an authorised mine and the disposal sites are therefore operated in accordance with mining legislation and the approved EMPR from DME. Since the inspection, it was noted that there had been a vast improvement in the storm water management system on site. The response received demonstrated that the company was willing and had started coming into compliance with environmental legislation and authorisations. A follow-up inspection in line with project's timeframes will determine whether or not it is necessary to take enforcement action.*
2010[2]		The 2010 report provided the following update: *Subsequent to the issuing of the report and receipt of representations, Xstrata was issued with an enforcement letter, dated 13/04/2010, requesting further information on issues that have not been adequately addressed in the representations. This information, which relates primarily to the APPA contraventions, has been received. A review of this information by Air Quality specialists will inform the need for further action.*
2011[3]	The 2011 report noted that a follow-up inspection had been scheduled to be conducted in the 2010-2011 financial year but could not be undertaken.	The following information was also provided: *Additional information was requested in April 2010, relating primarily to APPA contraventions After review of the received information, it was still unclear whether or not the facility was in compliance with environmental legislation Follow-up inspection needs to be undertaken, prior to a decision on enforcement approach Inspection planned for July 2011.*
2012[4]	The follow-up inspection, conducted in August 2011, resulted in the following findings: *Xstrata has submitted applications to legalise the waste management activities which were found to be operated without permits in terms of Section 20 of the ECA; Xstrata has been issued with a water use licence, however, non-compliances to licence conditions were found; Non-compliance to APPA R/C; Failure to comply with general duty of care in respect of waste management on site; Air pollution caused by significant fugitive emissions from the Pelletising Plant and the Metal Recovery Plant; Exceedences of the limits set out in the APPA R/C.*	In relation to an enforcement strategy, the following information was provided: *Based on the findings of the follow-up inspection an enforcement strategy is being developed.*
2013[5]	-	The following information was reported in the 2013 report: *A Notice of intention to issue a Section 31L NEMA notice and Section 31A ECA & S28(4) NEMA directives, was issued to the facility on 27 November 2012 and representations were received in January 2013. Meetings were held with the facility on the 18 March 2013 during which certain issues pertaining to ground and surface water monitoring, waste removal and the facility's AEL application were discussed. Further information was requested and was received on 26 March 2013. Said information is currently being reviewed, upon which the DEA will decide what enforcement action, if any, is required.*
2014[6]	-	The 2014 report repeated the above enforcement action.

1. National Environmental Compliance and Enforcement Report 2008/2009, at p26.
2. National Environmental Compliance and Enforcement Report 2009/2010, at p28.
3. National Environmental Compliance and Enforcement Report 2010/2011, at p43.
4. National Environmental Compliance and Enforcement Report 2011/2012, at p41.
5. National Environmental Compliance and Enforcement Report 2012/2013, at p40.
6. National Environmental Compliance and Enforcement Report 2013/2014, at p46.

Merafe Resources Limited's disclosure of environmental non-compliances in annual reports

The company operates its own environmental incident classification system. Incidents are categorised according to severity, category 1 being the least severe incident and category 5 being the most severe.

2009 company reports

In 2009 the company reported 47 category 1 incidents and 22 category 2 incidents.[1] No further information is provided as to the nature of the incidents.

2010 company reports

In 2010 the company reported 62 category 1 incidents and 24 category 2 incidents.[2] No further information is provided as to the nature of the incidents.

2011 company reports

In 2011 the company reported 76 category 1 and 7 category 2 incidents.[3] No further information is provided as to the nature of the incidents.

2012 company reports

In 2012 the company reported 89 category 1 incidents and 8 category 2 incidents.[4] No further information is provided as to the nature of the incidents.

2013 company reports

In 2013 the company reported 95 category 1 incidents and 14 category 2 incidents.[5] No further information is provided as to the nature of these incidents.

2014 company reports

In 2014 the company reported 111 category 1 incidents and 11 category 2 incidents.[6] No further information is provided as to the nature of the incidents.

---

1. Merafe Resources Annual Report 2009 at p58, available at http://www.meraferesources.co.za/pdf/reports/2009/ar_2009.pdf
2. Merafe Resources Annual Report 2010 at p38, available at http://www.meraferesources.co.za/pdf/reports/2010/ar_2010.pdf
3. Merafe Resources Annual Report 2011 at p92, available at http://www.meraferesources.co.za/pdf/reports/2011/ar_2011.pdf
4. Merafe Resources Annual Report 2012 at p49, available at http://www.meraferesources.co.za/pdf/reports/2012/ar_2012.pdf
5. http://www.meraferesources.co.za/reports/ir_2013/per-nat-capital.php (last accessed on 7 August 2015).
6. http://www.meraferesources.co.za/reports/ir_2014/per-nat-capital.php (last accessed on 7 August 2015).

Environmental non-compliances reported by affected communities, the media, & NGOs

In a report by the non-profit Bench Marks Foundation, entitled ‘Rustenburg Community Report 2011’, the negative environmental effects of mining in the area are considered. The report implicates Merafe’s joint venture which operates in the region. The environmental damage reported on includes high emissions leading to health problems such as asthma and TB and polluted water with high levels of nitrates.[1]

In response to a PAIA request submitted by the CER for records indicating the names of mines and industrial facilities in respect of which notices or directives under the National Water Act have been issued, the Department of Water & Sanitation responded with information which indicated that the Glencore Merafe Venture Operation in Mpumalanga was issued with a notice in terms of the National Water Act on 10 March 2015.

1. ‘Rustenburg Community Report 2011’, by the Bench Marks Foundation, at p15, available at http://www.bench-marks.org.za/publications/rustenburg_community_report_2011.pdf

Merafe Resources Limited's response to the Full Disclosure findings

Each company assessed was given a month to respond to the *Full Disclosure* findings before we published our report.

See Merafe Resources Limited's response at: http://cer.org.za/full-disclosure/company/merafe-resources-limited?correspondence.

Major shareholders

As reported in Merafe's 2014 report, the following shareholders have beneficial shareholdings of 5% or more in the company[1]:

- Royal Bafokeng Resources Holdings Proprietary Limited
- Industrial Development Corporation of South Africa Limited

1.Merafe Resources Annual Report 2014 at p51, available at http://www.meraferesources.co.za/reports/ir_2014/pdf/integrated-full-new.pdf

Membership of voluntary initiatives, accreditations and awards

JSE SRI	Merafe appeared on the SRI index every year from 2005 to 2013, but not in 2014.
JSE SRI Best Performers	Merafe featured in the Best Performers category from 2007 until 2011.
Carbon Disclosure Project	The Venture has responded to the CDP.
ISO 14001:2004	Merafe states that all operations under the venture have a system which ensures conformance with the certification.[1]
World Business Council for Sustainable Development	Merafe is not a member of the WBCSD.
Cement Sustainability Initiative	Not applicable
Green Building Council of South Africa	Not applicable
Global 100	Merafe does not appear in the Global 100.
United Nations Global Compact	Merafe is not a participant in the UNGC.
International Council on Mining and Metals	Merafe is not a member of the ICMM.
Extractive Industries Transparency Initiative	Merafe is not an EITI supporting company.
Cyanide Code	Not applicable

1.Merafe Mineral Resources and Reserves Report 2014 at p13, available at http://www.meraferesources.co.za/pdf/mineral_resources/min_reserves_resourses_2014.pdf

ENERGY & CHEMICAL

Sector Overview

The energy industry consists of companies involved in the production and sale of energy. This includes companies which extract, manufacture, refine and distribute fuel. Other industries which come under the umbrella of the energy industry are the petroleum industry, the coal industry, the nuclear power industry and the renewable energy industry. The environmental impacts of this industry depend on the specific sector in question. The coal industry's contribution to water, soil and air pollution and greenhouse gas emissions is well documented. While the renewable energy industry's part in ameliorating such problems is an equally topical issue, this industry has its own environmental impacts, for example the harm which can be caused to birds by wind farms.

The chemical industry consists of companies which produce industrial chemicals. South Africa's chemical industry fabricates a wide variety of products, from fuel and plastics to pharmaceuticals.[1] Synthetic coal, natural gas-based liquid fuels and petrochemicals are of most importance to the South African chemical industry.[2] Sasol, AECI and Dow Sentrachem are the largest companies in this sector in South Africa.[3] The chemicals sector can have a significant negative effect on the environment. Processing of materials can release hazardous pollutants, large accidents and major spills can occur releasing chemicals into the environment, and hazardous substances released by the chemicals industry can lead to direct toxological effects on humans, either from short or long term exposure.[4]

Primary Legislation

National Environmental Management Act
National Environmental Management: Air Quality Act
National Environmental Management: Waste Act
National Water Act
Environment Conservation Act

Pursuant to these pieces of legislation, companies are required to have licences relating to the relevant activities under the Acts. Minimum emission standards were published in Government Notice No. 248 in 2010.[5] Licences granted to companies under the National Environmental Management: Air Quality Act must at least incorporate these standards and deadlines were introduced for meeting those standards.

1. http://www.southafrica.info/business/economy/sectors/chemical-sector.htm#.VC6uAPmSzE4 (accessed on 07-08-15).
2. http://www.southafrica.info/business/economy/sectors/chemical-sector.htm#.VC6uAPmSzE4 (accessed on 07-08-15).
3. http://www.southafrica.info/business/economy/sectors/chemical-sector.htm#.VC6uAPmSzE4 (accessed on 07-08-15).
4. 'Environmental outlook for the chemicals industry', by OECD, at p42-43, available at http://www.oecd.org/env/ehs/2375538.pdf
5. Government Notice No. 248, available at https://www.environment.gov.za/sites/default/files/gazetted_notices/nemaqa_listofactivities_g33064gon248.pdf

AECI LIMITED

Summary of findings and company response

AECI's environmental policy states as follows:

> *Taking the AECI values and the SHE[1] policy and standards into account, we have formulated the AECI Group environmental vision as diligent management of our environmental footprint.*
>
> *This environmental vision is based on three critical environmental footprint reduction goals; namely, resource conservation, energy conservation and pollution prevention.[2]*

Other than AECI's annual reports, there is no publicly available information relating to environmental non-compliances by the company. In AECI's response to *Full Disclosure,* the company's Group Technical and EHS Manager confirmed that AECI has not been the subject of compliance monitoring or enforcement action by the authorities.

AECI's 2009, 2010 and 2011 company reports disclose a number of serious environmental incidents, all relating to the spillage or leakage of chemicals. No serious environmental incidents are reported in the 2012, 2013 or 2014 annual reports.

In its 2014 Annual Report, AECI reported that an application had been made by AEL Mining, one of the AECI group of companies, for a postponement of compliance with the National Environmental Management: Air Quality Act minimum emission standards. These standards, which came into effect in April 2015, impose stricter limits on toxic emissions than were previously allowed.

The CER has recently ascertained further details on this application. AECI appears to have submitted its application for postponement on 31 March 2015, almost a year after the deadline for doing so (31 March 2014) had expired. In its application, AEL Mining seeks to postpone compliance with the 2015 standards for oxides of nitrogen, ammonia and for particulate matter for various of its plants for 5 years.

SRK Consulting (Pty) Limited, the environmental assessment practitioner for this postponement application, advised the CER on 3 September 2015 that a decision on the application had not yet been made by the National Air Quality Officer.

---

1. Safety, Health and Environment
2. Green Gauge Update 2014, at p4, available at http://www.aeci.co.za/pdf/green_gauge_2013.pdf

Company overview

AECI is an explosives and speciality chemicals group. Commercial explosives, initiating systems, blasting services, chemical raw materials and related services are supplied to customers in the mining, quarrying, construction and manufacturing markets.[1] The group is comprised of 16 businesses and operates in Africa, Australia and South East Asia. The 16 businesses are the following: Acacia Real Estate, AEL Mining Services, Akulu Marchon, Chemfit, Chemical Initiatives, ChemSystems, Crest Chemicals, Experse, ImproChem, Industrial Oleochemical Products, Lake Foods, Nulandis, Resinkem, SANS Technical Fibers, Senmin and Speciality Minerals SA.[2] AECI employs a total of 6,450 people, including 4,950 people in South Africa.[3]

---

1. http://www.aeci.co.za/aa_profile.php (last accessed on 7 August 2015).
2. http://www.aeci.co.za/aa_profile.php (last accessed on 7 August 2015).
3. http://www.aeci.co.za/aa_profile.php (last accessed on 7 August 2015).

Non-compliance with environmental laws as reported in the National Environmental Compliance and Enforcement Reports

AECI does not feature in the National Environmental Compliance and Enforcement Reports. In AECI's response to *Full Disclosure,* the company's Group Technical and EHS Manager confirmed that AECI has not been the subject of compliance monitoring or enforcement action by the authorities.

AECI Limited's disclosure of environmental non-compliances in annual reports

2009 company reports

In 2009, “incidents of significance” reported by the company included the following:

- the spillage of 3 tonnes of base emulsion and 300 kg of ammonium nitrate due to the overturning of a mobile manufacturing unit;
- the leakage of 1000 litres of oil into a dam;
- a spillage of nitric acid into a storm water system; and
- a spillage of 2.5 tonnes of chemical products on a national highway resulting in the temporary closure of the road.[1]

2010 company reports

In 2010 the company reported 10 environmental incidents. These included the following incidents in South Africa:

- the temporary closure of the N2 highway due to the clean-up of a sulphuric acid spillage;
- spillage of 5 tonnes of emulsion on the side of a road near East London;
- a chemical spill due to a road accident in the Western Cape; and
- 5 tonnes of chemicals spilled on and next to the N2 highway.[2]
- In 2010 it was also reported that the company was not in compliance with the “emission limits specified in the Draft Water Use Licence for its Modderfontein site”.[3] In 2011 it was reported that a new licence had been issued and had “stringent conditions” which the company was unable to meet “in the short term”.[4] Further developments in relation to non-compliance with this licence are detailed below under ‘2014 company reports’.

2011 company reports

In 2011 the company reported six significant environmental incidents. The following occurred in South Africa:

- contaminated water was released into the Umbogintwini Industrial Complex’s storm water system;
- a contractor suffered a heart attack when driving and the vehicle went into the Orange River;
- at Modderfontein 10 tonnes of nitric acid overflowed from a tank;
- also at Modderfontein 1.5 tonnes of nitric acid was spilled; and
- one tonne of product spilled following a vehicle collision near Rustenburg.[5]

2012 company reports

In 2012 there were no serious or major environmental incidents reported.[6]

2013 company reports

In 2013 no serious environmental incidents were reported to have occurred in South Africa.[7]

2014 company reports

In 2014 no serious environmental incidents were reported to have occurred in South Africa.[8] However, it was reported in the 2014 Annual Report that the Water Use Licence issued by the Department of Water Affairs in 2011 for AECI’s operations at the Modderfontein site (which had previously been operating under a draft Water Use Licence) contained stringent conditions which “the site was not immediately able to comply with” (mentioned above under ‘2010 company reports’). Therefore in 2012 a number of projects were commissioned “to improve the level of compliance with licence conditions”. It was reported that the projects had been completed and in 2014 “approval was negotiated for most of the amendments to the licence. Negotiations with the relevant current authority, namely the Department of Water and Sanitation, on this matter continue in a spirit of cooperation to finalise the situation in a mutually satisfactory manner.”[9]

It was also reported that an application had been made by AEL Mining, one of the AECI group of companies, for a postponement of compliance with the 2015 minimum emission standards.[10] These standards, which came into effect in April 2015, impose stricter limits on toxic emissions than were previously allowed.

The CER has recently ascertained further details on this application. AECI appears to have submitted its application for postponement on 31 March 2015, almost a year after the deadline for doing so (31 March 2014) had expired. In its application, AEL Mining seeks to postpone compliance with the 2015 standards for oxides of nitrogen, ammonia and for particulate matter for various of its plants for 5 years.[11] SRK Consulting (Pty) Limited, the environmental assessment practitioner for this postponement application, advised the CER on 3 September 2015 that a decision on the application had not yet been made by the National Air Quality Officer.

---

1. AECI Annual Report 2009 at p86, available at http://www.aeci.co.za/Financial/2009_annual_report/pdf/full.pdf
2. AECI Annual Report 2010 at p111, available at http://www.aeci.co.za/pdf/annual_reports/2010_annual_report.pdf
3. AECI Annual Report 2010 at p137, available at http://www.aeci.co.za/pdf/annual_reports/2010_annual_report.pdf
4. AECI Annual Report 2011 at p38, available at http://www.aeci.co.za/pdf/annual_reports/2011_annual_report.pdf
5. AECI Annual Report 2011 at p106, available at http://www.aeci.co.za/pdf/annual_reports/2011_annual_report.pdf
6. AECI Annual Report 2012 at p92, available at http://www.aeci.co.za/pdf/annual_reports/2012_annual_report.pdf
7. AECI Annual Report 2013 at p42, available at http://www.aeci.co.za/pdf/annual_reports/2013_annual_report.pdf
8. AECI Annual Report 2014 at p61, available at http://www.aeci.co.za/reports/ar_2014/pdf/full-intergrated.pdf
9. AECI Annual Report 2014 at p61, available at http://www.aeci.co.za/reports/ar_2014/pdf/full-intergrated.pdf
10. AECI Annual Report 2014 at p61, available at http://www.aeci.co.za/reports/ar_2014/pdf/full-intergrated.pdf (last accessed on 7 August 2015).
11. Final Motivation Report: Application for Postponement of Compliance Timeframes in terms of Regulation 11 of the Section 21 National Environmental Management: Air Quality Act 39 of 2004 Minimum Emissions Standards for specific operations of the AEL Mining Services Plant in Modderfontein, at pii, available at http://www.srk.co.za/files/File/South-Africa/publicDocuments/AEL_MES/AEL_Modderfontein_FINAL_MOTIVATION_REPORT.pdf

Environmental non-compliances reported by affected communities, the media, & NGOs

There are no publicly available reports in the period covered relating to AECI's environmental impacts or to pollution caused by the company.

AECI Limited's response to the Full Disclosure findings

Each company assessed was given a month to respond to the *Full Disclosure* findings before we published our report.

See AECI Limited's response at: http://cer.org.za/full-disclosure/company/aeci-limited?correspondence.

Major shareholders

AECI's top ten shareholders, as reported by the company,[1] are the following:

- Coronation Asset Management
- Public Investment Corporation
- Kagiso Asset Management
- Sanlam Investment Management
- Allan Gray Investment Council
- AECI Communtiy Education & Development Trust
- Dimensional Fund Advisors
- Business Ventures Investments No 88
- The Vanguard Group
- Prudential Portfolio Managers

1. http://www.aeci.co.za/ir_shareholding.php (last accessed on 7 August 2015).

Membership of voluntary initiatives, accreditations and awards

JSE SRI	AECI appeared on the SRI index every year from 2009 to 2014.
JSE SRI Best Performers	AECI featured in the Best Performers category in 2009.
Carbon Disclosure Project	AECI has responded to the CDP on a number of occasions.
ISO 14001:2004	Not all of AECI's operations have this certification.[1]
World Business Council for Sustainable Development	AECI is not a member of the WBCSD.
Cement Sustainability Initiative	Not applicable
Green Building Council of South Africa	Not applicable
Global 100	AECI does not appear in the Global 100.
United Nations Global Compact	AECI is not a participant in the UNGC.
International Council on Mining and Metals	Not applicable
Extractive Industries Transparency Initiative	Not applicable
Cyanide Code	Not applicable

1. http://www.aeci.co.za/cc_archive_perform.php (last accessed on 7 August 2015).

Summary of findings and company response

Sasol's 2014 Sustainable Development Report commences with the following statement:

> *Being a responsible and sustainable organisation is paramount to Sasol. In practice, this means we prioritise safety, and always promote ways to improve the environmental and social impacts of our activities, ensuring our presence results in positive benefits for our stakeholders.*[1]

Sasol's reports contain data on topics such as water use, emissions of certain pollutants and waste. However, there is very little disclosure of environmental non-compliances or incidents. Those incidents which are disclosed relate primarily to non-compliances at Sasol's international operations.

For example, Sasol made no mention in its annual reports of the inspection by the Department of Environmental Affairs' Environmental Management Inspectors of the Secunda Refinery in March 2008, at which numerous serious breaches of environmental laws were found. There was similarly no mention in Sasol's annual reports of the follow-up inspection at this facility in August 2010, at which many of the same non-compliances were still ongoing.

In their response to *Full Disclosure,* Dr Jens Straatmann (Sasol's Senior Vice President, Legal, Intellectual Property and Regulatory Services) and Mr Hermann Wenhold (Sasol's Senior Vice President, Risk & SHE), stated:

> *…in the main, the incidents and matters referred to may not always be included in the above-mentioned reports, given the scope of our corporate reporting requirements. … Our AIR [Annual Integrated Report] is our primary annual report to stakeholders. It is intended to contain succinct and material information. … The material matters are considered to be critical issues in relation to achieving our strategic objectives and sustaining our business model and integrated value chain.*

Sasol's shareholders should certainly consider findings of multiple violations of environmental laws at one of Sasol's biggest operations to be "material information" that should be included in Sasol's annual integrated reports. For example, one of Sasol's biggest shareholders, the Government Employees Pension Fund, as well as many of the fund managers managing investments of 2% or more in Sasol, like Allan Gray and Coronation, have all adopted the Code for Responsible Investing in South Africa. As such these institutions have committed themselves to integrate environmental, social and governance considerations into their investment decision-making. When the companies in which they invest fail to provide them with any information at all about serious environmental non-compliances, it is impossible for these investors to make informed decisions incorporating socially responsible considerations.

Furthermore, Sasol, in its shareholder reporting and in its response to *Full Disclosure,* repeatedly refers to matters of environmental performance, rather than environmental compliance. This is evidenced by the request in Sasol's response to *Full Disclosure* that the response:

> *be read in conjunction with public disclosures made by Sasol consistent with our obligations and commitments in this regard. This includes our Annual Integrated Report … which will be supplemented by our web based Sustainable Development Report, annual report on Form 20F, Carbon Disclosure Project submissions and other online sustainability submissions such as the JSE SRI Index. … <u>These disclosures provide information on Sasol's material risks, sustainability challenges and associated responses and performance</u> as guided by the International Integrated Reporting Framework, requirements of the King Code of Governance Principles 2009 … the Global Reporting Initiative … and requirements due to Sasol's secondary listing on the New York Stock Exchange. (our emphasis)*

Environmental *performance*, such as achieving a reduction of water use or greater energy efficiency, can be a process, monitored and managed by each company individually. Environmental *compliance*, however, is a state in which all applicable environmental legal requirements are in fact fulfilled. Whilst improving environmental performance is a laudable aspiration for the future, complying with the law is, by definition, obligatory, not just in the future, but at all times. An investor may be forgiven for assuming, in the absence of information provided to the contrary, that such compliance may be taken as read, and that improving environmental performance happens over and above baseline legal compliance. Sasol apparently believes otherwise.

Dr Straatmann and Mr Wenhold provided a detailed and comprehensive response to *Full Disclosure.* Their letter can be viewed in full in the *Sasol Limited's response to Full Disclosure* section of the report.

Sasol does appear to be making a concerted effort to improve its stakeholder engagement with a view to becoming more transparent about its environmental impacts. Nevertheless, in the recent past the company has demonstrated a worrying attitude towards the authority of environmental regulators in South Africa, and failed to disclose indisputably material information to its shareholders.

In 2014, Sasol instituted proceedings against the Minister of Environmental Affairs and the National Air Quality Officer to set aside new air quality standards, known as the "minimum emission standards". These standards are applicable to the activities of Sasol and other large industrial polluters and require a reduction in the level of harmful pollutants emitted by industry.

Alongside the commencement of this litigation, Sasol also applied for a postponement from compliance with most of the standards. In early 2015, Sasol's application for postponement was granted. Shortly afterwards, Sasol withdrew its litigation seeking to set aside the standards.[2]

The outcome of this case, had it gone ahead, would have had enormous repercussions for Sasol itself, for all other big industry affected by the introduction of the minimum emission standards, and for the achievement of an improved air quality regulatory system for South Africa as a whole. If Sasol had failed in both this litigation and its application for postponement from compliance with the minimum emission standards, the company would not only have found itself in serious violation of the law, but also would not have been able to come into compliance in the near future. However, during the period of approximately one year between the commencement and withdrawal of the litigation, the only indication that Sasol gave to its shareholders of this precarious situation – and its chosen momentous course of action – was the following statement in its 2014 Sustainable Development Report:

> *While the majority of our processes will be able to comply with the future MES [minimum emission standards], there are certain activities where we will be unable to comply, either within the stipulated compliance timeframes or within the specified emissions limits. For these specific cases, Sasol has submitted the requisite applications to extend compliance time frames. Where sustainable compliance solutions have been identified, these are being implemented. To ensure that we do not operate outside of future regulatory requirements, we have taken the additional step of seeking to review certain MES, within the time frames provided by the Promotion of Administrative Justice Act.*[3]

The following statement is made in Sasol's response to *Full Disclosure:*

> *Sasol's annual report on Form 20F is filed with the United States Securities Exchange Commission in accordance with the Securities Exchange Act of 1934, in accordance with specific requirements, pursuant to Sasol's secondary listing on the New York Stock Exchange. It should be read in conjunction with the AIR [Annual Integrated Report] as it provides information, for instance, on Sasol's material risks, applicable regulatory dispensations and associated challenges as well as legal proceedings and other contingencies. (our emphasis)*

However, Sasol's 2014 Form 20F contained no mention of the litigation instituted by the company against the Minister of Environmental Affairs and the National Air Quality Officer, despite the significant "material risks" posed by the impending commencement of the minimum emission standards. It appears a reasonable assumption that the basis of the application for postponement was that compliance with the minimum emission standards would have such a material impact on Sasol's business that such compliance was untenable. Whatever your view on this position, the materiality of the risk to Sasol, and hence the requirement to disclose it, cannot be doubted.

---

1. Sasol Sustainable Development Report 2014 at p1, available at http://www.sasol.co.za/sites/default/files/publications/integrated_reports/downloads/SDREPORT.pdf
2. For more information on this, see: http://cer.org.za/news/joint-media-release-sasol-withdraws-ill-conceived-litigation-against-the-state-to-set-aside-air-quality-standards
3. Sasol 2014 Sustainable Development Report, at p47, available at: http://www.sasol.co.za/extras/sasol_sd/docs/sd_blocks/SDREPORT.pdf

Company overview

Sasol is an energy and chemicals company which produces diesel, petrol, naphtha, kerosene, liquid petroleum gas, olefins, alcohols, polymers, solvents, surfactants, co-monomers, ammonia, methanol, crude tar acids, sulphur, illuminating paraffin, bitumen and fuel oil. In 2014, Sasol had 28,438 permanent and 1,354 non-permanent employees in South Africa.[1] Sasol has gas, synfuels and oil operations in Sasolburg and Secunda and also operates coal mines in Secunda.

---

1. Sasol Sustainable Development Report 2014 at p4, available at http://www.sasol.co.za/sites/default/files/publications/integrated_reports/downloads/SDREPORT.pdf

Non-compliance with environmental laws as reported in the National Environmental Compliance and Enforcement Reports

Sasol has gas, synfuels and oil operations. The company's three major operations are located in Sasolburg (Infrachem and Natref), which is within the Vaal Triangle Airshed Priority Area and Secunda (Synfuels), which is within the Highveld Priority Area. Sasol also operates the following coal mines in the Secunda area of Mpumalanga: Bosjesspruit, Brandspruit, Middelbult, Syferfontein and Twistdraai, and the Sigma mine near Sasolburg. A new mine, the Impumelelo mine near Secunda, will shortly replace the Brandspruit mine.[1]

Department of Environmental Affairs' compliance monitoring and enforcement action

Secunda Refinery, Mpumalanga		
NECER	**Significant Inspection Findings**	**Further Developments and Status of Enforcement Process**
2009[2]	The following non-compliances were discovered at an inspection carried out on 4-5 March 2008: *Significant non-compliance with conditions of numerous authorisations applicable to the facility, including APPA registration certificates; EIA Records of Decision and the two waste permits relating to the fine ash dump and the Charlie 1 Waste Disposal Site;* *Environmentally harmful activities that could be prevented / rehabilitated in terms of the NEMA duty of care, particularly in relation to the raw material and coal storage areas and the spillage of hazardous substances.*	The following information was provided regarding the enforcement process: *The inspectorate is presently awaiting representations from the facility based on the findings set out in the inspection report.*
2010[3]	-	In 2010, the following information was stated regarding the enforcement process: *Representations were received in response to the inspection report findings which are reflected in last year's National Compliance and Enforcement Report. A follow-up inspection will also be conducted at this facility in 2010/2011 in order to check whether or not the commitments made by the facility to rectify certain of the non-compliances/issues have been met. This follow-up inspection will inform the Department's decision on whether or not to institute any enforcement action against the facility.*
2011[4]	A follow-up inspection was carried out in August 2010, and the following findings were made: *Non-compliances to authorisations still ongoing. Environmentally harmful activities with regards to raw material storage, coal storage and spillages of hazardous substances still not addressed. Failure to comply with general duty of care in respect of waste management on site.*	In the 2011 report the following information was also provided regarding the enforcement process: *Follow-up compliance inspection report in vetting process and enforcement strategy will then be developed.*
2012[5]	-	In 2012, the following update was provided: *Enforcement strategy has been developed which has incorporated APPA review process, as well a Waste Management Licence review process in which the facility is currently engaged. Following this engagement, a further decision will be required as to which non-compliances will be covered by the administrative enforcement process.*
2013[6]	-	In 2013, the enforcement strategy was described: *Enforcement strategy has been developed which has incorporated APPA review process, as well a Waste Management Licence review process in which the facility is currently engaged. Due to the nature of the above-mentioned processes a significant number of these non-compliances will be addressed. A follow-up inspection to the facility (during which compliance with the newly issued AEL and WML will be assessed), will determine the type of enforcement action, if any, to be taken against the facility.*
2014[7]	-	The following information, which coincides in part with the above, was provided in the 2014 report: *Against this background, and in 2011, DEA undertook an extensive and in-depth APPA registration certificate and WML review process. During this process a number of compliance related challenges and concerns were raised with the facility. It was acknowledged these challenges and concerns had to be dealt with in an efficient and effective manner. Pursuant to a consideration of all the information gathered during the review process, new air and waste related licences are being finalised*

		to ensure that the issues and concerns identified at the facility are addressed. The new set of licence conditions are aimed at ensuring the facility operates in a compliant manner. Accordingly, DEA has decided not to take any enforcement action against the facility at this juncture. DEA will, however, continue to monitor compliance at the site.

1. http://www.sasol.co.za/about-sasol/operating-business-units/mining/operations-locations (last accessed on 7 August 2015).
2. National Environmental Compliance and Enforcement Report 2008/2009 at p27, available at http://cer.org.za/wp-content/uploads/2010/05/NECER-2008-9.pdf
3. National Environmental Compliance and Enforcement Report 2009/2010 at p25, available at http://cer.org.za/wp-content/uploads/2012/11/NECER-2009-10.pdf
4. National Environmental Compliance and Enforcement Report 2010/2011 at p40, available at http://cer.org.za/wp-content/uploads/2012/11/NECER-2010-11.pdf
5. National Environmental Compliance and Enforcement Report 2011/2012 at p36, available at http://cer.org.za/wp-content/uploads/2012/11/NECER-2011-12.pdf
6. National Environmental Compliance and Enforcement Report 2012/2013 at p36, available at http://cer.org.za/wp-content/uploads/2013/11/NECER-2012-13.pdf
7. National Environmental Compliance and Enforcement Report 2013/2014 at p48, available at http://cer.org.za/wp-content/uploads/2014/10/NECER-2013-14.pdf

Sasol Limited's disclosure of environmental non-compliances in annual reports

Sasol did not report on the Environmental Management Inspectors' inspection findings in either its annual or sustainable development reports.

Sasol's reports contain data on topics such as water use, emissions of certain pollutants and waste. However, there is very little disclosure of environmental non-compliances or incidents. Those incidents which are disclosed relate primarily to non-compliances at Sasol's international operations.

Frequently included in the annual reports is a version of the following statement:

> *Ongoing work is being taken to remediate contaminated land throughout our South African operations. Our goal is to prevent future contamination and address all historical issues.*[1]

No further detail is provided as to the location of the sites where the remediation work is being carried out, or as to the nature of the contamination.

Sasol's 2008 and 2009 Sustainable Development Reports also contain some detail on fines. In the 2008 report it is stated that:

> *Sasol Oil recorded 19 fines during the year. These fines relate to previously unauthorised tank installations for which applications were submitted to the relevant authorities from 2006.*[2]

In the 2009 Sustainable Development Report, and other reports, the number of "fines, penalties and settlements" is provided although it is not explained what the relevant violations were.[3] However, under the subject of "incidents of non-compliance with environmental laws" in the same 2009 report, the number of fines, penalties and settlements is referenced.[4]

The 2008 report, and some others, contain details on incidents which occurred during the year, but these appear not to be solely the number of environmental incidents, but rather "process incidents" or the cumulative number of safety, health and environmental incidents:

> *We reported 28 significant fires, explosions and releases, compared with 21 in 2007, and 15 in 2006. (For the purposes of reporting, a fire, explosion or release is registered 'significant' when it: involves a fatality or lost workday case; results in damage to property or equipment of more than US$25 000; or causes a release of chemicals in excess of a defined threshold for listed substances).*[5]

---

1. Sasol Annual Report 2007 at p65, available at http://www.sasol.com/sites/default/files/publications/integrated_reports/downloads/Annual%20review%202007.pdf
2. Sasol Sustainable Development Report 2008 at p29, available at http://www.sasol.co.za/sites/default/files/publications/sustainable_development_report/downloads/2008.pdf
3. Sasol Sustainable Development Report 2009 at p56, available at http://www.sasol.co.za/sites/default/files/publications/sustainable_development_report/downloads/2009.pdf
4. Sasol Sustainable Development Report 2009 at p58, available at http://www.sasol.co.za/sites/default/files/publications/sustainable_development_report/downloads/2009.pdf.
5. Sasol Sustainable Development Report 2008 at p38, available at http://www.sasol.co.za/sites/default/files/publications/sustainable_development_report/downloads/2008.pdf

Environmental non-compliances reported by affected communities, the media, & NGOs

Parliamentary hearings and questions

Parliamentary Committee public hearings in 2009 on the issue of climate change featured a submission by the Sasolburg Air Monitoring Committee. A representative of this committee, Ms Lerato Maregele, stated that there were major health challenges as a result of the Sasolburg refinery, including babies born infected by the air pollution in the area and people becoming ill. She further stated that provincial government was not doing its job and patients suffering from respiratory diseases were not receiving proper medical attention. An ANC member stated in this meeting that she had gone into the Sasolburg area and invited the management of Sasol and the community to a meeting to see what could be done. She further stated that through its actions and processes parliament should be able to make reductions in Sasol's emissions.[1]

In its response to *Full Disclosure,*Sasol referred to "independent air quality assessments" conducted by the company, and stated that:

> *Sasol records and carefully considers every complaint regarding health impacts potentially caused by its facilities and provides feedback to the party who made the complaint. Most commonly, multiple cause exist for health ailments which are not demonstrated to be related to Sasol activities.*

In a parliamentary question and answer from 2009, a Mr JJ van R Koornhof of COPE asked the Minister of Water and Environmental Affairs:

> *Whether her department laid any criminal charges against any individuals or companies with regard to the pollution of any of the perennial river catchment areas running into the Kruger National Park during the period 1 January 2009 up to the latest specified date for which information is available; if not, why not; if so, what are the relevant details.*

The Minister responded as follows:

> *No, My Department has not laid any criminal charges against any individuals or companies with regard to the pollution of any of the perennial river catchment areas running into the Kruger National Park to date. My Department has identified alleged polluters and notices/directives have been issued.*

One of the alleged polluters was Sasol Nitro, and in relation to the relevant "non-compliance letter or notice issued" the following information was provided, "section 19(3)[2] and 53(1)[3] for failing to take reasonable measures to prevent pollution and undertaking water use(s) activities without authorisation". It was further noted that no directive had been issued to this operation and that the affected perennial river was the Selati.[4]

In its response to *Full Disclosure,* Sasol stated:

> *…we wish to clarify that the report incorrectly reflects that Sasol Nitro was issued with a compliance letter or notice.*
>
> *The facts are that the regulatory authority issued the former Sasol Nitro Phalaborwa facility with a directive in terms of sections 19(3) and 53(1) of the National Water Acat on 28 July 2010. Although it referred to section 19(3), there was no allegation in the directive that Sasol had polluted any catchment. Rather the directive was focused soley on an alleged failure to hold a water use entitlement.*
>
> *The directive was shown to be both procedurally defective and baseless. We informed the DWS … of this in writing on 18 August 2010.*
>
> *At all times we operated under our existing lawful water use. The DWS conceded in a letter dated 21 July 2011 that we had proved our existing lawful water use and had therefore complied with the directive. No further action was subsequently taken by the Department.*

In a 2010 parliamentary question and answer, a member of the Democratic Alliance asked the Minister of Water and Environmental Affairs:

> *Whether the department has (a) issued any (i) notices of non-compliance or (ii) directives or (b) brought any criminal charges against Sasol since 1 January 2009; if not, why not; if so, what are the relevant details?*

The Minister responded:

> *A comprehensive compliance inspection was undertaken at the facility as part of the strategic compliance monitoring project focusing on the Refineries Sector. The findings of this inspection were issued to the facility in July 2009 and Sasol was provided with an opportunity to make representations in response to these findings. These representations, including a significant volume of information in the form of reports, have now been reviewed by the Department. Further clarity is being requested on a number of issues in order for the Department to make a final decision on the compliance approach required. It is important to note that such an approach will also involve the provincial authority as well as the relevant municipality.*[5]

In a 2011 meeting on the National Climate Change Response Green Paper 2010, it was noted that Sasol and Eskom were the two chief emitters of greenhouse gases in South Africa.[6]

Leeu-Taaiboschspruit Forum

The minutes of meetings of the Leeu-Taaiboschspruit Forum (a forum engaged in by stakeholders of the Leeu-Taaiboschspruit Catchment area in the Free State, including Sasol) also contain information on Sasol's environmental compliance record:

Meeting date: 14 August 2014

> *Pollution incidents*
>
> *On the 22 July 2014 there was a [sic] an overflow of raw sewage from Harry Gwala pump station which is channelled through a trench excavated to direct the over flowing raw sewage into wetland which connects to an unknown tributary which flows to the Taaibosspruit then to the Vaal River. The*

> *pump station is connected to the Sasol infrachem [sic] Wastewater treatment plant.*
>
> *The overflow started after Municipal maintenance personnel went on strike which is still ongoing. The pump station is connected to the Sasol Bio works where all sewage is directed to for treatment.*[7]

In its response to *Full Disclosure,* Sasol explained that the incident referred to here:

> *refers to an instance where on 22 Jul 2014 a municipal pump station failed in Metsimaholo. This forms part of the municipal infrastructure that transfers domestic sewage to the Sasol waste water treatment works for treatment and discharge. By design and since the start-up of our plant in Sasolburg, we provide serage treatment services to the municipality at our bio-works (sewerage treatment plant). The municipality retains responsibility for the management of the transfer of sewerage to our treatment plant as well as for the erlated services infrastructure outside our plant. Transfer of custody and control over the domestic sewage occurs at the inlet to the Sasol sewerage works. Final discharge, after treatment and re-use of the treated water is done under a DWS authorisation and the quality is strictly controlled and reported on by Sasol. The incidents referred to in the CER report thus do not relate to, or arise from, Sasol's operations in Sasolburg but have impacted Sasol's land as the pollution runs over Sasol property down to the Taaiboschpruit. Sasol has engaged the Municipality regarding these matters for resolution and has also reported on this to the LTCF.*

Meeting date: 14 November 2014

> *Pollution incidents*
>
> *Ann Naidoo from Sasol mentioned that there was a de-sludging of reservoirs and while this process was going on, some sludge seeped through into the Metsimaholo area and went into the Leeu Taaibosch spruit. This has been reported to the Department of Water Affairs. The main substance of the sludge is consisting of sand and debris.*[8]

In 2013 Sasol refused to present to the Forum on a biomonitoring study carried out by the company on the following basis:

Meeting date: 15 August 2013

> *Biomonitoring study information is a confidential document and the organisation does not give confidential information to the organisation that are not registered with their organisation [sic].*[9]

Waterval Forum

The minutes of meetings of the Waterval River Catchment Forum and the Waterval Forum Management Committee also contain a number of reports on pollution by Sasol. The Waterval River Catchment Forum is one of the 13 catchment forums which was established in the Upper Vaal Water Management Area. Secunda is located in the Waterval River Catchment.[10]

Meeting Date: 19 February 2009

> *T. Thimisha (Department of Water Affairs and Forestry.) indicated that Sasol Synfuels has complied most of the time during last quarter based on the conditions on [sic] the Water Use License.*[11]
>
> *…*
>
> *J.Linde (Sasol) indicated the following points regarding compliance in Sasol Synfuels:*
>
> *The RESM*[12] *totally complied with the Water Use License conditions with regards to Ammonia, COD*[13] *and Sulphate except Phosphate because the process is not designed to remove Phosphate.*
>
> *Conductivity in RESM 7 is usually high in winter due to low flow.*
>
> *Water Quality in RESM 10 is improving.*
>
> *Sasol Synfuels is busy with the action plan to lower Ammonia.*[14]

Meeting Date: 20 August 2009

> *Sasol Synfuels:*
>
> *They had several spillages during this quarter and the Department was notified with [sic] all the spillages. Some investigations were still on [sic] progress and some causes of pollution were identified. The report will be sent to the Department. It was also mentioned that they managed to comply 100% with the discharge of waste water during this quarter according to their licence.*[15]

Meeting Date: 19 November 2009

> *Sasol Synfuels:*
>
> *Sasol had several spillages during this quarter and the Department was notified about the spillages.*
>
> *It was also mentioned that there is a risk identified – the factory is sitting on a watershed, therefore if the southern side pollution is not contained it runs into the natural environment. Currently the feasibility study is undergoing. Sasol indicated that they have written a letter to municipality as they experience high flows during rainy days and suspect infiltration. It was mentioned that communities needs [sic] to be made aware of the effects of infiltration so that such incidences should be avoided.*[16]

> *Sasol Mining:*
>
> *There was an incident on the 23rd November and it was reported to DWA and the problem was fixed. It is either the mine will prepare a presentation in the next forum or make information available on their water uses.*[17]

Meeting Date: 18 February 2010

> *Sasol Synfuels:*
>
> *Sasol had several spillages during this quarter and the Department was notified about all the spillages.*
>
> *It was also mentioned that there is a contamination from the southern side of the plant through the pipe and polluting the water resource.*
>
> *Chair requested Sasol to relook at their Sewage works.*[18]

Meeting Date: 20 May 2010

> *Sasol Synfuels:*
>
> *Sasol had a spillage at the south side of the factory the pipeline leaked and it happened in March but the source could not be identified. This had an impact on the water quality at Resm 1 and 10.*[19]

Meeting Date: 19 May 2011

> *Sasol Synfuels*
>
> *Jaco (Sasol) indicated that they were several pollution incidents and they were all reported to DWA. He indicated that they always report the pollution incident to the Department and followed by a proper report thereafter.*[20]

Meeting Date: 18 August 2011

> *Water Quality Report DWA:*
>
> *…*
>
> *Sasol Synfuels water quality standard they have water use license [sic] and there where [sic] measured according to their conditions in their license. Further mentioned that they are not complying with conductivity and total dissolve solid.*
>
> *Secunda sewage works not complying with total Cali form.*[21]
>
> *Sasol Synfuels*
>
> *One incident occurred in Synfuels and an incident report was compiled and submitted to the Department.*[22]

Meeting Date: 17 November 2011

> *Sasol Synfuels*
>
> *One incident happened in October 2011 at Sasol Synfuels, it was identified during inspection. Currently they are in a process to clean the pollution.*
>
> *At Sewage plant they had a green drop in view of the fact that the plant is not registered.*[23]
>
> *Sasol Mining*
>
> *It was reported that one of underground storage compartment facilities started linking in [sic] extent that it flooded the part of the mine.*[24]

Meeting Date: 16 February 2012

> *Sasol Synfuels*
>
> *J Linde (Sasol) indicated that there were several pollution incidents and they were all reported to DWA. He indicated that they always report the pollution incident to the Department and followed by a proper report thereafter.*[25]

Meeting Date: 23 August 2012

> *Sasol Synfuels*
>
> *… in most of the variables they are complying except for E- coli.*[26]

Meeting Date: 21 February 2013

> *Sasol Synfuels:*
>
> *J Linde (Sasol) gave water quality presentation as attached in the minutes*

> *…*
>
> *On the 15 December 2012 there was an incident but they could not locate the sources of the incident.*[27]
>
> *Sasol mining:*
>
> *On the 15 February 2013 there was a pollution incident whereby control dam collapsed, they pumped water to underground. The incident was picked up early and contained.*
>
> *The forum wanted to know if there was any water monitoring to see if it went to the water streams. Representative answered that it was picked up early and contained before it went to the water streams.*[28]

Meeting Date: 23 February 2013

> *Sasol Synfuels:*
>
> *J Steynberg (Sasol) reported that RESM 1 there was one incident which occurred 02 March 2013; it was caused by rainy event however when the rain cooled down everything went back to normal.*[29]

Meeting Date: 22 August 2013

> *Water quality report DWA*
>
> *All the samples taken at Sasol Synfuels for the past three months are complying except for RESM 12, there was non-compliance of conductivity and total dissolved solids the past two months.*[30]
>
> *Sasol Synfuels*
>
> *J Steynberg reported that RESM 1 was complying with all the variables.*
>
> *RESM 12 – there was non- compliance of conductivity the past three months.*
>
> *The sewages works was complying the past three (03) months.*[31]

Meeting Date: 21 November 2013

> *Sasol Secunda*
>
> *No incident at RESM 1 for the period of November 2013 to January 2014.*
>
> *RESM 10 – there was non-compliance of conductivity the past three (03) months.*
>
> *RESM 12 – there was non-compliance of conductivity during November 2013.*[32]

Meeting Date: 22 May 2014

> *Sasol Secunda*
>
> *J Steynberg (Sasol) reported that RESM 1 there was one incident which occurred 04 February 2014; impact from mining operations.*
>
> *There was a pollution incident on the 24 February 2014, dislodged coupling from seepage interception collection pump at Sasol Nitro.*
>
> *There was a pollution incident on the 4-6 March 2014, heavy rainfall over plant area (150mm) multiple contributing factors including Nhlapo dam pump malfunction. Small flow entering the Bossiespruit.*
>
> *RESM 9 interception weir overflows into Bossiespruit.*
>
> *Flow from the Groot Bossiespruit (RESM12).*[33]

Meeting Date: 21 August 2014

> *Sasol Secunda*
>
> *J Steynberg reported that RESM 1 limit was exceeded on three occasions during the reporting period. The reason for each exceedance was due to burst pipeline at mining, burst pipeline SCS and pipeline leak from factory.*
>
> *RESM 7 – most of the variables were complying except for conductivity the past three months.*[34]

Media reports

Pollution caused by Sasol has also been reported on in the media. In a 2009 news article, it was noted that the maximum allowable levels of PM10 (particulate matter) had been exceeded in the Vaal Triangle that year and that Sasol's Sasolburg plant was regarded as one of the top three polluters in the region. A member of Earthlife Africa, a South African environmental organisation, was recorded as stating that residents near this plant were suffering from respiratory-related illness. It was further

noted that campaigners were alleging that Sasol was concealing information and wanted the company to release its own pollution records. A member of the Sasolburg Air Quality Monitoring Committee stated that there had been a huge discrepancy between Sasol's monitoring levels and those of government.[35]

In late 2014, it was reported that a farmer in Secunda had accused Sasol of causing the death of 60 of his cattle through water pollution.[36] In July 2015, Sasol Secunda's sewerage works were implicated in the pollution of the Watervals River. A representative of Rand Water stated, "(i)t is well known that the river is quite polluted due to the poor performance of the sewerage works at Embalenhle, gold mining and Sasol Secunda."[37]

Litigation

In 2014, Sasol instituted proceedings against the Minister of Environmental Affairs and the National Air Quality Officer to set aside new air quality standards, known as the 'minimum emission standards'. These standards are applicable to the activities of Sasol and other large industrial polluters and require a reduction in the level of harmful pollutants emitted by industry. Alongside the commencement of this litigation, Sasol also applied for a postponement from compliance with most of the standards. In early 2015, Sasol's application for postponement was granted. Shortly afterwards, Sasol withdrew its litigation seeking to set aside the standards.[38]

---

1. 'Climate Change: Public Hearings Day 1', available at http://pmg.org.za/report/20091117-climate-change-sustainable-development-public-hearings (last accessed on 7 August 2015).
2. Directive issued in terms of section 19(3) of the National Water Act.
3. Directive issued in terms of section 53(1) of the National Water Act.
4. Question No. 1823, Date of publication in internal question paper: 23 October 2009, available at http://pmg.org.za/questions-and-replies/2009/11/05/question-repiles-no-1801-1825 (last accessed on 7 August 2015).
5. Question No. 1280, Date of publication:26 April 2010 http://pmg.org.za/questions-and-replies/2010/05/11/questions-replies-no-1276-1300 (last accessed on 7 August 2015).
6. National Climate Change Response Green Paper 2010: Department of Environmental Affairs briefing, available at http://pmg.org.za/report/20110222-department-environmental-affairs-dea-national-climate-change-response (last accessed on 7 August 2015).
7. Minutes of the 55th Leeu-Taaiboschspruit Forum meeting held on 14 August 2014 at Safripol, Sasolburg, at p3-4, available at http://www.reservoir.co.za/forums/vaalbarrage/leeutaai_forum/leeutaai_forum_minutes/LTF_Minutes_14Aug2014.pdf
8. Minutes of the Leeu-Taaiboschspruit Forum Meeting held on 13 November 2014 at Omnia, at p2, available at http://www.reservoir.co.za/forums/vaalbarrage/leeutaai_forum/leeutaai_forum_minutes/LTF_Minutes_13Nov2014.pdf
9. Minutes of the 58th Leeu-Taaiboschspruit Forum meeing held on 15 August 2013 at Safripol, Sasolburg, at p2, available at http://www.reservoir.co.za/forums/vaalbarrage/leeutaai_forum/leeutaai_forum_minutes/LTF_Minutes_15Aug2013.pdf
10. 'Development of an Integrated Water Quality Management Plan for the Vaal River System: Water Quality Management Strategy, September 2009', at pii, available at https://www.dwa.gov.za/projects/vaal/documents/VaalIWQMPTask8WQMStrategyReportFinalSept2009.pdf
11. Minutes of the Waterval Catchment Forum meeting held on 19th February 2009, at Roses Inn, Soutpansberg, Secunda, at p3, available at http://www.reservoir.co.za/forums/vaaldam/waterval_forum/waterval_forum_minutes/waterval_forum_minutes_19feb2009.pdf
12. Water quality monitoring point.
13. Chemical Oxygen Demand.
14. Minutes of the Waterval Catchment Forum meeting held on 19th February 2009, at Roses Inn, Soutpansberg, Secunda, at p4, available at http://www.reservoir.co.za/forums/vaaldam/waterval_forum/waterval_forum_minutes/waterval_forum_minutes_19feb2009.pdf
15. Minutes of the Waterval Catchment Forum meeting held on the 20th August 2009, at Govan Mbeki Municipality boardroom, at p3, available at http://www.reservoir.co.za/forums/vaaldam/waterval_forum/waterval_forum_minutes/waterval_forum_minutes_20aug2009.pdf
16. Minutes of the Waterval Catchment Forum meeting, held on the 19th November 2009, at Govan Mbeki Municipality, Lillian Ngoyi Center, Secunda, at p4, available at http://www.reservoir.co.za/forums/vaaldam/waterval_forum/waterval_forum_minutes/waterval_forum_minutes_19nov2009.pdf
17. Minutes of the Waterval Catchment Forum meeting, held on the 19th November 2009, at Govan Mbeki Municipality, Lillian Ngoyi Center, Secunda, at p5, available at http://www.reservoir.co.za/forums/vaaldam/waterval_forum/waterval_forum_minutes/waterval_forum_minutes_19nov2009.pdf
18. Minutes of the Waterval Catchment Forum meeting held on the 18th February 2010, at Govan Mbeki Municipality, Lillian Ngoyi Center, Secunda, at p5, available at http://www.reservoir.co.za/forums/vaaldam/waterval_forum/waterval_forum_minutes/waterval_forum_minutes_18feb2010.pdf
19. Minutes of the Waterval Catchment Forum meeting held on the 20th May 2010, at Govan Mbeki Municipality, Lillian Ngoyi Center, Secunda, at p4, available at http://www.reservoir.co.za/forums/vaaldam/waterval_forum/waterval_forum_minutes/waterval_forum_minutes_20may2010.pdf
20. Minutes of the Waterval Catchment Forum meeting held on the 19th May 2011, Govan Mbeki Municipality, Lillian Ngoyi Center, at p3, available at http://www.reservoir.co.za/forums/vaaldam/waterval_forum/waterval_forum_minutes/waterval_forum_minutes_19may2011.pdf
21. Minutes of the Waterval Catchment Forum meeting, held on the 18th August 2011, Govan Mbeki Municipality, Lillian Ngoyi Center, at p2, available at http://www.reservoir.co.za/forums/vaaldam/waterval_forum/waterval_forum_minutes/waterval_forum_minutes_18aug2011.pdf
22. Minutes of the Waterval Catchment Forum Meeting held on the 18th August 2011, Govan Mbeki Municipality, Lillian Ngoyi Center, at p2, available at http://www.reservoir.co.za/forums/vaaldam/waterval_forum/waterval_forum_minutes/waterval_forum_minutes_18aug2011.pdf
23. Minutes of the Waterval Catchment Forum meeting hled on the 17th November 2011, Govan Mbeki Municipality, Lillian Ngoyi Center, at p3, available at http://www.reservoir.co.za/forums/vaaldam/waterval_forum/waterval_forum_minutes/waterval_forum_minutes_17nov2011.pdf
24. Minutes of the Waterval Catchment Forum meeting held on the 17th November 2011, Govan Mbeki Municipality, Lillian Ngoyi Center, at p3-4, available at http://www.reservoir.co.za/forums/vaaldam/waterval_forum/waterval_forum_minutes/waterval_forum_minutes_17nov2011.pdf
25. Minutes of the Waterval Catchment Forum meeting, held on the 16 February 2012, Govan Mbeki Municipality, Lillian Ngoyi Center, at p4, available at http://www.reservoir.co.za/forums/vaaldam/waterval_forum/waterval_forum_minutes/waterval_forum_minutes_16feb2012.pdf
26. Minutes of the Waterval Catchment Forum Meeting, held on the 23 August 2012, Secunda Lillian Ngoyi Center, at p3, available at http://www.reservoir.co.za/forums/vaaldam/waterval_forum/waterval_forum_minutes/waterval_forum_minutes_23aug2012.pdf
27. Minutes of the Waterval Catchment Forum meeting, held on the 21 February 2014, Govan Mbeki Municipality, Lillian Ngoyi Center, at p4-5, available at http://www.reservoir.co.za/forums/vaaldam/waterval_forum/waterval_forum_minutes/WF_Minutes_21Feb2013.pdf
28. Minutes of the Waterval Catchment Forum meeting, held on the 21 February 2014, Govan Mbeki Municipality, Lillian Ngoyi Center, at p4-5, available at http://www.reservoir.co.za/forums/vaaldam/waterval_forum/waterval_forum_minutes/WF_Minutes_21Feb2013.pdf
29. Minutes of the Waterval Catchment Forum meeting, held on the 23 May 2013, Govan Mbeki Municipality, Lillian Ngoyi Center, at p4-5, available at http://www.reservoir.co.za/forums/vaaldam/waterval_forum/waterval_forum_minutes/WF_Minutes_23May2013.pdf
30. Minutes, 22 August 2013, Govan Mbeki Municipality, Lillian Ngoyi Center, Secunda, at p3, available at http://www.reservoir.co.za/forums/vaaldam/waterval_forum/waterval_forum_minutes/WF_Minutes_22Aug2013.pdf
31. Minutes, 22 August 2013, Govan Mbeki Municipality, Lillian Ngoyi Center, Secunda, at p4, available at http://www.reservoir.co.za/forums/vaaldam/waterval_forum/waterval_forum_minutes/WF_Minutes_22Aug2013.pdf
32. Minutes, 20 February 2014, Govan Mbeki Municipality, Lillian Ngoyi Center, Secunda, at p3-4, available at http://www.reservoir.co.za/forums/vaaldam/waterval_forum/waterval_forum_minutes/WF_Minutes_21Nov2013.pdf

33. Minutes, 22 May 2014, Govan Mbeki Muncipality, Lillian Ngoyi Center, Secunda, at p3, available at http://www.reservoir.co.za/forums/vaaldam/waterval_forum/waterval_forum_minutes/WF_Minutes_22May2014.pdf

34. Minutes 21 August 2014, Govan Mbeki Municipality, Lillian Ngoyi Center, Secunda, at p3, available at http://www.reservoir.co.za/forums/vaaldam/waterval_forum/waterval_forum_minutes/WF_Minutes_21Aug2014.pdf

35. 'Dirty business' Sasol under fire, Fin24, 2009-12-11, available at http://www.fin24.com/Companies/Dirty-business-Sasol-under-fire-20091211 (last accessed on 7 August 2015).

36. Stock farmer fights Sasol over pollution, News24, 2014-12-14, available at http://www.news24.com/Archives/City-Press/Stock-farmer-fights-Sasol-over-pollution-20150429 (last accessed on 7 August 2015).

37. Water affairs silenced as sewage flows, Mail & Guardian, 31 July 2015, available at http://mg.co.za/article/2015-07-30-water-affairs-silenced-as-sewage-flows (last accessed on 7 August 2015).

38. http://cer.org.za/news/joint-media-release-sasol-withdraws-ill-conceived-litigation-against-the-state-to-set-aside-air-quality-standards (last accessed on 7 August 2015).

Sasol Limited's response to the Full Disclosure findings

Each company assessed was given a month to respond to the *Full Disclosure* findings before we published our report.

See Sasol Limited's response at: http://cer.org.za/full-disclosure/company/sasol-limited?correspondence.

Major shareholders

Sasol has reported[1] the following as beneficial shareholders holding 5% or more of Sasol's share capital:

- Government Employees Pension Fund
- Industrial Development Corporation of South Africa Limited

The following are fund managers which manage investments of 2% or more of Sasol's share capital:

- Public Investment Corporation Equities
- Allan Gray Investment Counsel
- Coronation Fund Managers
- Black Rock Incorporated
- Sanlam Investment Management
- Investec Asset Management
- Old Mutual Asset Managers
- The Vanguard Group Incorporated
- Prudential Portfolio Managers

1. http://www.sasol.co.za/investor-centre/dividend-information/major-shareholders (last accessed on 7 August 2015).

Membership of voluntary initiatives, accreditations and awards

JSE SRI	Sasol appeared on the SRI index every year from 2004 to 2014, with the exception of 2008 when it was removed due to the company receiving a fine for competition law infringement.[1]
JSE SRI Best Performers	Sasol featured in the Best Performers category in 2005, 2006 and 2007.
Carbon Disclosure Project	Sasol has reported to the CDP on a number of occasions.
ISO 14001:2004	In Sasol's 2014 Sustainable Development Report it was stated that all the company's business units had obtained this certification.[2]
World Business Council for Sustainable Development	Sasol is a member of this group.
Cement Sustainability Initiative	Not applicable
Green Building Council of South Africa	Not applicable
Global 100	Sasol does not appear in the Global 100.
United Nations Global Compact	Sasol is a participant in the UNGC.
International Council on Mining and Metals	Sasol is not a member of the ICMM.
Extractive Industries Transparency Initiative	Sasol is not an EITI supporting company.
Cyanide Code	Not applicable

1. Sasol Annual Review and Summarised Financial Information 2009 at p71, available at http://www.sasol.co.za/sites/default/files/publications/integrated_reports/downloads/sasol_review_2009_1256294725446.pdf
2. Sasol Sustainable Development Report 2014 at p71, available at http://www.sasol.co.za/sites/default/files/publications/integrated_reports/downloads/SDREPORT.pdf

PAPER & PULP

Sector Overview

The pulp and paper industry has a significant impact on air, water and land. According to the World Wide Fund for Nature (WWF), "the pulp and paper industry is the fourth largest industrial user of energy…and a significant emitter of greenhouse gas".[1] The production process can also result in the discharge of large volumes of pollutants into water bodies, which may result in damage not only to ecosystems but also to the health of communities.[2] Deforestation also affects biodiversity and can threaten the habitats of wildlife species.[3]

Companies in the pulp and paper sector are responsible for the establishment and management of large tree plantations, which provide an ongoing supply of timber. Companies such as Sappi argue that these plantations act as carbon sinks and therefore have positive environmental impacts. However, this "afforestation", as it is called by the companies promoting the process, has been said to be "even more environmentally destructive than other large-scale monoculture crops".[4] In South Africa, "afforestation" has led to widespread degradation of grasslands which are an essential component of our biodiversity. On the Environmental Justice Atlas website, the harm caused by Mondi and Sappi plantations is described as follows:

> *Air pollution, Biodiversity loss (wildlife, agro-diversity), Desertification/Drought, Fires, Floods (river, coastal, mudflow), Food insecurity (crop damage), Global warming, Loss of landscape/aesthetic degradation, Noise pollution, Soil contamination, Soil erosion, Waste overflow, Oil spills, Deforestation and loss of vegetation cover, Surface water pollution / Decreasing water (physico-chemical, biological) quality, Groundwater pollution or depletion, Large-scale disturbance of hydro and geological systems, Reduced ecological / hydrological connectivity.*[5]

Mondi and Sappi are the only companies operating pulp mills in South Africa.[6] A pulp mill is a manufacturing facility which converts plant fibre into a thick fibre board which can then be further processed at a paper mill.[7]

Primary Legislation

National Environmental Management Act
National Environmental Management: Air Quality Act
National Environmental Management: Waste Act
National Forests Act
National Water Act
Environment Conservation Act

Pursuant to these pieces of legislation, companies are required to have licences in order to conduct various regulated activities. Minimum emission standards were published in Government Notice No. 248 in 2010[8] and apply to numerous emissions of the paper and pulp industry, including PM, H?S, NO? and SO?. Licences granted to companies under the National Environmental Management: Air Quality Act must at least incorporate these standards and deadlines were introduced for meeting those standards.

1. http://wwf.panda.org/about_our_earth/deforestation/forest_sector_transformation/pulp_and_paper/ (last accessed on 7 August 2015).
2. http://wwf.panda.org/about_our_earth/deforestation/forest_sector_transformation/pulp_and_paper/ (last accessed on 7 August 2015).
3. http://wwf.panda.org/about_our_earth/deforestation/forest_sector_transformation/pulp_and_paper/ (last accessed on 7 August 2015).
4. http://www.timberwatch.org/userfiles/Pulp%20mill%20awareness%20booklet%20full.pdf at p9.
5. https://ejatlas.org/conflict/mondi-and-sappi-plantations-in-zululand-south-africa (last accessed on 7 August 2015).
6. https://en.wikipedia.org/wiki/List_of_paper_mills#South_Africa (last accessed on 7 August 2015).
7. http://en.wikipedia.org/wiki/Pulp_mill (last accessed on 7 August 2015).
8. https://www.environment.gov.za/sites/default/files/gazetted_notices/nemaqa_listofactivities_g33064gon248.pdf

MONDI GROUP

Summary of findings and company response

In 2014 Mondi published the following statement as part of its environmental policy:

> *We actively strive for recognised best environmental performance in our operations. In order to achieve this, we will apply a precautionary approach in our decision-making and integrate environmental principles into our business strategy.*[1]

Environmental Management Inspectors carried out an inspection at Mondi's Richards Bay mill in 2009, at which a number of non-compliances with environmental laws and permits were found. A follow-up inspection in 2011 found that most of these non-compliances had been addressed. Mondi did not mention the inspection or its findings in its 2009 Annual Report, and stated in that same report that "all Mondi operations comply with local emissions regulations" and that "we operate in a highly regulated environment … and have acted in compliance in all the regions in which we operate". Mondi also did not mention the follow-up inspection in its 2011 Annual Report, or the finding at that inspection that the mill was still in non-compliance with its waste management licence.

In his response to *Full Disclosure,* Mondi South Africa's CEO, Ron Traill, stated that:

> *For future Sustainability Reports, Mondi will review the wording used to convey our absolute intent to comply with environmental laws and regulations, while continuing to report transparently on instances of non-compliance.*

Mr Traill also provided the following explanation for Mondi's failure to mention the EMI inspection in the company's 2009 report:

> *Mondi acknowledges that reference to the EMI inspection was not included in our 2009 Sustainability Report. At the time of publishing this report, Mondi had responded to the Department of Environmental Affairs' inspection report and we believed that evidence had been provided to confirm compliance with the issues raised during the inspection; and corrective actions had been instituted to resolve any outstanding issues.*

Mr Traill's letter contained an annexure providing "Updated status" information on the information contained in the NECER reports relating to the Richards Bay mill. This information includes an explanation of why the statement in the 2010 NECER, to the effect that Mondi had been required to provide clarity on certain issues to the EMIs but had not done so, was incorrect.

In relation to the statements in the 2012 and 2013 NECERs that "enforcement strategy is still in the process of being finalised", Mr Traill stated that Mondi has not received any further communication from the Department of Environmental Affairs since the 2011 inspection, and that it "believes that the issues raised were addressed during this inspection and via documents provided after the inspection."

While we acknowledge that compiling the NECER is a monumental task, it is also vital that the information published is accurate as at the date of publication. It is also in the interest of fairness, good administration and deterrence that enforcement action, if required, is taken as soon as possible after violations are determined.

1. Mondi Sustainable Development Policy, p7, available at: http://www.mondigroup.com/PortalData/1/Resources/sustainability2014/pdf/Mondi_SDMS_SD_policy-and-sector-policies.pdf

Company overview

The Mondi Group is an international packaging and paper company employing 24,400 people in 30 countries. The Mondi Group has a dual listed company structure, with Mondi Limited holding a primary listing on the JSE and Mondi plc holding a premium listing on the London Stock Exchange. In South Africa, Mondi runs a paper mill in Durban and a linerboard mill in Richards Bay, and manages 307 000 hectares of forestry plantations. Mondi employs 1,600 people in South Africa.[1]

1. http://www.mondigroup.com/desktopdefault.aspx/tabid-349/ (last accessed on 7 August 2015).

Non-compliance with environmental laws as reported in the National Environmental Compliance and Enforcement Reports

Mondi operates mills at the following locations in South Africa:

- Paper mill, Durban
- Linerboard mill, Richards Bay

Department of Environmental Affairs' compliance monitoring and enforcement action

Richards Bay		
NECER	**Significant Inspection Findings**	**Further Developments and Status of Enforcement Process**
2009[1]	In the 2009 report it was reported that an inspection had been conducted at this facility.	-
2010[2]	In the 2010 report it was reported that the inspection undertaken in February 2009 identified the following non-compliances: *Non-compliance with conditions of the APPA permits. Non-compliance with conditions of the ECA Section 20 permit. Operation of Kiln 2 with an expired APPA provisional registration certificate. Improper storage of crushed fluorescent tubes and spillages of hazardous material in unlined areas. Non-reporting of emergency incidents to authorities.*	The following was also reported in the 2010 report: *Based on a review of the facility's representations and commitments made, Mondi was required to provide clarity in relation to certain issues. This information is still outstanding.[3] A follow up inspection to the site will be conducted during the course of 2010 in order to check compliance, specifically in relation to the waste site, air pollution aspects and to ensure that actions have been taken in relation to the issues highlighted as potential contraventions of section 28 of NEMA. Following this inspection a decision will be made as to whether or not enforcement action is necessary.*
2011[4]	Representations had been received on 31 August 2009 and a follow-up inspection had been carried out on 8 March 2011. The following findings were made: *Mondi was found to be in compliance with its amended APPA permit. Prohibited waste is no longer being disposed of at the Mondi Alton landfill site. Despite the facility's application for an amendment to waste management license, Mondi remains in non-compliance with the License. Iso-kinetic sampling is done annually by an external party.*	-
2012[5]	-	The following was reported in the 2012 report: *Enforcement strategy in the process of being finalised.*
2013[6]	-	In the 2013 report it was reported that: *Enforcement strategy in the process of being finalised.*
2014	-	-

1. National Environmental Compliance and Enforcement Reports, 2008/2009, at p29.
2. National Environmental Compliance and Enforcement Reports, 2009/2010, at p26.
3. Mondi's response to *Full Disclosure* addressed this statement as follows: "Mondi received the request for additional information by facsimile on 2nd March 2010 in a letter dated 18 February 2010. Mondi responded on 14th April 2010 in a letter sent via registered mail. Mondi addressed the items raised by the EMIs in its response. It should be noted that the letter from the EMIs did not request a response within a given time frame. Following the publication of the annual NECER report n 2010 stating that Mondi's response was outstanding, Mondi wrote to the Deputy-Director General: Environmental Quality and Protection, Department of Environmental Affairs (Ms Joanne Yawitch at the time) querying the statement in the report, that Mondi's response was outstanding, when the response had been sent in April 2010. This letter was sent via courier and e-mail on 8 August 2010 (along with a copy of the previous response) and was copied to Ms Frances Craigie. Mondi received a response on 20 December 2010 from the Acting Deputy-Director General: Environmental Quality and Protection, Department of Environmental Affairs (Ms Nolwazi Cobbinah at the time). This letter indicated that Mondi's response was not included in the reporting period for the annual NECER report since the reporting period ended 31 March 2010."
4. National Environmental Compliance and Enforcement Reports, 2010/2011, at p52 – 53.
5. National Environmental Compliance and Enforcement Reports, 2011/2012, at p48.
6. National Environmental Compliance and Enforcement Reports, 2012/2013, at p62.

Mondi Group's disclosure of environmental non-compliances in annual reports

Mondi classifies incidents as either Level 2 (moderate impact, medium term effect) or Level 3 (significant impact, extensive or long-term effect).[1] Level 1 incidents were not reported at Group level.[2] In 2012, Mondi also classified incidents as serious, significant or critical.[3] In 2013 Mondi reported that it had revised its methodology on reporting complaints in order to categorise and report complaints and incidents separately.[4]

2008 company reports

In Mondi's 2008 Sustainability Report, it was stated that "a total of 232 community complaints were reported in 2008, compared to 397 in 2007, all of which related to air emissions and noise levels. Most of these complaints were reported by the Richards Bay mill for bad odour caused by Total Reduced Sulphur (TRS) emissions which are set to be reduced further over the next year as a result of current investments."[5] It was also reported that Mondi had received fines to the total value of 12,780 Euro in the 2008 reporting period, which related to air and water emission limits that were exceeded in terms of the applicable permit requirements. The company reported 33 Level 2 incidents, again relating to water and air emissions which exceeded permissible limits.[6]

2009 company reports

In the 2009 Annual Report, it was stated that "all Mondi operations comply with local emissions regulations"[7] and also "we operate in a highly regulated environment…and have acted in compliance in all the regions in which we operate".[8] The company reported 23 Level 2 incidents across the group, and these "all related to water and air emissions which exceeded permissible limits over an extended period of time during applicable reporting periods".[9]

2010 company reports

In the 2010 Sustainable Development Review, Mondi commented on the complaint made by the Centre for Environmental Rights to the JSE Limited in December 2010 in respect of the company's inclusion in the SRI Index.[10] The complaint related to a statement in the 2009/2010 National Environmental Compliance and Enforcement Report that Mondi had been requested to provide clarity in relation to certain compliance issues, but that "this information is still outstanding". It was stated in the 2010 Sustainable Development Review that the request to Mondi for more information came at the end of the Department's reporting period and that Mondi's response, which had been provided in March 2010, was therefore not reflected in the National Environmental Compliance and Enforcement Report.

Later in this report it was also stated that, "as a minimum standard, we ensure that all our operations comply with the environmental laws and regulations of the countries in which we operate".[11] The company reported 22 Level 2 incidents throughout the Group "largely a result of longer-term exceedances of permits; release of dust, malodorous gases and oil; and repeated complaints about odour from communities".[12] Some of these incidents occurred at Richards Bay. In 2010 there were 137 complaints received, mainly relating to odour.[13]

2011 company reports

In the 2011 Sustainable Development Review it was stated that, "Mondi did not receive any significant fines or non-monetary sanctions for non-compliance with laws and regulations".[14] However, the company reported 9 Level 2 incidents across the group during the year[15] and there were 209 complaints recorded, mainly relating to odour.[16]

In the 2011 Annual Report, it was stated that "in South Africa, Mondi acts in compliance with the South African National Environmental Management: Air Quality Act"[17] and that "as a minimum standard, we ensure that all our operations comply with the environmental laws and regulations of the countries in which we operate. No significant fines or non-monetary sanctions were imposed on Mondi as a result of non-compliance with environmental laws or regulations during 2011."[18]

2012 company reports

In 2012 the company reported 16 serious environmental incidents and 1 significant environmental incident across the group. The significant incident occurred at the Richards Bay mill, where there was a loss of heavy fuel oil into the Indian Ocean through the Waste Water Treatment Plant.[19] In 2012, 169 complaints were received, 138 of which related to odour.[20]

2013 company reports

In the 2013 Annual Report, the following statement was provided, "we comply with or exceed local regulatory standards wherever we operate".[21] The company reported five Level 2 incidents in 2013, throughout all of Mondi's operations.[22]

2014 company reports

In the 2014 Sustainable Development Report, an "oil leakage incident" at the Richards Bay mill was referenced, but no further details were given.[23] It was also reported that two Level 2 incidents occurred across the group that year, although neither of these were in South Africa[24] and that "no material fines or non-monetary sanctions for non-compliance with laws and regulations were received during 2014".[25] In 2014, the Richards Bay mill received an increased number of odour complaints.[26]

No further statements were made in relation to the National Environmental Compliance and Enforcement Reports.

1. Mondi Group Sustainable Development Report 2011, at p44, available at http://www.mondigroup.com/PortalData/1/Resources/sustainability_2012/Mondi-sustainable-development-review-2011.pdf
2. Mondi Group Sustainable Development Report 2012, available at http://sd-report.mondigroup.com/2012/downloads/MONDI-SD12-environment-09-incident-reporting.pdf
3. Mondi Group Sustainable Development Report 2012, available at http://sd-report.mondigroup.com/2012/downloads/MONDI-SD12-environment-09-incident-reporting.pdf
4. Mondi Group Sustainable Development Report 2013, at p20, available at http://sd-report.mondigroup.com/2013/download/MONDI-sd-report.pdf
5. Mondi's 2008 Sustainability Summary Report, at p16, available at: http://www.mondigroup.com/PortalData/1/Resources/sustainability/reports/SD_Summary_ReportLoRes.pdf
6. Mondi's 2008 Sustainability Summary Report, at p16, available at: http://www.mondigroup.com/PortalData/1/Resources/sustainability/reports/SD_Summary_ReportLoRes.pdf
7. Mondi Group Annual Report 2009, p37, available at: http://www.mondigroup.com/microsite/AR2009/files/mondi_AR09.pdf
8. Mondi Group Annual Report, p40, available at: http://www.mondigroup.com/microsite/AR2009/files/mondi_AR09.pdf
9. Mondi Group Sustainability Summary Report 2009, at p10, available at: http://www.mondigroup.com/PortalData/1/Resources/sustainability/reports/Mondi_SDR09.pdf
10. Mondi Group Sustainable Development Review 2010, at p11, available at: http://www.mondigroup.com/PortalData/1/Resources/sustainability_2010/documents/Mondi_SD_Review_FINAL.pdf
11. Mondi Group Sustainable Development Review 2010, at p33, available at: http://www.mondigroup.com/PortalData/1/Resources/sustainability_2010/documents/Mondi_SD_Review_FINAL.pdf
12. Mondi Group Sustainable Development Review 2010, at p33, available at: http://www.mondigroup.com/PortalData/1/Resources/sustainability_2010/documents/Mondi_SD_Review_FINAL.pdf
13. Mondi Group Sustainable Development Report 2010, at p34, available at http://www.mondigroup.com/PortalData/1/Resources/sustainability_2010/documents/Mondi_SD_Review_FINAL.pdf
14. Mondi Group Sustainable Development Review 2011, at p9, available at: http://www.mondigroup.com/PortalData/1/Resources/sustainability_2012/Mondi-sustainable-development-review-2011.pdf

15. Mondi Group Sustainable Development Report 2012, available at: http://sd-report.mondigroup.com/2012/downloads/MONDI-SD12-environment-09-incident-reporting.pdf
16. Mondi Group Sustainable Development Report 2011, at p36, available at http://www.mondigroup.com/PortalData/1/Resources/sustainability_2012/Mondi-sustainable-development-review-2011.pdf
17. Mondi Group Integrated Report and Financial Statements 2011, at p37, available at: http://www.mondigroup.com/PortalData/1/Resources/investor_relations/reports_presentations/Mondi_AR_Final_2Mar12.pdf
18. Mondi Group Integrated Report and Financial Statements 2011, at p41, available at: http://www.mondigroup.com/PortalData/1/Resources/investor_relations/reports_presentations/Mondi_AR_Final_2Mar12.pdf
19. Mondi Group Sustainable Development Report 2012, available at: http://sd-report.mondigroup.com/2012/downloads/MONDI-SD12-environment-09-incident-reporting.pdf
20. Mondi Group Sustainable Development Report 2012, available at http://sd-report.mondigroup.com/2012/downloads/MONDI-SD12-environment-07-air-quality.pdf
21. Mondi Group Integrated Report and Financial Statements 2013, at p11, available at: http://www.mondigroup.com/PortalData/1/Resources/investor_relations/reports_presentations/2014/Mondi_Group_Integrated_Report_2013_low_res_FINAL.pdf
22. http://sd-report.mondigroup.com/2013/download/MONDI-sd-report.pdf at p13.
23. Mondi Group Sustainable Development Report 2014, at p41, available at: http://reports2014.mondigroup.com/downloads/sustainable-development-report-2014.pdf
24. Mondi Group Sustainable Development Report 2014, at p43, available at: http://reports2014.mondigroup.com/downloads/sustainable-development-report-2014.pdf
25. Mondi Group Sustainable Development Report 2014, at p24, available at: http://reports2014.mondigroup.com/downloads/sustainable-development-report-2014.pdf
26. Mondi Group Sustainable Development Report 2014, at p43 available at http://reports2014.mondigroup.com/downloads/sustainable-development-report-2014.pdf

Environmental non-compliances reported by affected communities, the media, & NGOs

Complaints about Mondi's South African operations have often been reported in the media. There are many reports of local opposition (particularly from environmental justice organisation the South Durban Community Environmental Alliance) to Mondi's proposed multi-fuel boiler in the early 2000s,[1] which was initially authorised by the authorities in the absence of proper environmental assessment. During hearings on the Air Quality Bill in 2004, it was stated by a Mr Skosana that Mondi "had been given a licence before the Environmental Impact Assessment (EIA) was completed"[2] (it is not clear however whether this refers to the multi-fuel boiler). A Groundwork report from 2003 in relation to the boiler noted that Mondi's operations had already led to WHO and South African environmental air pollution guidelines being exceeded in the South Durban area.[3] The High Court later declared that the exemptions given to Mondi for certain EIA regulations in relation to the boiler were a nullity.[4]

In public hearings on the National Climate Change Response Policy Green Paper 2010, Mondi was mentioned alongside Sappi and other companies. A private individual criticised the paper industry and suggested specific rules for companies such as Mondi which pollute as part of their operations. This individual also commented that Mondi's use of water should be monitored as pollution from operations often affected people downstream.[5]

More recently, it was reported that although sulphur pollution from the Mondi factory in Durban has reduced over the past decade, the mill is still one of the largest industrial sources of CO_2 emissions in Durban. The news report stated that based on electricity consumption and other sources Mondi produced more CO_2 than any other industry in Durban. Furthermore, although the company reported that it had collected samples of dioxins, furans and mercury in 2010, and that these were below recommended European Union limits, it was also reported that such emissions are only monitored once a year, a practice questioned by SDCEA and the eThekwini Health Department.[6]

---

1. http://www.iol.co.za/news/south-africa/mondi-told-to-clean-up-its-act-1.13615#.U3CUJPmSzE4 (last accessed on 7 August 2015).
2. http://pmg.org.za/minutes/20040203-national-environmental-management-air-quality-bill-hearings (last accessed on 7 August 2015).
3. http://www.groundwork.org.za/specialreports/AirMonitoringReport2003.pdf
4. http://www.h-net.org/~esati/sdcea/pr9july03.html (last accessed on 7 August 2015).
5. https://pmg.org.za/committee-meeting/12724/ (last accessed on 7 August 2015).
6. http://www.iol.co.za/mercury/mondi-pollution-down-but-more-monitoring-urged-1.1146974#.U3CRvPmSzE4 (last accessed on 7 August 2015).

Mondi Group's response to the Full Disclosure findings

Each company assessed was given a month to respond to the *Full Disclosure* findings before we published our report.

See Mondi Group's response at: http://cer.org.za/full-disclosure/company/mondi-group?correspondence.

Major shareholders

In its 2014 report,[1] Mondi listed the following as shareholders holding directly 5% or more of the issued share capital of the company:

- GEPF Equity
- Coronation Fund Managers
- State Street Bank and Trust

1. Mondi Integrated Report and Financial Statements, 2014, at p114, available at: http://reports2014.mondigroup.com/downloads/integrated-report-and-financial-statements-2014.pdf

Membership of voluntary initiatives, accreditations and awards

JSE SRI	Mondi appeared on the SRI index every year from 2007 to 2014.
JSE SRI Best Performers	Mondi featured in the Best Performers category in 2009 and 2011.
Carbon Disclosure Project	The Mondi Group submitted responses to the CDP on a number of occasions. Mondi Ltd submitted a response to the Investor CDP in 2009.
ISO 14001:2004	Mondi states that its South African operations have ISO 14001:2004 certification.
World Business Council for Sustainable Development	Mondi is a member of this group.
Cement Sustainability Initiative	Not applicable
Green Building Council of South Africa	Not applicable
Global 100	Mondi does not appear in the Global 100.
United Nations Global Compact	Mondi is a participant in the UNGC.
International Council on Mining and Metals	Not applicable
Extractive Industries Transparency Initiative	Not applicable
Cyanide Code	Not applicable

NAMPAK LIMITED

Summary of findings and company response

Nampak has published the following Environmental Policy:

> *Nampak is committed to operating in an environmentally responsible way. In terms of our environmental policy, any impact on the environment is minimised by:*
>
> - *Considering the environment in all business decisions and actions*
> - *Promoting environmental awareness internally and externally*
> - *Continually improving environmental performance*
> - *Setting internal controls that recognise legislated standards and practices*
> - *Providing the necessary financial and human resources.*[1]

No publicly available information suggests that Nampak has breached environmental laws during the period covered by *Full Disclosure*. Nampak's company reports do not disclose any environmental non-compliances.

---

1. http://www.nampak.com/About-Us-Environment.aspx (last accessed on 7 August 2015).

Company overview

Nampak is a packaging manufacturer headquartered in South Africa and operating throughout Africa and in the United Kingdom. In South Africa Nampak operates facilities in Cape Town, Durban, Vanderbijlpark, Germiston, Port Elizabeth, Pinetown, Polokwane, Bloemfontein, East London, Olifantsfontein, Springs and Rosslyn.[1] In the company's 2014 Annual Report, it was reported that 7,205 people were employed by Nampak in South Africa.[2]

---

1. Nampak 2014 Integrated Report, at p42 – 51, available at: http://financialresults.co.za/2014/nampak-integrated-report-2014/downloads/nampak-annual-report-2014.pdf
2. Nampak 2014 Integrated Report, at p2, available at: http://financialresults.co.za/2014/nampak-integrated-report-2014/downloads/nampak-annual-report-2014.pdf

Non-compliance with environmental laws as reported in the National Environmental Compliance and Enforcement Reports

Nampak does does not feature in the National Environmental Compliance and Enforcement Reports. In Nampak's response to *Full Disclosure*, Lynne Kidd, Group Manager: Compensation, Benefits and Sustainability, stated that "[w]e are not aware of any compliance enforcement action by the authorities during the reporting period."

Nampak Limited's disclosure of environmental non-compliances in annual reports

The following statements frequently appear in the company's annual reports:-

> *Nampak is pleased to report that there were no significant spills or environmental incidents during the year under review.*[1]

and,

> *During the year under review there were no prosecutions of Nampak or its personnel for material violations of any laws or regulations, nor were any material penalties or fines imposed on the company or its directors or officers for contraventions of any laws or regulations.*[2]

---

1. Nampak Integrated Annual Report 2013, at p54, available at: http://financialresults.co.za/2013/nampak_ar2013/downloads/Nampak_Integrated_Annual_Report_2013.pdf
2. Nampak Integrated Annual Report 2013, at p67, available at: http://financialresults.co.za/2013/nampak_ar2013/downloads/Nampak_Integrated_Annual_Report_2013.pdf

Environmental non-compliances reported by affected communities, the media, & NGOs

Media focus on Nampak and the environment tends to centre on recycling initiatives undertaken by the company, rather than any environmental non-compliances.

Nampak Limited's response to the Full Disclosure findings

Each company assessed was given a month to respond to the *Full Disclosure* findings before we published our report.

See Nampak Limited's response at: http://cer.org.za/full-disclosure/company/nampak-limited?correspondence.

Major shareholders

In Nampak's 2014 annual report,[1] the following are listed as beneficial shareholders holding 5% or more of issued capital:

- Government Employees Pension Fund
- Nampak Products Limited

And the following are listed as fund managers holding 5% or more of issued capital:

- Allan Gray Investment Council
- Public Investment Corporation
- Nampak Products Limited
- Lazard Asset Management LLC
- Investec Asset Management

1. Nampak 2014 Financial Statements, at p121, available at:http://financialresults.co.za/2014/nampak-integrated-report-2014/downloads/Nampak_financial_report_2014.pdf

Membership of voluntary initiatives, accreditations and awards

JSE SRI	Nampak appeared on the SRI index every year from 2004 to 2014, with the exception of 2007.
JSE SRI Best Performers	Nampak featured in the Best Performers category in 2009.
Carbon Disclosure Project	Nampak has responded to the CDP's Climate Change and Supply Chain Programs on a number of occasions, but never to the CDP's Water Program.
ISO 14001:2004	Nampak states that 75% of its South African operations are accredited.[1]
World Business Council for Sustainable Development	Nampak is not a member of the WBCSD.
Cement Sustainability Initiative	Not applicable
Green Building Council of South Africa	Not applicable
Global 100	Nampak does not appear in the Global 100.
United Nations Global Compact	Nampak is not a participant in the UNGC.
International Council on Mining and Metals	Not applicable
Extractive Industries Transparency Initiative	Not applicable
Cyanide Code	Not applicable

1. Nampak Integrated Annual Report 2014, at p75, available at: http://financialresults.co.za/2014/nampak-integrated-report-2014/downloads/nampak-annual-report-2014.pdf

SAPPI LIMITED

Summary of findings and company response

Sappi's Environmental Policy was described as follows by the company:

> *While making products that support society's needs, we strive to achieve the highest effective standards of environmental performance. As a responsible manufacturer, we balance our needs with our impact on the earth.*[1]

It is apparent from the National Environmental Compliance and Enforcement Reports that inspections by Environmental Management Inspectors at Sappi's Ngodwana Mill and Enstra Mill,[2] in August 2008 and October 2009 respectively, discovered multiple serious non-compliances with environmental laws and permits. At follow-up inspections in subsequent years Sappi was found, in relation to the Ngodwana Mill in particular, to be in continuing violation of the same laws and permits, and in some instances to have committed further violations. The NECERs also show that Sappi had made undertakings to the Department of Environmental Affairs to rectify these non-compliances, but had failed to adhere to these undertakings.

Sappi also did not accurately disclose the level of its non-compliance with environmental laws and permits in its shareholder reporting in the relevant years.

For example, Sappi's Ngodwana Mill was inspected by EMIs in August 2008, and the following findings were made:

> - *Non-compliance with conditions of the APPA permits.*
> - *Non-compliance with conditions of the ECA Section 20 permit.*
> - *Operation of three waste disposal sites without authorisation.*
> - *Upgrade of ESP and fly-ash collection system and the PF Boiler without the required EIA authorisation.*
> - *Lack of proper bund walls and measures to contain spillages of hazardous chemicals.*
> - *Non-reporting of emergency incidents to authorities.*

The 2010 NECER records that undertakings were made by Sappi to:

> *include the installation of dust suppression systems, the submission of various applications, changes to the monitoring programme and construction of bunded areas. Numerous other commitments were also made to rectify the non-compliances identified. The Department is still in the process of making a decision on whether or not any enforcement action … is required.*

A follow-up inspection was carried out at this facility in March 2009. Findings of that inspection included:

> - *Non-compliance with conditions of the APPA permits.*
> - *Non-compliance with conditions of the ECA Section 20 permit.*
> - *Operation of 2 waste sites without authorisation.*
> - *Lack of proper bund walls and measures to contain spillages of hazardous chemicals.*
> - *After the initial inspection the facility has constructed a chemical storage facility without the required environmental authorisation.*
> - *Potential groundwater and surface water pollution from poor storm water management around the coal storage area.*
> - *Conducting environmentally harmful activities.*
> - *Poor management of waste.*

Sappi's 2009 Sustainable Development Report stated that the company would report on the findings made by the EMIs in the inspections referred to above in 2010. However, Sappi's 2010 Sustainable Development Report only stated that queries had been responded to and discussions were ongoing with the Department of Environmental Affairs.

In Sappi's 2010 Southern Africa Annual Report, Sappi stated that Ngodwana Mill had been inspected by EMIs, and that "no major findings were raised". In Sappi's 2011 Southern Africa Annual Report, the company stated that "both our Ngodwana and Enstra mills have undergone comprehensive initial inspections with subsequent follow up audits done by the EMIs during the course of 2008 to 2010 with no major findings raised to date".

In his response to *Full Disclosure,* Alex Thiel (CEO, Sappi Southern Africa), stated:

> *We do not agree with the opinions and interpretations of the CER as regards non-compliance. As stated previously, we have addressed gaps identified and continue to engage pro-actively with the authorities. We also report on our actions and engagements in the appropriate manner and to the appropriate forums, whether through our annual integrated report and/or group and/or regional sustainability reports as well as to the environmental liason forums which exist at each mill.*
>
> *We believe the statements in our reports accurately reflect the situation for each of those years.*

Mr Thiel provided information about the current status of non-compliances identified by the EMIs at the Ngodwana Mill inspections. Mr Thiel also said:

> *As regards the Department of Environmental Affairs National Environmental Compliance and Enforcement Reports (NECERs), we welcome the inspections as an opportunity to work closer with the regulatory authority and also to ensure that they better understand our business. In our opinion, the NECER reports, due to their nature do not reflect the current situation regarding our company.*

Full Disclosure does not purport to ascertain the current status of environmental compliance by the companies in the assessment. Instead, it aims to establish, over the period of the assessment, whether the companies assessed have, at any time, been in non-compliance with environmental laws and, if so, the extent to which such non-compliance has been accurately reported to shareholders.

Mr Thiel stated:

> *We do not wish to be in conflict with any regulations. We believe the best way to achieve this is through good communication and by building an understanding of issues with the relevant authorities. We are committed to pursue sustainability and to continue to improve over time.*

This approach, that compliance with legal obligations is a matter of negotiation between the company and the regulator, is common amongst the companies surveyed, and reflects a culture of engagement between authorities and violators, and an inclination always to give more time to comply, that has not promoted compliance with environmental laws over time.

This is also manifested in the approach repeatedly articulated by companies surveyed that compliance with environmental laws needs only be "worked towards". Improved environmental *performanc*e, such as achieving a reduction of water use or greater energy efficiency can be a process, monitored and managed by each company individually. Environmental *compliance*, however, is a state in which all applicable environmental legal requirements are in fact fulfilled – not a state of "working towards" being fulfilled within an undefined future period.

Whilst improving environmental performance is a laudable aspiration for the future, complying with the law is, by definition, obligatory, not just in the future, but at all times. An investor may be forgiven for assuming, in the absence of information provided to the contrary, that such compliance may be taken as read, and that improving environmental performance happens over and above baseline legal compliance. The failure to distinguish between the two, coupled with the attitude espoused by many of the assessed companies that environmental compliance is a matter of "negotiation" between a company and the regulator, is a fundamental problem with corporate environmental management in South Africa.

---

1. Sappi Southern Africa Environmental Policy, available at: http://www.sappi.com/group/Sustainability/Policies/Sappi-Southern-Africa-Environmental-Policy.pdf
2. The Enstra Mill was sold by Sappi in July 2015, see: http://www.bdlive.co.za/business/industrials/2015/07/15/sappi-sells-recycled-packaging-mill?cx_tag=bcuf (last accessed on 7 August 2015).

Company overview

Sappi produces paper and dissolving wood pulp.[1] It was formed in South Africa in 1936 and now operates worldwide. In South Africa, mills are run in Ngodwana (Ngodwana mill), Stanger (Stanger mill), Mandeni (Tugela mill) and Umkomaas (Saiccor mill). Sappi also operates a saw mill in Barberton (Lomati sawmill) and maintains forests throughout the country. Sappi's mills in Cape Town (Cape Kraft) and Springs (Enstra) were sold in July 2015.[2]

As of 2014, 5,486 people were employed by Sappi in South Africa.[3]

---

1. This is a substance which can be used in products such as clothing and textiles.
2. http://www.bdlive.co.za/business/industrials/2015/07/15/sappi-sells-recycled-packaging-mill?cx_tag=bcuf (last accessed on 7 August 2015).
3. 2014 Sappi Southern Africa Sustainability Report, at p6, available at: http://www.sappi.com/group/Sustainability/2014-Sappi-Southern-Africa-Sustainability-Report.pdf

Non-compliance with environmental laws as reported in the National Environmental Compliance and Enforcement Reports

Sappi operates mills at the following locations:

- Ngodwana mill, Ngodwana
- Stanger mill, Stanger
- Tugela mill, Mandeni
- Saiccor mill, Umkomaas
- Lomati sawmill, Barberton

Non-compliance findings at the Enstra mill, sold by Sappi in July 2015, are also included in this assessment.

Department of Environmental Affairs' compliance monitoring and enforcement action

Enstra		
NECER	**Significant Inspection Findings**	**Further Developments and Status of Enforcement Process**
2009	-	-
2010 [1]	The facility was inspected during October 2009 and the main findings were as follows: *Non-compliances with conditions of the APPA permits. Emissions from the Copeland Reactor and the boilers exceeding the required limits over a number of years. Non-compliances to conditions of the EIA authorisations; ECA Section 20 permit and the Water Use License.*	The following information was also provided in the 2010 report: *Representations were received from Sappi in response to the Inspection Report issued by GDARD. An enforcement strategy has recently been developed, including the need for a criminal investigation in relation to the air emission contraventions. These enforcement actions will be initiated in the next reporting period.*
2011 [2]	It was reported in the 2011 report that representations had been received in February 2010.	In 2011 the following was also reported: *Following the compliance inspection, an enforcement strategy was developed and both administrative and criminal enforcement action were recommended. The criminal investigation that was initiated is currently suspended in order to allow for submissions to be made by the sector as a whole in relation to the performance of Copeland Reactors.*
2012	-	-
2013	-	-
2014	-	-

Ngodwana		
NECER	**Significant Inspection Findings**	**Further Developments and Status of Enforcement Process**
2009[3]	It was reported in the 2009 report that an inspection had been conducted at this facility.	-
2010[4]	It was reported that the following findings were made at an inspection in August 2008: *Non-compliance with conditions of the APPA permits. Non-compliance with conditions of the ECA Section 20 permit. Operation of three waste disposal sites without authorisation. Upgrade of ESP and fly-ash collection system and the PF Boiler without the required EIA authorisation. Lack of proper bund walls and measures to contain spillages of hazardous chemicals. Non-reporting of emergency incidents to authorities.*	The following was also reported in 2010 report: *The undertakings contained in the representations made by this facility include the installation of dust suppression systems, the submission of various applications, changes to the monitoring programme and construction of bunded areas. Numerous other commitments were also made to rectify the non-compliances identified. The Department is still in the process of making a decision on whether or not any enforcement action against [sic] is required.*
2011[5]	Representations had been received in November 2009 and a follow-up inspection was carried out in March 2011. The following findings were made: *Non-compliance with conditions of the APPA permits. Non-compliance with conditions of the ECA Section 20 permit. Operation of 2 waste sites without authorisation. Lack of proper bund walls and measures to contain spillages of hazardous chemicals. After the initial inspection the facility has constructed a chemical storage facility without the required environmental authorisation. Potential groundwater and surface water pollution from poor storm water management around the coal storage area. Conducting environmentally harmful activities. Poor management of waste.*	The following was also reported: *Follow-up inspection report still to be vetted and enforcement strategy then to be developed.*

2012[6]	-	In 2012, the status of the enforcement process was said to be as follows: *Enforcement strategy is being finalised.*
2013	-	-
2014[7]	-	In the 2014 report, it was stated that: *A follow-up inspection was conducted in March 2013 in order to verify/confirm the information received, as well as the commitments made during the 2011 compliance inspection. During this inspection EMIs gathered and requested a substantial amount of additional information from the facility. Said information has been provided and is currently being reviewed by DEA, following which, a decision will be made on the next step in the enforcement process.*

1. National Environmental Compliance and Enforcement Report 2009/2010, at p24-25.
2. National Environmental Compliance and Enforcement Report 2010/2011, at p51.
3. National Environmental Compliance and Enforcement Reports, 2008/2009, at p29.
4. National Environmental Compliance and Enforcement Reports, 2009/2010, at p26.
5. National Environmental Compliance and Enforcement Report, 2010/2011, at p52.
6. National Environmental Compliance and Enforcement Report, 2010/2011, at p47.
7. National Environmental Compliance and Enforcement Report, 2013/2014, at p49.

Sappi Limited's disclosure of environmental non-compliances in annual reports

2009 and 2010 company reports

In Sappi's 2009 Sustainable Development report it was stated that in 2010 the company would report on the findings made by the environmental inspection teams in the audits,[1] but in the 2010 Sustainable Development report, it was only recorded that queries had been responded to and discussions were ongoing with the Department of Environmental Affairs.[2]

In the 2010 Sappi Southern Africa Annual Report, it was stated that the Ngodwana mill had been inspected by environmental management inspectors and that "no major findings were raised".[3] This does not correlate with the information presented in the National Environmental Compliance and Enforcement Reports. In relation to the Enstra mill, it was stated that following the initial and follow up visits there was correspondence with the DEA regarding "some aspects of Enstra's compliance with standards for atmospheric emissions".[4] It was also stated in that report that the Tugela mill had been inspected in 2010 and that a report was received later that year. A response was to be submitted.

2011 company reports

In the 2011 Sappi Southern Africa Annual Report it was stated that, "both our Ngodwana and Enstra mills have undergone comprehensive initial inspections with subsequent follow up audits done by the EMIs during the course of 2008 to 2010 with no major findings raised to date".[5] It was also stated in this report that the Tugela mill had been inspected in 2010 and that a written report had been received. Monthly progress reports were being submitted to the "lead team member's office".[6]

In the 2011 Sappi Integrated Report, it was stated that, "our Ngodwana, Enstra and Tugela Mills have undergone comprehensive initial inspections with subsequent follow up audits done by the EMIs during the course of 2008 to 2011. We are continuing to make progress on addressing the issues that were identified by the inspectors and, as appropriate, have been voluntarily submitting progress reports to the EMI lead team member's office."[7]

2012 company reports

–

2013 company reports

–

2014 company reports

In Sappi's 2014 Integrated Report, the Chairman of the Social, Ethics, Transformation and Sustainability Committee made the following statement, "(t)here were no substantive areas of non-compliance with legislation and regulation [sic], nor non-adherence with codes of best practice applicable to the areas within the committee's mandate that were brought to the committee's attention. The committee has no reason to believe that any such non-compliance or non-adherence has occurred."[8]

---

1. Sappi Sustainability Report 2009, at p60, available at:http://sappi.investoreports.com/sappi_sdr_2009/downloads/Sappi_Sustainability_2009.pdf
2. Sappi Sustainability Report 2010, at p26, available at: http://sappi.investoreports.com/sappi_sdr_2010/downloads/sappi_sdr_2010.pdf
3. Sappi Southern Africa Annual Report 2010, at p88, available at: http://www.sappi.com/Investors/bondreportingrequirements/Documents/Annual%20Report%20Sappi%20Southern%20Africa%202010%20-%20pdf.pdf
4. Sappi Southern Africa Annual Report 2010, at p88, available at: http://www.sappi.com/Investors/bondreportingrequirements/Documents/Annual%20Report%20Sappi%20Southern%20Africa%202010%20-%20pdf.pdf
5. Sappi Southern Africa Annual Report 2011, at p105, available at: http://www.sappi.com/Investors/bondreportingrequirements/Documents/Annual%20Report%20Sappi%20Southern%20Africa%202011%20PDF.pdf
6. Sappi Southern Africa Annual Report 2011, at p105, available at: http://www.sappi.com/Investors/bondreportingrequirements/Documents/Annual%20Report%20Sappi%20Southern%20Africa%202011%20PDF.pdf
7. Sappi Integrated Report 2011, at p185, available at: http://www.sappi.com/Investors/FinancialInformation/Documents/2011%20Integrated%20Report.pdf
8. Sappi's 2014 Integrated Report, at p68, available at: http://www.sappi.com/Investors/FinancialInformation/2014%20Annual%20report/2014-Sappi-Integrated-Report.pdf

Environmental non-compliances reported by affected communities, the media, & NGOs

Media

There have been a number of reports of Sappi's environmental impacts in the media. These include reports of poisoning due to the release of toxic gases[1] and pollution of water resulting in bans on fishing, swimming and drinking the water.[2] Recently, allegations were made that Sappi had dumped tons of potentially toxic ash in locations which resulted in the ash being washed into rivers.[3] This was denied by Sappi.

Sappi was also implicated in a massive effluent spill into the Mvoti River in November 2014 which "according to Sappi staff on the scene" could have come from the Stanger Mill.[4] The spill turned the water "soapy, black and stinking". Sappi however issued a statement denying any 'toxic "spill of effluent"' into that River.[5]

Sappi's CEO, Alex Thiel, in his response to *Full disclosure,* commented extensively on these media reports. His full response can be viewed in the *"Sappi Limited's response to Full Disclosure"* section.

Parliamentary committee meetings

Sappi was mentioned in public hearings on the National Climate Change Response Policy Green Paper 2010. A private individual criticised the paper and suggested specific rules for companies such as Sappi which pollute as part of their operations. This individual also commented that Sappi's use of water should be monitored as pollution from operations often affected people downstream.[6]

---

1. http://ejatlas.org/conflict/sappi-saiccor-pulp-mill-pollution-south-africa (last accessed on 7 August 2015)
2. http://www.environment.co.za/environmental-issues-news/sappi-making-a-big-stink.html, http://www.risiinfo.com/pulpandpaper/news/Sappi-pollution-issues-South-Africa.html?pageid=pulpandpaper and http://www.iol.co.za/news/south-africa/chemical-poisons-found-in-kzn-river-1.233618#.U2jt2vmSzE4 (last accessed on 7 August 2015).
3. http://www.iol.co.za/scitech/science/environment/activists-question-dumping-toxins-1.1749818#.VWLw00-qqko (last accessed on 7 August 2015).
4. http://www.iol.co.za/scitech/science/environment/toxic-spill-fears-as-river-turns-black-1.1786373#.VWLw1k-qqko (last accessed on 7 August 2015).
5. http://www.sappi.com/regions/sa/service/News/Pages/Clarification-of-reports-regarding-discolouration-of-the-uMvoti-River-.aspx (last accessed on 7 August 2015).
6. https://pmg.org.za/committee-meeting/12724/ (last accessed on 7 August 2015).

Sappi Limited's response to the Full Disclosure findings

Each company assessed was given a month to respond to the *Full Disclosure* findings before we published our report.

See Sappi Limited's response at: http://cer.org.za/full-disclosure/company/sappi?correspondence.

Major shareholders

In its 2014 financial statements,[1] Sappi reported that the Public Investment Corporation is a beneficial holder of 14.5% of Sappi's shares and that the following fund managers manage 5% or more, each, of Sappi's share capital:

- Allan Gray Limited
- Coronation Fund Managers
- Investec Asset Management
- Public Investment Corporation
- Prudential Portolio Advisors

1.Sappi Group Annual Financial Statements, 2014, at p80, available at: http://www.sappi.com/Investors/FinancialInformation/2014%20Annual%20report/2014-Sappi-Group-Annual-Financial-Statements.pdf

Membership of voluntary initiatives, accreditations and awards

JSE SRI	Sappi appeared on the SRI index every year from 2004 to 2014.
JSE SRI Best Performers	Sappi featured in the Best Performers category in 2009, 2010, 2011 and 2012.
Carbon Disclosure Project	Sappi has responded to the CDP's Climate Change Program on a number of occasions, but never to the CDP's Water Program. It has also featured in the South African Carbon Disclosure Project Leadership Index.
ISO 14001:2004	Sappi states that its operations have ISO 14001:2004 certification.
World Business Council for Sustainable Development	Sappi is a member of this group.
Cement Sustainability Initiative	Not applicable
Green Building Council of South Africa	Not applicable
Global 100	Sappi does not appear in the Global 100.
United Nations Global Compact	Sappi is a participant in the UNGC.
International Council on Mining and Metals	Not applicable
Extractive Industries Transparency Initiative	Not applicable
Cyanide Code	Not applicable

AGRI-PROCESSING

Sector Overview

The agri-processing sector processes raw products derived from the agriculture sector. According to the Standard Industrial Classification, this includes products such as food, beverages, paper and paper products, wood and wood products, textiles, clothing, furniture, tobacco, rubber products, footwear and leather.[1] In South Africa, the sector is reportedly worth R49-billion annually and provides employment to over 200,000 people.[2] However, this sector of industry also contributes to environmental degradation in various ways. The UN Environment Programme has outlined a number of the negative consequences of agri-processing, including the following:

> *During the second half of the twentieth century, 2 billion hectares of arable lands were degraded due to poor agricultural practice. 2 to 5 million hectares are added to this figure annually.*
>
> *Fresh water supplies are globally oversubscribed, with at least 70% of fresh water being consumed by agriculture.*
>
> *Nearly 21% of fossil fuel used by humans goes into the global food system.*
>
> *Agriculture contributes more than 30% of total global greenhouse gas emissions.*
>
> *Agricultural expansion is responsible for 80% of deforestation.*[3]

Primary Legislation

National Environmental Management Act
National Environmental Management: Air Quality Act
National Environmental Management: Waste Act
National Water Act
Environment Conservation Act

Pursuant to these pieces of legislation, companies are required to have licences in order to conduct various regulated activities. Minimum emission standards were published in Government Notice No. 248 in 2010.[4] Licences granted to companies under the National Environmental Management: Air Quality Act must at least incorporate these standards and deadlines were introduced for meeting those standards.

1. http://www.daff.gov.za/daffweb3/Branches/Economic-Development-Trade-Marketing/Agro-processing-support (last accessed on 7 August 2015).
2. http://www.southafrica.info/business/economy/agro-processing-110314.htm#.U4NPPfmSzE4 (last accessed on 7 August 2015).
3. http://www.unep.org/resourceefficiency/Home/Business/SectoralActivities/AgricultureFood/tabid/78943/Default.aspx (last accessed on 7 August 2015).
4. https://www.environment.gov.za/sites/default/files/gazetted_notices/nemaqa_listofactivities_g33064gon248.pdf

ILLOVO SUGAR LIMITED

Summary of findings and company response

The Illovo website describes the company's "environmental philosophy" as follows:

> *Our underlying environmental philosophy is to continually investigate ways to reduce the environmental impact of our operations. Against the background of our Strategic Intent principle to maximise the return on every stick of cane, we are particularly mindful of the possible impacts of our operations on the use of natural resources. We therefore strive to minimise our impacts through efficient use in a responsible and sustainable way and through committing ourselves to continuous improvement. We also strive to comply with all applicable in-country environmental regulations.*[1]

Illovo does not feature in the National Environmental Compliance and Enforcement Reports. In its response to *Full Disclosure* the company confirmed that the only facility connected to Illovo that has been inspected by Environmental Management Inspectors is the Gledhow Sugar Company Limited, in which Illovo has a 30% shareholding. The company advised that it has not yet received the report from this inspection. Illovo states in its response that its facilities are however regularly visited by "other environmental regulators".

While Illovo's company reports provide no information on environmental non-compliances other than statements to the effect that the company has not been issued with any enforcement notices, environmental prosecutions or environmental citations, and that no fines or penalties were imposed, there is no publicly available information to indicate the existence of significant environmental non-compliances that are not being reported by the company.

In Illovo's response to Full Disclosure, it is stated that "Illovo…applies standards such as NOSA and ISO14001".

ISO 14001 (the current version being ISO 14001: 2015) sets out the criteria for an Environmental Management System. An Environmental Management System refers to the management of a company's environmental programmes in a comprehensive, systematic, planned and documented manner. ISO 14001 does not stipulate any requirements for environmental performance, but rather maps out a framework that companies can follow to set up and maintain an effective Environmental Management System.

Retention of ISO 14001 certification is therefore not an indication that a company is in compliance with environmental laws and permits, nor is it a substitute for reporting environmental non-compliance.

Illovo engaged extensively with the CER in its response to *Full Disclosure,* and provided a more detailed response than that of some companies with records of significant environmental non-compliances.

---

1. http://www.illovosugar.co.za/Climate-Change/Environmental-Philosophy

Company overview

Illovo is the biggest sugar producer in Africa and produces raw and refined sugar from sugar cane supplied in part from its own agricultural operations. In South Africa it has three agricultural estates, four sugar factories, one refinery, three wholly-owned downstream plants, a 50% share in a distillery and a 30% investment in a separate sugar factory and refinery. Illovo has 2,224 permanent employees and 1,804 seasonal agricultural workers at peak in South Africa.[1]

---

1. Illovo Integrated Annual Report 2014, at p26, available at: http://www.abf.co.uk/documents/pdfs/illovo-integrated-annual-report.pdf

Non-compliance with environmental laws as reported in the National Environmental Compliance and Enforcement Reports

Illovo has not featured in the National Environmental Compliance and Enforcement Reports. In response to the CER's question to the company as to whether Illovo's facilities have ever been the subject of any compliance monitoring and/or enforcement action by the authorities, and if so, what the findings of such action were, the company stated as follows:

> *Save for the Gledhow sugar mill, owned by Gledhow Sugar Company Limited, in which we hold a 30% shareholding, none of Illovo's operations have been subject to inspections by Environmental Management Inspectors. The inspection of the Gledhow operation took place in June 2015 and the relevant report has not yet been received.*
>
> *However, in relation to your query regarding inspections by other environmental regulators, our sites are visited on a regular basis by the relevant authorities to ensure compliance with our current registrations and permits. Any discrepancies that may be noted during these visits are dealt with proactively.*

Illovo Sugar Limited's disclosure of environmental non-compliances in annual reports

The following statement is regularly made in Illovo's annual and sustainable development reports: "(d)uring the year under review there were no instances of major non-compliance, ?nes or prosecutions for non-compliance."[1] This statement constitutes all of the information that Illovo discloses about non-compliances with environmental laws and permits.

However, in the 2013 Annual Report the following information appears:-

> *During the year under review, a 5000 litre effluent spillage occurred at our ethanol distillery plant at Merebank in South Africa as a result of a cracked gasket in the pipeline taking effluent from the factory to the sewage works. Various preventative measures have been taken… At our Sezela factory, one breach of the environmental licence occurred due to the Chemical Oxygen Demand (COD) being above that stipulated in the permit. However, the average for the season is below the permitted limit. Temporary measures, in line with the Integrated Coastal Management Act, have been taken and the factory has undertaken a number of initiatives to minimize effluent discharge.*
>
> *No enforcement notices, environmental prosecutions or environmental citations were issued to any of the group's operations and no fines or penalties were imposed.*[2]

---

1. 2012 Integrated Annual Report, at p44, available at: http://www.illovosugar.co.za/Investors/Integrated-Annual-Reports/2012

2.2013 Integrated Annual Report, at p101, available at: http://www.illovosugar.co.za/Investors/Integrated-Annual-Reports/2013

Environmental non-compliances reported by affected communities, the media, & NGOs

In a recent news report, a resident of Umgababa, KwaZulu-Natal complained that black flakes are regularly blown onto his property from burning sugarcane fields in a nearby Illovo operation.[1]

1. http://southcoastsun.co.za/35679/nothing-sweet-about-sugar-cane-ash/ (last accessed on 7 August 2015).

Illovo Sugar Limited's response to the Full Disclosure findings

Each company assessed was given a month to respond to the *Full Disclosure* findings before we published our report.

See Illovo Sugar Limited's response at: http://cer.org.za/full-disclosure/company/illovo-sugar-limited?correspondence.

Major shareholders

In Illovo's 2015 Annual Report[1] it was reported that the following four groups have beneficial shareholdings of 5% or more in the company:

- ABF Overseas Limited
- Allan Gray Limited
- Public Investment Corporation
- Investec Asset Management

1. Illovo Integrated Annual Report 2015, p101, available at: http://annualreport.illovo.co.za/downloads/illovo_iar_2015.pdf

Membership of voluntary initiatives, accreditations and awards

JSE SRI	Illovo appeared on the SRI index every year from 2004 to 2014 with the exception of 2005.
JSE SRI Best Performers	Illovo featured in the Best Performers category in 2007, 2008 and 2014.
Carbon Disclosure Project	Illovo has responded to the CDP on a number of occasions.
ISO 14001:2004	It is stated in the company's 2014 Report that, "environmental management at our operations is implemented according to the NOSA Integrated Five-Star Management System and ISO 14001:2004".[1]
World Business Council for Sustainable Development	Illovo is not a member of the WBCSD.
Cement Sustainability Initiative	Not applicable
Green Building Council of South Africa	Not applicable
Global 100	Illovo does not appear in the Global 100.
United Nations Global Compact	Illovo is not a participant in the UNGC.
International Council on Mining and Metals	Not applicable
Extractive Industries Transparency Initiative	Not applicable
Cyanide Code	Not applicable

1. Illovo Integrated Annual Report 2014, at p79, available at: http://www.abf.co.uk/documents/pdfs/illovo-integrated-annual-report.pdf

TONGAAT HULETT LIMITED

Summary of findings and company response

Tongaat Hulett describes its "environmental approach" as follows:

> *The company's environmental approach is premised on the concept of building value for all stakeholders while working in harmony with nature. It works towards achieving integration between the environment and its agri-processing and property development operations.*[1]

Compared to many other companies assessed in *Full Disclosure,* Tongaat Hulett provides a significant level of detail about environmental non-compliances in its company reporting.

In his reply to *Full Disclosure,* Nico Kruger (Executive: Strategic Themes) gives an almost line-by-line response to the findings of the assessment, providing useful additional information and clarity on a number of findings.

The company provides the number of public complaints it receives, regardless of the seriousness of those complaints. In our letter to Tongaat Hulett, we asked the following:

> *While the company states that Level 1 complaints are deemed "minor", the only example of a Level 1 complaint provided – that of illegal dumping at the South African agricultural operations – appears to be potentially serious, especially given the number of Level 1 complaints received. Do the complaints of illegal dumping refer to dumping by Tongaat Hulett employees? If so, what steps are being taken to resolve this problem? Why was the level of Level 1 complaints during the 2013 reporting period so high? Please provide some other examples of Level 1 complaints.*

Mr Kruger explained as follows:

> *According to our environmental incident management system, illegal dumping matters are classified as Level 1 incidents (as opposed to Level 1 complaints). They usually involve illegal dumping activities undertaken by unknown people from the general public. While these were captured and reported correctly in our internal database, there was an error in the 2013 Annual Report that resulted in them being reported as complaints instead of incidents. This is the same reason why Level 1 complaints appear to have been quite high. Actually, during the reporting period (2012/3), Tongaat Hulett experienced 22 Level 1 complaints and 2 Level 2 complaints. … We have observed that the same error recurred in the 2015 annual report where we incorrectly reported "a total of 582 complaints (581 level [one] and one level 2)", instead of reporting a total of 111 complaints (111 level 1 and no level 2). It was actually a total of 582 environmental incidents (581 – Level 1 and 1 – Level 2) that were recorded during the year. … We appreciate this engagement as it has brought to our attention an area that needs to be corrected going forward.*

Tongaat Hulett also asked the CER to "critically analyse" the company's 2015 Integrated Report, stating that each year the company requests 20 key stakeholders to do so, using the feedback from this analysis to improve future reports.

---

1. http://www.tongaat.co.za/imc/annual_reports/ar_2013/sustainability/environmental_stewardship.asp

Company overview

Tongaat Hulett is an agricultural and agri-processing business. It produces refined carbohydrate products from sugar cane and maize.

The company employs over 35,000 people in 27 locations across South Africa, Botswana, Namibia, Swaziland, Mozambique and Zimbabwe. There are 4,932 employees in South Africa (including 3,326 full-time and fixed-term and 1,606 seasonal and casual workers)[1] and 10 manufacturing operations across the country:

- Chloorkop starch mill, Gauteng
- Germiston starch mill, Gauteng
- Meyerton starch mill, Gauteng
- Kliprivier starch mill, KwaZulu-Natal
- Bellville starch mill, Western Cape
- Felixton sugar mill, KwaZulu-Natal
- Amatikulu sugar mill, KwaZulu-Natal
- Darnall sugar mill, KwaZulu-Natal
- Maidstone sugar mill, KwaZulu-Natal
- South Cost Refinery, KwaZulu-Natal

---

1. Tongaat Hulett Integrated Annual Report 2014, at p50, available at: http://www.tongaat.co.za/imc/annual_reports/ar_2014/downloads/ar_2014.pdf

Non-compliance with environmental laws as reported in the National Environmental Compliance and Enforcement Reports

Tongaat Hulett has not featured in the National Environmental Compliance and Enforcement Reports. In its response to *Full Disclosure*, Tongaat Hulett stated the following:

> *Tongaat Hulett's operations are periodically subjected to statutory inspections by respective regulatory authorities in the provinces that we operate in. Examples can be seen in your reference to incidents mentioned [in Full Disclosure] where the Tongaat municipal official issued an intention to issue a directive, and the Department of Environmental Affairs issued a directive to Tongaat Hulett following deviations observed at our operations.*

Tongaat Hulett Limited's disclosure of environmental non-compliances in annual reports

The following type of statement is frequently made in the company's annual reports:

> *There were no material incidents, ?nes or non-monetary sanctions for non-compliance with applicable environmental regulations during the year under review.*[1]

In the 2010 Annual Report, the following statement was made:

> *There were no material incidents, fines or non-monetary sanctions for non-compliance with applicable environmental regulations during the year under review. The established community liaison forums between Tongaat Hulett and interested parties continue to address environmental related complaints.*[2]

In Tongaat Hulett's 2014 Annual Report it was also reported that, "there were no material incidents or non-monetary sanctions for non-compliance with applicable environmental regulations during the year under review."[3] However, the following information was also included in the 2014 Annual Report:

> *The Maidstone mill in Tongaat was issued with a directive by the municipal official in September 2013 relating to the overflow of effluent during a sludge removal activity at the effluent dam. The mill was asked to develop a plan for effective management of the effluent dam. This plan was submitted and acknowledged by the regulatory authority. The mill continues to proactively engage with local communities and the relevant authorities on matters related to effluent irrigation. Several short-term initiatives have been put into place to deal with community concerns.*
>
> *The Department of Environmental Affairs (DEA) issued a fine to Tongaat Hulett for disturbing virgin land in the KwaMthethwa traditional leadership area where the cane and rural development unit (CRDU) was operating. While it had been acknowledged that Tongaat Hulett's agriculture operations caused some disturbance on virgin land, management took a decision to appeal against the level of the fine considering an existing partnership involving Tongaat Hulett, the DEA and the KwaMthethwa Traditional Council. An appeal decision has since been received from the DEA, in which the extent of the original fine was significantly reduced. In the interim, efforts continue to be directed at avoiding tampering with virgin land during agriculture operations.*[4]

Tongaat Hulett reports on complaints made by communities to the company. It operates a response system based upon the importance of the complaint:-

> *Level 1 environmental complaints are those that are deemed 'minor' and refers [sic] to the number of times the operation's activities resulted in isolated public complaints. Although a response is triggered, Level 1 complaints do not require remediation plans. Level 2 complaints refer to the number of times the operation's activities resulted in widespread public complaints or attention from media. Both a response and remediation plan is triggered in the event of a Level 2 complaint.*[5]

2010 company reports

In the 2010 Annual Report the following was reported:-

> *During the reporting period 116 Level one and 11 Level two complaints were received compared to 50 Level one complaints received in 2008 and 113 Level one complaints received in 2007. The increase was attributed to the increased level of awareness and reporting by employees.*[6]

2011 company reports

In the 2011 Annual Report the following was stated:-

> *During the reporting period, Tongaat Hulett experienced 13 Level 1 complaints and 2 Level 2 complaints. The two Level 2 complaints were from Maidstone related to ?sh dying in the Tongaat River, it was alleged that the mill e?uent was contaminating the river. These complaints were thoroughly investigated by mill personnel and municipal authorities. It was con?rmed that the root cause of the contamination was actually sewerage over?ow into the river and not mill e?uent. The municipality is looking into relevant corrective action.*[7]

2012 company reports

In the 2012 Annual Report it was stated that:-

> *During the reporting period, Tongaat Hulett experienced 13 Level 1 complaints and 3 Level 2 complaints. Two Level 2 complaints were received at the Kliprivier starch plant and 1 was received at the Maidstone sugar mill. The 2 complaints at Kliprivier were both odour related. The first incident was related to odour emanating from product re-work and the odour was neutralised through chemical addition. The second incident was linked to odour from an effluent tank whilst it was undergoing a maintenance clean-up. The remedial actions implemented included the addition of ash to suppress odours as well as a catalyst to reduce the impact. The mill communicated its action plans to the relevant authorities and stakeholders.*
>
> *The odour complaint from Maidstone mill was related to a smell emanating from the irrigation holding ponds. There was a leak in the raw water feed line to the irrigation dam which was assumed to be the root cause of the complaint. The leak was attended to by the mill personnel and sampling and analysis of river confirmed that there were no impacts on the river. Municipal authorities and all relevant stakeholders received communication regarding this incident.*[8]

2013 company reports

In the 2013 Annual Report it was stated that:-

> *During the reporting period, Tongaat Hulett experienced 559 Level 1 complaints and two Level 2 complaints. One of the Level 2 complaints was received at the Maidstone Sugar Mill and another one was received at the Xinavane Sugar Mill. Incidents of illegal dumping at the South Africa agricultural operations remain the major contributor to Level 1 incidents.*
>
> *The Maidstone complaint related to an irrigation pipe burst. The remedial actions implemented included clean-up and remediation of area affected, together with a repair of the pipeline. Implemented action plans were communicated to relevant authorities and stakeholders and a long term plan regarding the future of irrigation in this area is currently under review.*

> *The second Level 2 complaint related to environmental issues raised through a media broadcast at the Xinavane operation. There were allegations regarding water pollution of the river system emanating from mill effluent discharge. Xinavane currently conducts regular water testing both upstream and downstream of the mill operations, as well as of some of the agricultural locations. The operation uses the services of an external third party laboratory, which has confirmed that the results of the water tests continue to fall within the business's minimum standards.*[9]

2014 company reports

In the 2014 Annual Report it was reported that there had been 50 complaints during the 2014 reporting period, including 48 Level 1 complaints and 2 Level 2 complaints. One of the Level 2 complaints related to complaints received at the starch milling operations relating to effluent and odour from process operations. It was noted that corrective action was taken including the upgrading of process operations. The other Level 2 complaint related to the pruning of trees at the business's office.[10]

---

1. Tongaat Hulett 2008 Annual Report, available at: http://www.tongaat.co.za/imc/annual_reports/ar08/downloads/pdf/tongaat_annual_report_08.pdf
2. Tongaat Hulett 2010 Annual Report, at p35, available at: http://www.tongaat.co.za/imc/annual_reports/ar_2010/downloads/PDF/tongaat_annual_report_2010.pdf
3. Tongaat Hulett Integrated Annual Report 2014, at p49, available at: http://www.tongaat.co.za/imc/annual_reports/ar_2014/downloads/ar_2014.pdf at p49.
4. Tongaat Hulett Integrated Annual Report 2014, at p49, available at: http://www.tongaat.co.za/imc/annual_reports/ar_2014/downloads/ar_2014.pdf
5. Tongaat Hulett 2011 Sustainability Report, at p29, available at: http://www.tongaat.co.za/imc/annual_reports/ar_2011/downloads/PDF/sustainability_report.pdf
6. Tongaat Hulett 2010 Annual Report, at p35, available at: http://www.tongaat.co.za/imc/annual_reports/ar_2010/downloads/PDF/tongaat_annual_report_2010.pdf
7. Tongaat Hulett 2011 Sustainability Report, at p29, available at: http://www.tongaat.co.za/imc/annual_reports/ar_2011/downloads/PDF/sustainability_report.pdf
8. Tongaat Hulett Integrated Annual Report 2012, at p34, available at: http://www.tongaat.co.za/imc/annual_reports/ar_2012/downloads/ar_2012.pdf
9. Tongaat Hulett Integrated Annual Report 2013, at p34, available at: http://www.tongaat.co.za/imc/annual_reports/ar_2013/downloads/ar_2013.pdf
10. Tongaat Hulett Integrated Annual Report 2014, at p49, available at: http://www.tongaat.co.za/imc/annual_reports/ar_2014/downloads/ar_2014.pdf

Environmental non-compliances reported by affected communities, the media, & NGOs

In a report published by the non-profit Bench Marks Foundation Community Monitoring Project, it was reported that individuals nearby Tongaat Hulett's Germiston operation had complained of bad smells being emitted into the air by the Germiston Mill, and also that these smells gave people headaches.[1] A 2013 sub-council meeting in Cape Town[2] and an online report also deal with odour emissions from a Tongaat Hulett factory in Bellville, Cape Town.[3]

1. http://communitymonitors.net/wp-content/uploads/2012/05/ActionVoiceslowres.pdf at p9.
2. https://www.capetown.gov.za/en/CouncilOnline/Pages/ViewSubcouncilResolutionDetails.aspx?SubCouncilCode=3&SubCouncilName=SubCouncil%2003&MeetingDate=2013-02-21T00:00:00&ItemUniqueId=20175FF7-A970-43AE-AD0E-3DFBA81A8C9E (last accessed on 7 August 2015).
3. http://152.111.1.87/argief/berigte/dieburger/2011/11/16/TB/1/jbbstank.html (last accessed on 7 August 2015).

Tongaat Hulett Limited's response to the Full Disclosure findings

Each company assessed was given a month to respond to the *Full Disclosure* findings before we published our report.

See Tongaat Hulett Limited's response at: http://cer.org.za/full-disclosure/company/tongaat-hulett-limited?correspondence.

Major shareholders

The following are beneficial shareholders of over 4% of Tongaat Hulett's issued share capital as listed in Tongaat Hulett's 2014 annual report:[1]

- Public Investment Corporation
- BEE – TH Infrastructure SPV (Pty) Limited
- Allan Gray
- BEE – yoMoba SPV (Pty) Limited

1. Tongaat Hulett Integrated Annual Report 2015, at p124, available at: http://www.tongaat.co.za/imc/annual_reports/ar_2015/downloads/ar_2015.pdf

Membership of voluntary initiatives, accreditations and awards

JSE SRI	Tongaat Hulett appeared on the SRI index every year from 2004 to 2014.
JSE SRI Best Performers	Tongaat Hulett featured in the Best Performers category in 2009 and 2010.
Carbon Disclosure Project	Tongaat Hulett has submitted responses to the CDP on a number of occasions.
ISO 14001:2004	All South African operations have obtained ISO 14001:2004 accreditation.
World Business Council for Sustainable Development	Tongaat Hulett is not a member of the WBCSD.
Cement Sustainability Initiative	Not applicable
Green Building Council of South Africa	Not applicable
Global 100	Tongaat Hulett does not appear in the Global 100.
United Nations Global Compact	Tongaat Hulett is a participant in the UNGC.
International Council on Mining and Metals	Not applicable
Extractive Industries Transparency Initiative	Not applicable
Cyanide Code	Not applicable

KEY TERMS AND ABBREVIATIONS

Term	Definition
2008/2009 National Environmental Compliance and Enforcement Report	The 2008/2009 National Environmental Compliance and Enforcement Report, covering the period 1 April 2008 to 31 March 2009.
2009/2010 National Environmental Compliance and Enforcement Report	The 2009/2010 National Environmental Compliance and Enforcement Report, covering the period 1 April 2009 to 31 March 2010.
2010/2011 National Environmental Compliance and Enforcement Report	The 2010/2011 National Environmental Compliance and Enforcement Report, covering the period 1 April 2010 to 31 March 2011.
2011/2012 National Environmental Compliance and Enforcement Report	The 2011/2012 National Environmental Compliance and Enforcement Report, covering the period 1 April 2011 to 31 March 2012.
2012/2013 National Environmental Compliance and Enforcement Report	The 2012/2013 National Environmental Compliance and Enforcement Report, covering the period 1 April 2012 to 31 March 2013.
2013/2014 National Environmental Compliance and Enforcement Report	The 2013/2014 National Environmental Compliance and Enforcement Report, covering the period 1 April 2013 to 31 March 2014.
28(4) of NEMA	A section 28(4) directive is issued pursuant to a failure to take reasonable measures to prevent pollution or degradation of the environment from occurring.
AEL	Atmospheric Emission Licence granted in terms of the National Environmental Management: Air Quality Act.
APPA	Atmospheric Pollution Prevention Act 45 of 1965. The Atmospheric Pollution Prevention Act regulated air pollution prior to the National Environmental Management: Air Quality Act.
Atmospheric Pollution Prevention Act	Atmospheric Pollution Prevention Act 45 of 1965. The Atmospheric Pollution Prevention Act regulated air pollution prior to the National Environmental Management: Air Quality Act.
Bag-filter technology	Bag-filter technology involves devices which remove particulates from the air.
Carbon sink	A reservoir which absorbs more carbon than it releases, e.g. forests
CDP	Carbon Disclosure Project. An organisation which works with shareholders and corporations to disclose the greenhouse gas emissions of major corporations. The CDP requests information from companies and companies can then respond to the CDP with the required information, which is then published by the CDP.
Cement Sustainability Initiative	The Cement Sustainability Initiative is an association of 24 cement producers worldwide dealing with sustainability in the cement industry.
CEO	Chief Executive Officer
CER	Centre for Environmental Rights
CO_2	Carbon Dioxide
Conservation of Agricultural Resources Act	Conservation of Agricultural Resources Act 43 of 1983
Cyanide Code	International Cyanide Management Code. The Cyanide Code is a voluntary initiative set up by a multi-stakeholder steering committee under the guidance of the United Nations Environment Programme and the International Council on Mining and Metals (then the International Council on Metals and the Environment) to promote the responsible use of cyanide in gold mining and to reduce the potential environmental impacts of cyanide. The Cyanide Code certification is available to certify proper management of this hazardous material.
DEA	Department of Environmental Affairs
DEAT	Department of Environmental Affairs and Tourism
Dioxin	A toxic chemical compound.
DMR	Department of Mineral Resources
DPP	Director of Public Prosecutions
DWA	Department of Water Affairs
DWS	Department of Water Affairs and Sanitation
EA	Environmental Authorisation for activities listed in the National Environmental Management Act as requiring authorisation prior to commencement.
EAFs	Electric Arc Furnaces
ECA	Environment Conservation Act 73 of 1989
EIA	Environmental Impact Assessment
EMI	Environmental Management Inspector

Term	Definition
EMP	Environmental Management Plan
EMPR	Environmental Management Programme
Environment Conservation Act	Environment Conservation Act 73 of 1989
ESP	Electrostatic precipitator - a filtration device that removes fine particles, like dust and smoke, from a flowing gas.
Extractive Industries Transparency Initiative	The Extractive Industries Transparency Initiative is an international organisation which promotes transparency around the management of natural resources.
Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act	Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act 36 of 1947
FSE	Federation for a Sustainable Environment
FTSE4Good Index	The FTSE4Good index series measures the performance of companies demonstrating strong Environmental, Social and Governance practices and includes in the indices those which satisfy certain criteria.
Fugitive dust	Small airborne particles contributing to air pollution.
GDACE	Gauteng Department of Agriculture, Conservation and Environment
GDARD	Gauteng Department of Agriculture and Rural Development
GDP	Gross Domestic Product
Global 100	The Global 100 is a ranking of the world's most sustainable corporations, as assessed by Corporate Knights, a media and investment advisory firm.
Green Building Council of South Africa	The Green Building Council of South Africa is an association which promotes sustainability in the built environment.
GSB landfill	A landfill site classified based on a design to accept general waste only (G), is classed as a small landfill accepting between 25 and 150 tonnes maximum rate of deposition per day (S), with no significant leachate generated in terms of the site water balance (B).
H:H	Hazardous Waste Landfill that can receive wastes with a hazard rating of 1 and 2.
H_2S	Hydrogen sulfide
Hazardous Substances Act	Hazardous Substances Act 15 of 1973
International Council on Mining and Metals	The International Council on Mining and Minerals is an association of mining and metals companies and associations with the aim of addressing sustainable development challenges.
ISO 14001	ISO 14001 (the current version being ISO 14001:2015) sets out the criteria for an Environmental Management System. An Environmental Management System refers to the management of a company's environmental programmes in a comprehensive, systematic, planned and documented manner. ISO 14001 does not stipulate any requirements for environmental performance, but rather maps out a framework that companies can follow to set up and maintain an effective Environmental Management System. ISO 14001 certification is therefore not an indication that a company is in compliance with environmental laws and permits, nor is it a substitute for reporting environmental non-compliance. Certification merely means that the company has systems in place which should, theoretically, help it comply with applicable laws and minimise its environmental impact.
Iso-kinetic sampling	A test carried out to determine the level of particles in a moving stream.
JSE	Johannesburg Stock Exchange
JSE SRI	Johannesburg Stock Exchange Socially Responsible Investment index. The JSE SRI index is comprised of companies listed on the JSE which satisfy certain criteria relating to their environmental, social and governance policies and practices.
JSE SRI Best Performers	The Best Performers list is comprised of the best performers on the SRI index.
Mineral and Petroleum Resources Development Act	Mineral and Petroleum Resources Development Act 28 of 2002
MPRDA	Mineral and Petroleum Resources Development Act 28 of 2002
National Environmental Management Act	National Environmental Management Act 107 of 1998
National Environmental Management: Air Quality Act	National Environmental Management: Air Quality Act 39 of 2004
National Environmental Management: Integrated Coastal Management Act	National Environmental Management: Integrated Coastal Management Act 24 of 2008
National Environmental Management: Waste Act	National Environmental Management: Waste Act 59 of 2008
National Forests Act	National Forests Act 84 of 1998
National Heritage Resources Act	National Heritage Resources Act 25 of 1999

Term	Definition
National Water Act	National Water Act 36 of 1998
NECER	National Environmental Compliance and Enforcement Report
NEMA	National Environmental Management Act 107 of 1998
NEMAQA	National Environmental Management: Air Quality Act 39 of 2004
NEMWA	National Environmental Management: Waste Act 59 of 2008
NFA	National Forests Act 84 of 1998
NHRA	National Heritage Resources Act 25 of 1999
NO_2	Nitrogen Dioxide
NO_x	Nitrogen Oxides (NO and NO_2)
NPA	The National Prosecuting Authority of South Africa
NWA	National Water Act 36 of 1998
NWDACE	North West Province Department of Agriculture, Conservation and Environment
PAIA request	A PAIA request is a request for access to information submitted in terms of the Promotion of Access to Information Act 2 of 2000.
Particulate Emissions	Emissions containing small particles of solid or liquid matter.
PF	Pulverised fuel
PF Boiler	Pulverised fuel boiler – an industrial boiler that generates thermal energy by burning pulverised coal.
PM	Particulate matter
PMG	Parliamentary Monitoring Group
Promotion of Access to Information Act	Promotion of Access to Information Act 2 of 2000
ROD	Record of Decision for environmental authorisation.
SAHRA	South African Heritage Resources Agency
SAHRC	South African Human Rights Commission
SAPS	South African Police Service
SDCEA	South Durban Community Environmental Alliance
Section 12(2)	A section 12(2) notice in terms of the Atmospheric Pollution Prevention Act requires the holder of a registration certificate to take steps to ensure the more effective operation of the appliances provided for in such certificate for the prevention of the escape into the atmosphere of noxious or offensive gases produced by the scheduled process to which the certificate relates.
Section 20 ECA permit	Section 20 of the Environmental Conservation Act states that, "no person shall establish, provide or operate any disposal site without a permit issued by the Minister of Water Affairs".
Section 24G application	An application by a party who has committed an offence under Section 24F of NEMA (commencing with a listed activity without obtaining environmental authorisation) for ex post facto rectification of such unlawful commencement.
Section 31H	Section 31H of the National Environmental Management Act affords a range of powers to Environmental Management Inspectors, including the power to issue a notice requiring that the person to whom the notice is issued answer any questions posed by the Environmental Management Inspector where the Environmental Management Inspector suspects that there has been a breach of the law.
SO_2	Sulphur Dioxide
Standard Industrial Classification	A system used by government agencies globally to classify industries.
United Nations Global Compact	The United Nations Global Compact is a United Nations initiative to encourage businesses to adopt sustainable practices.
VEJA	Vaal Environmental Justice Alliance
WML	Waste Management Licence
World Business Council for Sustainable Development	The World Business Council for Sustainable Development is a global association of companies dealing with business and sustainable development.
WUL	Water Use Licence
ZED	Zero Effluent Discharge