

Department of Mineral Resources

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**BRIEFING OF THE PORTFOLIO COMMITTEE
ON THE IMPLEMENTATION OF POLLUTER
PAYS PRINCIPLE IN MINING AREAS.**

23 NOVEMBER 2016



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PRESENTATION OUTLINE

- ☐ Introduction.
- ☐ Polluter pays principle.
- ☐ Solution to pave way for implementation of polluter pays principle.
- ☐ Implementation of one environmental system for mining.
- ☐ Monitoring and enforcement of polluter pays principle.
- ☐ Initial financial provisioning regulations.
- ☐ Financial provisioning regulations challenges.
- ☐ Way forward.

INTRODUCTION

- ❑ Conspicuous absence of mine environmental legislation as well as proper coordination of all relevant pieces of legislations made it impossible to implement polluter pays principle for many years.
- ❑ Hence, a liability of significant Derelict and Ownerless (D&O) mine sites is inherited by the State.
- ❑ The D&O mines mainly comprised of hazardous asbestos sites as well open shafts and holes posing high risk to neighbouring communities.
- ❑ Furthermore, a legacy of environmental degradation inclusive of Acid Mine Drainage was created.

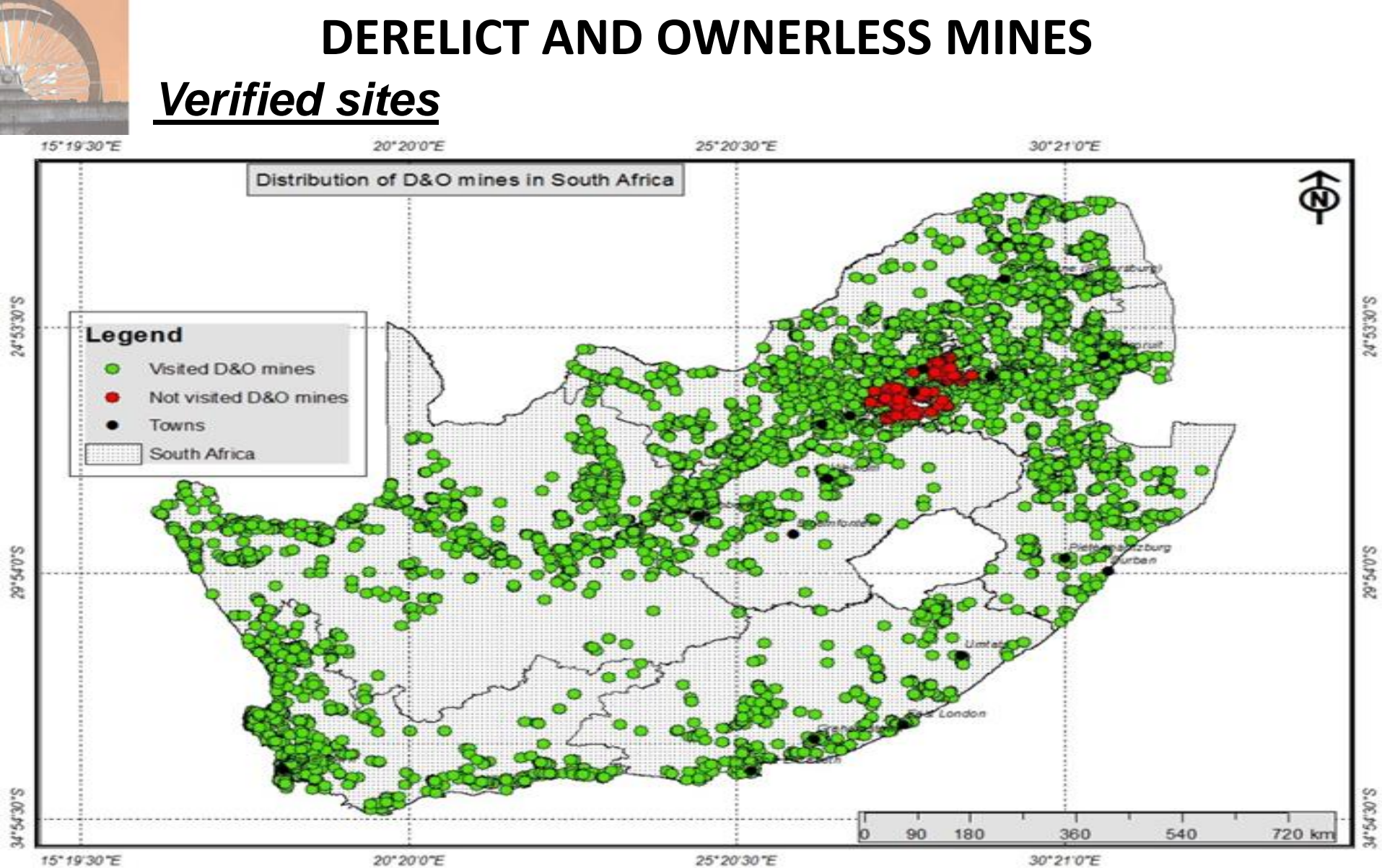


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DERELICT AND OWNERLESS MINES

Verified sites



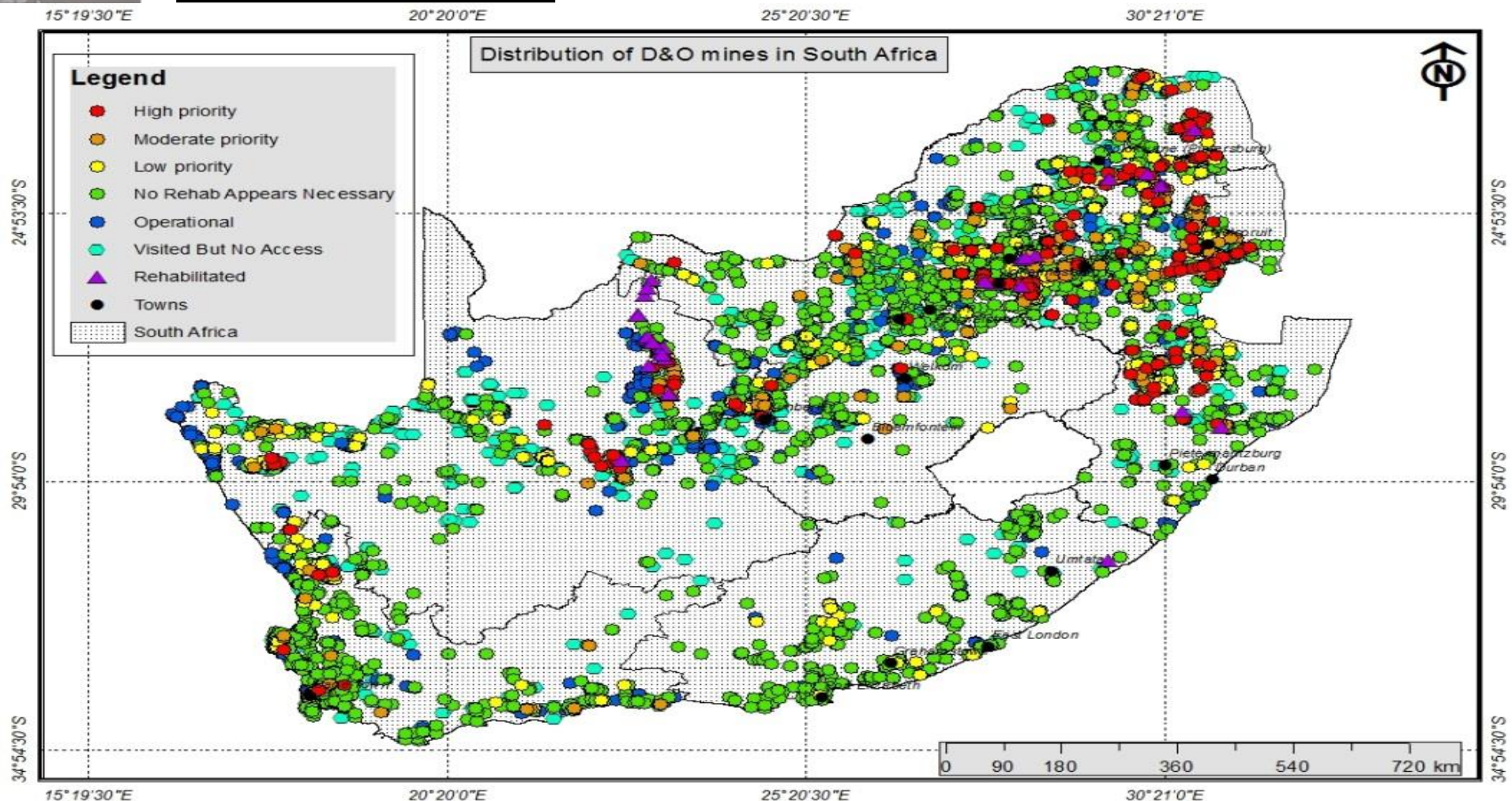
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DERELICT AND OWNERLESS MINES...

Prioritised sites



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POLLUTER PAYS PRINCIPLE

❑ It prescribe that:

- ✓ there should be life-cycle responsibility for anything which impacts on the environment; and
- ✓ the costs of remedying environmental pollution and of preventing, controlling and minimising environmental damage must be paid by those responsible for harming the environment.



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SOLUTION TO PAVE WAY FOR IMPLEMENTATION OF POLLUTER PAYS PRINCIPLE

- ❑ During the 2002 – 2011 process of amending the Mineral and Petroleum Resources Development Act (MPRDA), National Environmental Management Act (NEMA) and National Water Act (NWA) an agreement was reached between the Ministers of Mineral Resources, Environmental Affairs and Water and Sanitation which intended to:
 - Adopt an integrated mine environmental management system.
 - Alignment of the MPRDA with NEMA to effect “One Environmental System”.



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IMPLEMENTATION OF ONE ENVIRONMENTAL SYSTEM FOR MINING

- ❑ The MPRDA, NEMA and NWA amendments have been done, and the three pieces of legislation are at different levels of being promulgated.
- ❑ The NEMA and related regulations are in place and it is understood that the Department of Water and Sanitation (DWS) have drafted regulations to bring the water use licensing regime in line with the requirements of the one environmental system for mining. (Note once established the same system would also be applicable to other sectors).
- ❑ The Inter-Departmental Project Implementation Committee (IPIC) has been revised to monitor the implementation of the One Environment System.



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IMPLEMENTATION OF ONE ENVIRONMENTAL SYSTEM FOR MINING...

- ❑ The Terms of Reference have been developed for a Comprehensive Rehabilitation Programme that is going to be one of the focus areas of the IPIC Task Teams.
- ❑ Furthermore, IPIC consists of a Compliance and Enforcement Task Team that is coordinating all governmental efforts to ascertain proper implementation of section 28 of NEMA that deals with Duty of Care and remediation of environmental damage.



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CAPACITY TO MONITOR POLLUTER PAYS PRINCIPLE

- ❑ Three (3) year training contract for Environmental Mineral Resource Inspectors (EMRI) has been entered into with the Pretoria University:
 - Course commenced during 2014.
 - First group of 28 completed and designated (inclusive of Regional Managers, DD: Mine Environmental Management and ASD: Mine Environmental Management).
 - Second group of 30 completed August 2015.
 - Third group of 30 completed October 2016.
 - 4th group of 30 commenced classes December 2016.
 - The process of training the remaining 60 is underway and will be concluded within the next 3 years.
 - The current training contract could be extended should a need arises.
- ❑ Environmental Management Officials from the DMR Head office and Regional Office have received training on NEMA EIA processes, Waste and Air Quality.



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MONITORING AND ENFORCEMENT OF POLLUTER PAYS PRINCIPLE...

- ❑ The Department monitors the mines and implement enforcement measures where necessary to ensure legal compliance.
- ❑ 1889 environmental verification inspections were conducted during the 2015/16 period.
- ❑ 127 notices were issued to right holders who did not have adequate financial provision.
- ❑ As a result, the following have been observed:
 - ✓ Reduction in State Environmental liability thus eliminating what would have been future derelict and ownerless mines;
 - ✓ Increases level of responsibility on the part of holders of rights, as they do not want to be penalised or be given fines thus applying the cradle to grave principle where they practice concurrent rehabilitation.



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REHABILITATION OF DERELICT AND OWNERLESS SITES



Vergenoeg Asbestos Site (Before)



Vergenoeg Asbestos Site (After)



Priska Asbestos Site (Before)



Priska Asbestos Site (After)



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REHABILITATION OF DERELICT AND OWNERLESS SITES...

Ingress control acid mine drainage (AMD): Florida Canal



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PROMOTION OF MINING OF LEGACY DUMPS

Mining of residue deposit in Gauteng



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REHABILITATION OF OPERATING MINES

Cutting of spoils



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REHABILITATION OF OPERATING MINES...

Levelled disturbed area



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INITIAL FINANCIAL PROVISIONING REGULATIONS

- ❑ The Financial Provisioning Regulations were initially published during November 2015 with an intention of full implementation in February 2017 (after 15 months of publishing).
- ❑ These regulations provide for the following:
 - Rehabilitation and remediation;
 - Decommissioning and closure activities at the end of prospecting, exploration, mining or production operations; and
 - Remediation and management of latent or residual environmental impacts which may become known in the future, including the pumping and treatment of polluted or extraneous water.



FINANCIAL PROVISIONING REGULATIONS CHALLENGES

- ❑ The financial provisioning regulations were not implemented due to the following matters:
 - Misalignment with Income Tax Act as it relates to annual rehabilitation costs wherein mines would be double charged in terms of the regulations and the Tax Act;
 - Limitations of the trust fund;
 - Over regulated requirement of upfront provision i.e. 10 years;
 - Audit frequency that is not aligned with EIA regulations; and
 - Care and maintenance requirements.

WAY FORWARD

- ❑ Amendments to the November 2015 Financial Provisioning Regulations were published in the Government Gazette on 26 October, 2016.
- ❑ DEA is effecting the following changes in the Financial Provisioning Regulations:
 - Alignment with Income Tax Act by:
 - ✓ Deleting of trust fund appendix.
 - ✓ Annual rehabilitation plan.
 - Removal of the limitation to the use of a trust fund.
 - Alignment of audit frequency with EIA Regulations.

WAY FORWARD...

- ❑ Extension of transitional provision by another 24 months.
- ❑ The current 10 years period for which funds should be set aside is revised.
- ❑ Further engagement is required between Treasury, DMR and DEA regarding the issuing of closure certificates as the release of trust funds is linked to the issuing of a closure certificate.
- ❑ It should be noted that engagements with mining industry had indicated a desire from mines to rehabilitate.



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A decorative background image on the left side of the slide, showing a complex metal structure, possibly part of a mine or industrial facility, with a large circular element at the top. The image is partially obscured by a large white curved shape.

THANK YOU.



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