

**MINISTRY**

**MINERAL RESOURCES AND ENERGY**

**REPUBLIC OF SOUTH AFRICA**

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**Memorandum from the Parliamentary Office**

**National Assembly: 3224**

Please find attached a response to Parliamentary Questionfor **written reply** asked by **Mr V Pambo (EFF) to the Minister of Mineral Resources and Energy:**

**Mr David Msiza**

**Chief Inspector: Mine, Health and Safety**

**19/09/2022**

Recommended/ Not Recommended

**Mr Jacob Mbele**

**Director General: Department of Mineral Resources and Energy**

**………………/………………/2022**

Approved / Not Approved

**Mr. S.G Mantashe, MP**

**Minister of Mineral Resources and Energy**

**………………/………………/2022**

**3224. Mr V Pambo (EFF) to ask the Minister of Mineral Resources and Energy:**

(a) Who is responsible for the enforcement of the mandatory Code of Practice for Mine Residue Deposits at a mine, with particular reference to the monitoring, maintenance, risk assessment and disaster prevention and recovery for tailings dams and (b) with reference to the Jagersfontein dam, what work had been done to monitor the maintenance of the dam to minimise disasters such as the one that happened at the Jagersfontein mine in Free State on 11 September 2022? **NW3949E**

**Reply**

1. The Department of Mineral Resources and Energy, is responsible for the enforcement of the respective legal provisions in the mining sector.
2. The court in the De Beers judgment over Jagersfontein mine residue deposits (***De Beers Consolidated Mines Ltd v Ataqua Mining (Pty) Ltd & others, case no. 3215/06, Free State Provincial Division, 13 December 2007****)* held that historical mine residue deposits (those created before the coming into operation of the Mineral and Petroleum Resources Development Act, 2002 (MPRDA) on the 01st of May 2004) are not minerals as contemplated in the MPRDA and such they are not regulated under provisions of the MPRDA. The processing of historical mine residue deposits does not constitute mining and the area where they are situated is not classified as a mine. This was again confirmed by the court judgment in the case of ***Ekapa Minerals (Pty) Ltd & Others vs Lucky Seekoei & Others (2057/2016) [2017] ZANCHC 5 (13 January 2017).*** Consequently, the Department did not have the authority to regulate the activities (including health and safety) in the processing of mine residue deposits at the Jagersfontein dam. However, the Department is fully committed to providing its technical and other expertise in the investigation of the accident by the relevant government authorities.