

**MINISTRY**

**MINERAL RESOURCES AND ENERGY**

**REPUBLIC OF SOUTH AFRICA**

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**Memorandum from the Parliamentary Office**

**National Assembly : 3292**

Please find attached a response to Parliamentary Questionfor **written reply** asked by **Prof C T Msimang (IFP) to the Minister of Mineral Resources and Energy:**

**Mr David Msiza**

**Chief Inspector of Mines**

**27/09/2022**

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**

**3292. Prof C T Msimang (IFP) to ask the Minister of Mineral Resources and Energy:**

In view of the burst in the Jagersfontein tailings dam on 11September 2022, the Merriespruit tailings dam disaster in 1994 and the Bafokeng tailings dam failure in 1974, what regulatory oversight and enforcement measures are in place for (a) major and smaller mining companies and (b) retreat operations with regard to the maintenance and monitoring of tailings dams? **NW4089E**

**Reply:**

The Department enforces compliance in the mining sector through the following legislation:

1. Mine Health and Safety Act, 1996 (Act 29 of 1996, as amended),
2. Guideline for the Compilation of a Mandatory Code of Practice on Mine Residue Deposits (issued by the Chief Inspector of Mines),

However, the Department does not have the authority to regulate the processing of residue deposits at the Jagersfontein dam. This is as a result of the De Beers court judgment over Jagersfontein residue deposits (***De Beers Consolidated Mines Ltd v Ataqua Mining (Pty) Ltd & others, case no. 3215/06, Free State Provincial Division, 13 December 2007****).* The judgement 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).*** The Department is fully committed to providing its technical and other expertise regarding mining related matters to the relevant government authorities.