

# FAR WEST RAND DOLOMITIC WATER ASSOCIATION

---

Suite 252 Private Bag X30500  
Houghton 2041

Telephone No.: (011) 644-2400

Telefax: (011) 484-0405

Your Ref.:

Our Ref.:

Gold Fields Building,

24 St Andrews Road,

Parktown

JOHANNESBURG

2001

16 October 2008

## **MEMBERS OF THE PROPERTY CLAIMS AND THE MANAGEMENT COMMITTEE** **CIRCULAR REF NO MA 08/69**

### **FWRDWA - CONSTITUTION**

The Chairman requested that the attached circular be distributed to the members and alternates of the Property/claims sub-committee and to the members and their alternates of the Management Committee.

**Regards**

**Natashya Rafferty (Mrs)**  
**Associate Secretary**

C O N S T I T U T I O NFAR WEST RAND DOLOMITIC WATER ASSOCIATION1. Introductory

The name of the Association is "Far West Rand Dolomitic Water Association", and it has been formed voluntarily by its first members to give effect to certain arrangements agreed upon by such members with the Government of the Republic of South Africa.

2. Objects of the Association

(1) The objects of the Association are:-

- (a) to take all reasonably practicable steps to ensure that the policy of dewatering the Oberholzer, the Bank, the Venterspost and the Gemsbokfontein dolomitic compartments, and dolomitic compartments adjacent to the named compartments or such other policy as may be determined by the Association and approved by the Government, is implemented by the mines operating in these compartments and is not impeded by the activities in or on land within the geological boundaries of the compartments, or adjacent thereto, of persons or bodies controlling the flow of water therein; "dewatering" in this constitution means the lowering of the water table as the result of the removal of water from within the compartments in the course of mine pumping operations and the disposal in such a way that it will not return to the compartments of such water as is surplus to mine requirements;

(a) (bis) to undertake measures, which are necessary because of the dewatering of the said compartments, to promote safety by:

- (i) the control of stormwater, and
  - (ii) the regular levelling and patrolling of roads after rains;
- and to reimburse local authorities for undertaking, with the prior approval of the Association, measures as aforesaid.

Provided, however, that

(a) The Association will not be required to reimburse any local authority for or in respect of the cost of normal municipal undertakings for the control of stormwater,

(b) in the event of dispute between the Association and local authority in regard to measures referred to in (i) or (ii) above the State Co-Ordinating Technical Committee on Sinkholes and Subsidence, the Association's Civil Engineering Consultants and the Town Engineer of the local authority, or his deputy, shall decide whether any measures for the control of storm-water are normal municipal undertakings or are extraordinary measures necessary because of the policy of dewatering.

(b) to regulate and control the disposal inside and outside the geological boundaries of the aforesaid dolomitic compartments of water pumped by mines in such compartments

which is surplus to their requirements, and to construct, operate and maintain such works and installations as may be necessary for such disposal;

- (c) to receive, investigate, consider and settle or otherwise dispose of all claims made against members of the Association in respect of damage, alleged to have been caused to claimants, which is directly attributable, as the proximate physical cause, to dewatering of the compartments;
- (d) to establish and maintain an alternative supply of potable water or to make some other acceptable settlement where boreholes or other sources of water in the Oberholzer, Bank, Venterspost or Gemsbokfontein dolomitic compartments dry up as a consequence of dewatering of the compartments. In the implementation of this object effect will be given to the provisions of paragraph 8 of the report of the Joint Committee referred to in paragraph 2.1 of the Resolution of the Far West Rand Dolomitic Water Association adopted by the Association on 21st June, 1974 and approved by the Minister of Mineral and Energy Affairs on 26th June, 1974;
- (e) to make suitable arrangements, in consultation with the Minister of Water Affairs, in the best interests of all parties concerned to meet the situation which will arise when the surplus water made available for irrigation from the water pumped by the mines in the respective

compartments falls below the normal flows from the "eyes" in these compartments; such arrangements to continue until the normal flows of the "eyes" concerned are fully restored;

- (f) to consult and co-operate with the Department of Water Affairs, the Department of Mineral and Energy Affairs, other Government departments, provincial administrations, local authorities and any other bodies or persons in furtherance of any of the objects of the Association;
- (g) to raise the finance necessary for the fulfilment of the objects of the Association by levies on the members of the Association or by any other suitable means;
- (h) to acquire and hold, to improve, sell, lend, let, hire, mortgage, donate, dispose of or deal in any other way with any property, movable or immovable for the purposes of the Association;
- (i) to invest or lend any moneys of the Association with or without security and on such terms and conditions as may be decided from time to time and to realise or vary any such investment or loan;
- (j) to borrow or raise moneys for the purposes of the Association, whether by means of debenture bonds, mortgages, or otherwise howsoever and to pledge as security for the repayment of such moneys all or any of the property or

assets of the Association;

- (k) to open and operate a banking account and to make, draw, accept, endorse, discount, execute, issue or otherwise dispose of bills of exchange, promissory notes, bills of lading and other negotiable or transferable instruments or securities;
- (l) to employ or appoint and remunerate attorneys, auditors, advisers, agents, servants and other persons for the purposes of the Association;
- (m) in the name of the Association to institute or defend legal proceedings, brought by or against the Association in pursuance of its objects or arising out of its activities, and to intervene in any proceedings brought by or against any member of the Association concerning any matter of importance to the Association;
- (n) generally to do all such other things as are necessary, conducive or incidental to the attainment of the above objects.

- (2) In the implementation of its objects and to ensure that the policy of dewatering is implemented as economically and efficiently as possible, the Association shall bear in mind the recommendations in the Final Report of the Interdepartmental Committee on Dolomitic Mine Water: Far West Rand (December 1960).

3. Corporate Capacity and Property

- (a) The Association shall be a corporate body with perpetual succession capable of suing and being

sued in its own name, and of holding property in its own name. Imovable property shall be registered in the name of the Association. No member shall by reason of his membership have any claim to the property or rights of the Association, or bear any liability for its duties or obligations except to the extent of any unpaid levy.

- (b) The Association shall not aim to make any monetary profit or gain from the pursuit of its objects and any such profit or gain as may accrue shall not be distributed to the members of the Association, but shall be used by it in the furtherance of its objects.

4. Membership

- (a) The first members of the Association shall be the following:-

Blyvooruitzicht Gold Mining Company, Limited  
Libanon Gold Mining Company, Limited  
Venterspost Gold Mining Company, Limited  
West Driefontein Gold Mining Company, Limited  
Western Deep Levels, Limited.

- (b) Any company which mines in the Oberholzer, Bank or Venterspost dolomitic compartments shall be admitted to membership of the Association.
- (c) Companies mining in dolomitic compartments adjacent to the Oberholzer, Bank or Venterspost dolomitic compartments shall be admitted to membership of the Association if in the opinion of the Committee their membership is necessary or desirable and on such terms and conditions as the Committee may determine.

5. Levies

The members of the Association shall be required to pay such levies as may from time to time be determined by the Association.

6. Committee

(a) The management of the Association shall be vested in a Committee constituted as follows:-

(i) Three members of the Committee shall be appointed by the Association.

(ii) Two members of the Committee shall be appointed by the Department of Mineral and Energy Affairs (one from the Division of the Government Mining Engineer, and one from the Geological Survey).

(iii) One member of the Committee shall be appointed by the Department of Water Affairs.

(iv) Two members of the Committee shall be appointed by the Chamber of Mines of South Africa.

(b) On the admission to membership of the Association of another mining company, that company, or if it belongs to a Mining Group, the Mining Group to which it belongs shall be entitled to appoint a member to the Committee, provided that the Mining Group concerned is not already represented on the Committee.

(c) The appointment of a member of the Committee may at any time be cancelled by the body appointing



him, which shall then appoint another member in his place.

7. Alternates to Members of Committee

Each member of the Committee shall be entitled to appoint an alternate to act in his place during his absence or other inability to act.

8. Powers and Functions of Committee

- (a) The General administration and management of the Association shall be vested in the Committee, which may exercise all such powers and do all such acts and things in the name and on behalf of the Association as may be delegated to it by the Association.
- (b) The Committee may appoint standing and special sub-committees and allocate to such sub-committees such duties and powers as the Committee may from time to time decide. Such sub-committees may consist of members of the Committee or of other persons co-opted for service on such sub-committees.
- (c) The Committee may enter into any contract or agreement with any person or bodies for the provision of such technical, secretarial, administrative or other services for the purposes of the Association as it may consider desirable.
- (d) The Committee may open and operate bank accounts in the name of the Association and may appoint such members of the Committee or employees of the Association as signatories for banking purposes as the Committee may decide.
- (e) The Committee shall ensure that proper books of account are kept and annually audited by auditors

appointed by the Association.

- (f) The Committee shall submit annual reports and financial statements to the annual general meetings of the Association.

9. Meetings of Committee and Sub-Committees

- (a) The Committee shall meet from time to time at such times and places as it may decide and at the first meeting each year shall elect one or other of the members of the Committee appointed by the Chamber of Mines as chairman, who shall preside at all meetings of the Committee during the ensuing year. In his absence the other member of the Committee appointed by the Chamber of Mines shall act as chairman.
- (b) At each meeting of the Committee five members or their alternates shall be a quorum.
- (c) All matters on which a decision has to be taken at any meeting (including the election of chairman) shall be decided by a majority of the members of the Committee present (or their alternates) voting by a show of hands.
- (d) Minutes of each Committee meeting shall be kept.
- (e) Sub-committees shall meet from time to time as may be required and the quorum for sub-committee meetings shall be as determined by the Committee from time to time. Minutes of all sub-committee meetings shall be as determined by the Committee from time to time. Minutes of all sub-committee meetings shall be kept.

10. Annual and Special General Meeting

- (a) The annual general meeting of the Association shall be held on seven days notice to all members and within fifteen months of the last annual general meeting.
- (b) Special general meetings of the Association may be called by the Committee at any time, and shall be called at the request of any two members of the Association, on seven days notice, which notice shall state the business to be transacted at such meeting.
- (c) Each member of the Association shall be entitled to nominate one person to represent it at each annual or special general meeting.
- (d) Four representatives of members shall be a quorum at annual or special general meetings.
- (e) If within fifteen minutes after the time for which any general meeting has been called a quorum is not present, the meeting shall stand adjourned to the same time and place on the same day of the following week (or if such day is a public holiday, the next succeeding working day) and the representatives then present shall be a quorum and may transact the business for which the meeting was called.
- (f) The chairman of the Committee shall preside at general meetings of members of the Association or in his absence the other member of the Committee appointed by the Chamber shall act as chairman, or in the absence of both of them, one of the representatives of members elected by those present.

- (g) Each representative of a member of the Association shall have one vote at annual and special general meetings. The chairman shall not have a deliberative vote unless he is the representative of a member. In the event of an equality of votes the chairman shall have a casting vote in addition to his deliberative vote (if any).
- (h) All matters on which a decision has to be taken at any general meeting (including the election of a chairman, if necessary) shall be decided by a majority of the persons present and entitled to vote, voting on a show of hands.

11. Indemnity

Every member of the Association or the Committee or any sub-committee or his alternate acting on his behalf shall be and is hereby indemnified by the Association against loss, expense or damage incurred in the discharge of or arising out of his duties, and not due to his own fault or neglect, and no such member or alternate or any officer of the Association shall be liable for the acts or defaults of the Association or of the Committee or sub-committee or of any other member of the Association, the Committee or sub-committee.

12. Amendment of Constitution

The constitution may be amended by unanimous vote at any general meeting of the Association, provided the proposed amendment has been fully set out in the notice of meeting.

RESOLUTION OF THE FAR WEST RAND DOLOMITIC  
WATER ASSOCIATION ADOPTED BY THE ASSOCIATION  
ON 21ST JUNE, 1974 AND APPROVED BY THE  
MINISTER OF MINES ON 26TH JUNE, 1974

---

WHEREAS certain negotiations between the Minister of Mines of the Government of the Republic of South Africa on the one hand and this Association on the other in regard to the clarification and extension in scope and period of certain of the Association's responsibilities were concluded during August, 1973, and the said Government had further announced that funds will be made available by it to finance the settlement of such claims if any which may arise subsequent to the termination of the Association's responsibilities;

IT IS NOW HEREBY RESOLVED THAT:-

1.0 The resolution adopted by the Association on 12th December, 1969, be and it is hereby rescinded.

2.0 In the implementation of Clause 2(1) (c) of the Constitution of the Association:-

2.1 Effect will be given to the provisions of subparagraphs 7(a), (b), (d), (e) and (f) of the report dated 23rd April, 1964 of the Joint Committee representative of the Government of the Republic of South Africa and the Transvaal and Orange Free State Chamber of Mines on Dewatering of the Oberholzer and Venterspost Dolomitic Compartments, the Disposal of Water Pumped by the Mines in those Compartments, and Certain Related Matters (hereinafter referred to as "the report of the Joint Committee").

2.11 For the purposes of this resolution the term "compartment" shall mean the confines of the Bank and/or Oberholzer and/or Venterspost Dolomitic Water Compartments.

2.2 The Association will undertake, in respect of land and buildings in existence at 31st December, 1968, which have suffered damage directly attributable as

the proximate physical cause to dewatering of the compartments, the purchase of such land and buildings which have been certified by the State Co-Ordinating Technical Committee on Sinkholes and Subsidences (hereinafter referred to as the "State Committee") as being unsafe for occupation and the repair of such buildings which have not been so certified.

2.21 In the case of the Bank Compartment, the Association will also purchase such land and buildings which in the opinion of the State Committee are liable to suffer damage which will result in financial loss to the owner.

2.3 The Association will purchase at prices agreed with the owner or determined in accordance with the adjudication procedure set out in paragraph 2.9 undeveloped properties which have been certified by the State Committee as being unsuitable for development as a direct result of the dewatering of the relevant compartments by members of the Association.

For the purposes of this clause "unsuitable for development" shall mean:-

2.31 properties which constitute a hazard to life;

2.32 properties in respect of which the risk of subsequent damage to future improvements erected thereon is such that such properties constitute an unacceptable insurance risk for development under the guarantee provided for in paragraph 2.4 of this resolution;

2.33 an erf in a proclaimed township which is safe for occupation but which is surrounded by unstable land.

2.4 The Association will undertake responsibility for the repair, or, if uneconomic to repair, the purchase of buildings (including the land on which they are situated) erected after 1st January, 1969, on properties declared suitable for development by the State Committee.

For the purposes of this clause "suitable for development" shall mean:-

2.41 safe for occupation, and

2.42 a property in respect of which the risk of subsequent damage to future improvements erected thereon is such that it is an acceptable insurance risk for development under the guarantee provided by this clause.

2.5 The implementation of paragraph 2.4 shall further be subject to the following provisions:-

2.51 The onus of proving that damage was caused by dewatering shall be on the owner who shall be entitled to the assistance of the State Committee.

2.52 The Association shall be responsible for damage which the State Committee has certified to be due to dewatering or where the damage is caused partly by dewatering and partly by other causes for that part which the State Committee has certified to be due to dewatering.

2.53 The undertaking shall only apply to a building:-

(a) not exceeding three stories;

(b) the plans and specifications of which have been approved by the Association prior to

erection; and

- (c) erected in accordance with such approved plans and specifications.

2.54 Plans and specifications submitted to the Association must:-

- (a) be accompanied by a report from a competent authority indicating whether or not compressible soil is present on the property. Where compressible soil is shown to exist foundations must be suitably designed to prevent any subsidence occurring as a result of such soil;
- (b) include provision for well-known precautionary steps normally taken to protect buildings in dolomitic areas, such as:-
  - (i) stormwater drainage from site;
  - (ii) discharge of rainwater run-off from roofs at points sufficiently remote from foundations to ensure that possible damage caused by seepage would not affect the structure.

Provided that the provisions of paragraphs 2.53 and 2.54 shall not apply in respect of buildings erected between the 1st January, 1969, and the 12th December, 1969.

2.6 The responsibility of the Association in terms of paragraphs 2.2, 2.3 and 2.4 shall terminate on 31st December, 1999 and shall not apply to any buildings erected after 1st January, 1983.



2.7 The responsibility of the Association shall be limited to buildings erected for the purpose of the use for which the property was held or to which it was being put at 2nd December, 1963. Provided, however, that in the event of the proposed amendment of any approved town planning scheme whereby a stand in a proclaimed township existing on 2nd December, 1963, is to be rezoned for a new use the Association shall, on request by the local authority concerned, indicate whether it is agreeable to the application of the provisions of this clause to any building erected in accordance with such proposed new use.

2.8 Prior to the erection of any buildings referred to in paragraph 2.4, the Association shall be entitled, in lieu of the responsibility referred to in that paragraph, to make an offer to purchase the land. If the owner declines the offer to purchase the responsibility of the Association shall be limited to the value of the property at the date of the offer.

Provided that the owner shall be entitled to have the value of his property determined by adjudication in the manner set out in paragraph 2.9, in which event the responsibility of the Association shall be limited to the value so determined.

2.9 The Association shall in the first instance endeavour to settle all claims by negotiation. In the event of failure to reach agreement with any owner within a period of three months:-

(a) from the date on which the State Co-Ordinating Technical Committee on Sinkholes and Subsidences submitted to the owner and the Association a written notice resulting in a claim, or, in the event of no such notice being necessary:-

(b) from the date on which the owner lodged a claim with the Association, or such longer period as may be agreed upon between the Association and such owner, either party shall be entitled to apply to have such claim settled by an Adjudication Committee appointed by the Minister of Mines in accordance with the terms of reference for such Adjudication Committee agreed upon between the Minister and the Association.

RESOLUTION OF THE FAR WEST RAND DOLOMITIC  
WATER ASSOCIATION ADOPTED BY THE ASSOCIATION  
ON 14TH MAY, 1986 AND APPROVED BY THE  
MINISTER OF MINERAL AND ENERGY AFFAIRS ON 11th JUNE, 1986

WHEREAS certain negotiations have been concluded between the Minister of Mineral and Energy Affairs, the Minister of Water Affairs of the Government of the Republic of South Africa on the one hand and Western Areas Gold Mining Company Limited, a member of this Association since 29th October, 1985, on the other in regard to the issue of a permit to Western Areas Gold Mining Company Limited authorizing the latter to dewater the Gemsbokfontein Dolomitic Water Compartment, the said Government has further announced that funds will be made available by Western Areas Gold Mining Company Limited to finance the settlement of such claims if any which may arise from the issuing of the dewatering permit.

IT IS HEREBY RESOLVED THAT:-

1. In the implementation of Clause 2(1) (c) of the Constitution of the Association as regards the Gemsbokfontein Compartment:-
  - 1.1 Effect will be given to the provisions of subparagraphs 7(a), (b), (d), (e) and (f) of the report dated 23rd April, 1964 of the Joint Committee representative of the Government of the Republic of South Africa and the Chamber of Mines of South Africa on Dewatering of the Oberholzer, Venterspost and Bank Dolomitic Compartments, the Disposal of Water Pumped by Mines in those Compartments, and Certain Related Matters (hereinafter referred to as "the report of the Joint Committee").
  - 1.2 The Association will undertake in respect of land and buildings in existence prior to the commencement of the dewatering of the Gemsbokfontein Compartment, which have suffered damage directly attributable as the proximate physical cause to dewatering of the compartment, the purchase of

such land and buildings which have been certified by the State Co-Ordinating Technical Committee on Sinkholes and Subsidences (hereinafter referred to as the "State Committee") as being unsafe for occupation or unsuitable for development and the repair of such buildings which have not been so certified. The Association will also purchase such land and buildings which in the opinion of the State Committee are liable to suffer damage which will result in financial loss to the owner.

- 1.3 The Association will undertake to implement all measures as required by the State Committee prior to the issuing of the dewatering permit as well as comply with the conditions expressed and agreed to mutually between Western Areas Gold Mining Company Limited and the following interested parties:-

Department of Water Affairs

Nuclear Fuels Corporation

Corobrick

Westonaria Town Council

South African Transport Services

Escom

Department of Post and Telecommunications

Transvaal Board for the Development of Peri

Urban Areas and their local area committees

Rand Water Board

Department of Public Works and Land Affairs

Transvaal Provincial Administration

Naschem

National Ceramics

Anchor Construction

Johannesburg Light Plane Club

Johannesburg Glider Club

- 1.4 The Association will also prior to the issuing of the dewatering permit endeavour to acquire all the Agricultural Holdings at Waterpan and shall negotiate under the same terms and conditions as laid down in Clauses 2.3; 2.4; 2.5 excluding final paragraph; 2.8 and 2.9 of the Resolution dated 21st June, 1974 approved by the Minister of Mineral and Energy Affairs on 26th June, 1974.
- 1.5 The responsibility of the Association shall be limited to buildings erected for the purpose of the use for which the property was held or to which it was being put at 1st June, 1986. Provided, however, that in the event of the proposed amendment of any approved town planning scheme whereby a stand in a proclaimed township existing on 1st June, 1986, is to be rezoned for a new use the Association shall, on request by the local authority concerned, indicate whether it is agreeable to the application of the provisions of this clause to any building erected in accordance with such proposed new use.

14th May, 1986

LKR/PAB