

Opening of New Borrow Pits

Implications for the Road Sector

**Road Pavement Forum
10 & 11 May 2011**

Presented by:

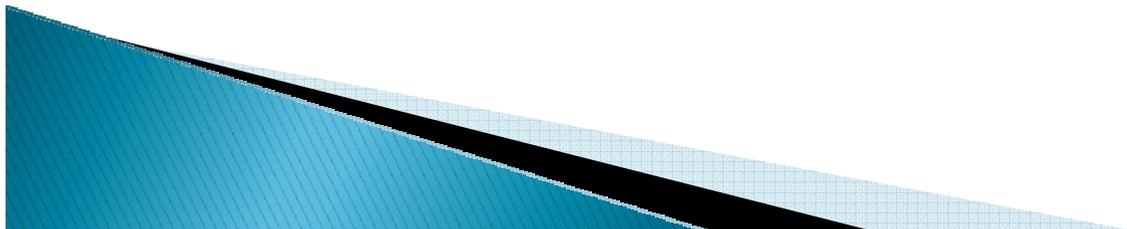
NICO PIENAAR

The Cheetah now rides in a Toyota



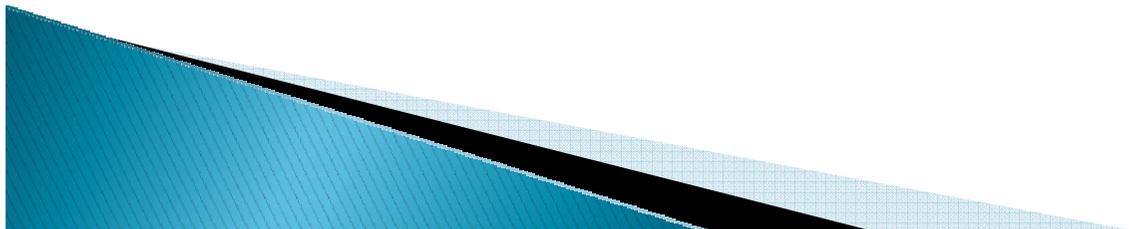
Issues to be covered

- Understanding of Borrow Pits
- Surface Mining
- SA Legislation re Borrow Pits
- Other issues affecting “mining”
- The Royalty Act

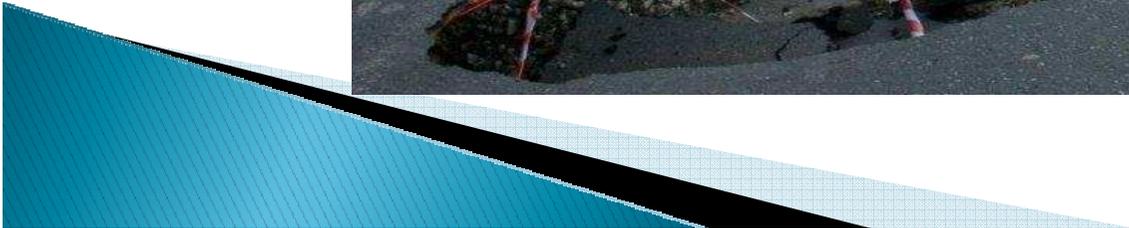


The Understanding of “Borrow Pits”

- Term is used loosely
- Also know as a Sand box
- Material is dug for use at another location
- May become filled with ground water
- May become dangerous if next to roads
- May also cause drowning when filled with water
- Often no blasting takes place at these sites
- Due to earth being cheap & readily available, being misused



Pot Holes or Open Cast Mining

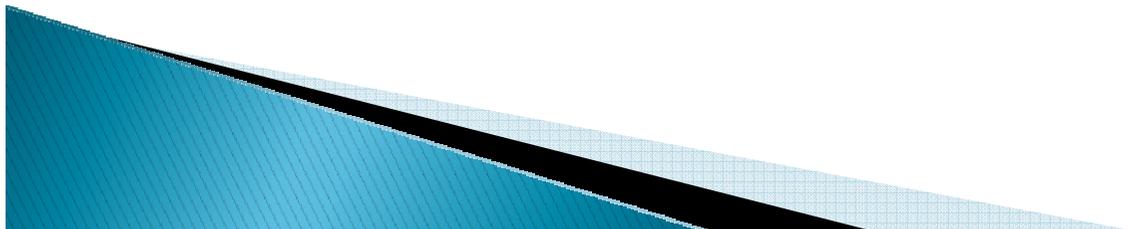


Pot Holes or Open Cast Mining



Opencast Mining

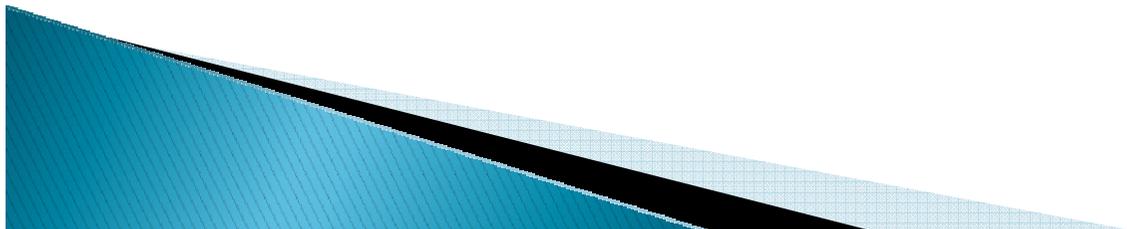
- Material is extracted from the surface of the earth
- 3 types – open pit – strip mining – quarrying
- Surface mining is inexpensive and relatively safe
- Damage to the environment can be devastating
- In USA strict control
- In UK also strict control
- In SA regulator has been lax. Is now upping stance.
- Other bodies getting involved, i.e. “Green Scorpions, Blue Scorpions, Municipalities & Communities



SA Legislation on Borrow Pits

- Borrow Pits are classified as “mining”
- Legislation is: Mineral & Petroleum Resources Development Act
- Defines “mine”
 - operation or activity
- winning any material
- on the earth

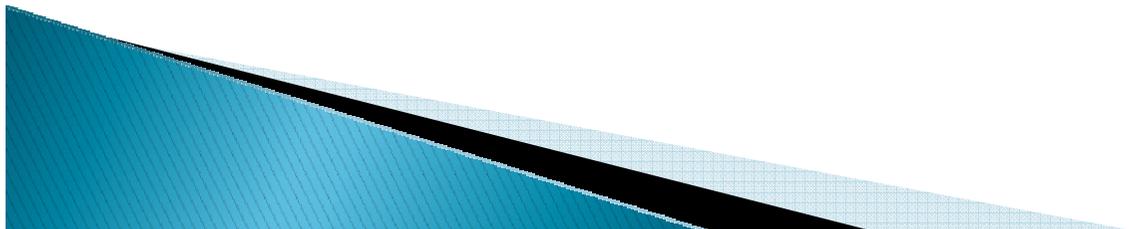
- Defines “mineral”
- any substance
- occurring naturally
- in or on the earth
- includes sand, stone, rock, gravel, clay & soil



SA Legislation on Borrow Pits

•Note:

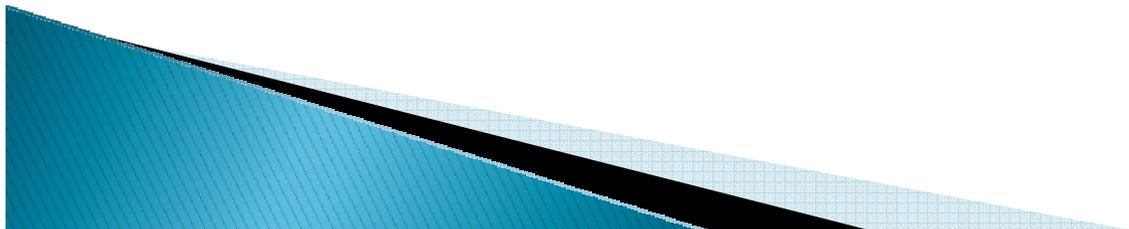
- Environmental management =
- rehabilitation
- restoration is part of the definition of mining



Other issues affecting “mining”

Western Cape High Court

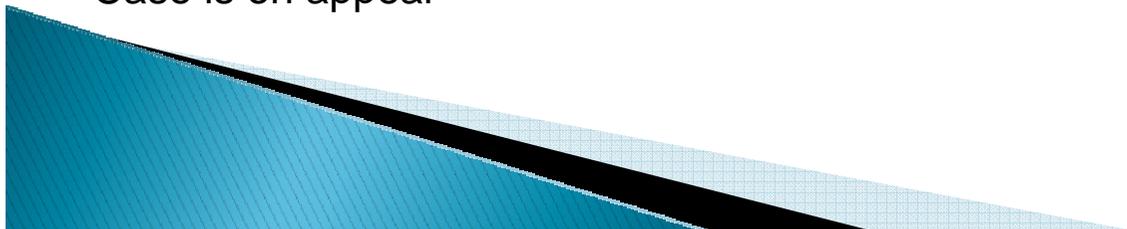
- City of Cape Town v Macsand
- Conflict between DMR & DEAT
- NEMA Amendment Act wanted more power for DEAT.
- Quite period
- Activities taking place in a mining area are listed in terms of NEMA.
- Provincial Departments demanded that mines obtain environmental authorisation from them as well.



Other issues affecting “mining”

Court Found

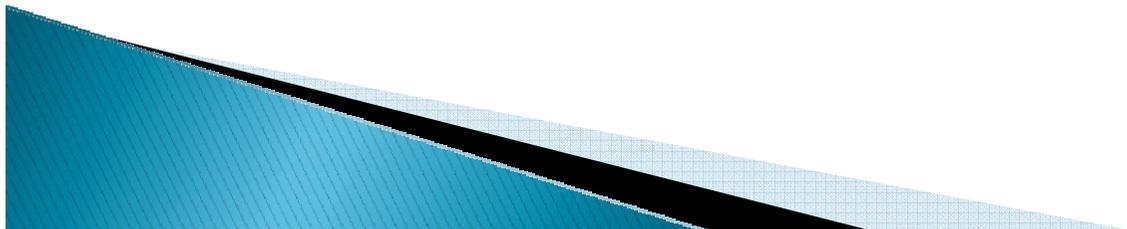
- Right to mine under MPRDA does not exclude other planning functions like Municipalities, referred to Constitution of SA.
- Provincial ordinances had clear application to the dispute and there was an overlap.
- Why can 2 sphere of control not co-exist.
- Sect. 24 of NEMA had identified certain activities.
- An environmental authorisation under NEMA must be obtained.
- Environmental protection is enshrined as a right in the Constitution.
- DEAT can therefore require additional authorisations.
- Local authorities in Cape Town can stop mining.
- This precedent could fan out to other cities & regions.
- Case is on appeal



Other issues affecting “mining”

Constitutional Court

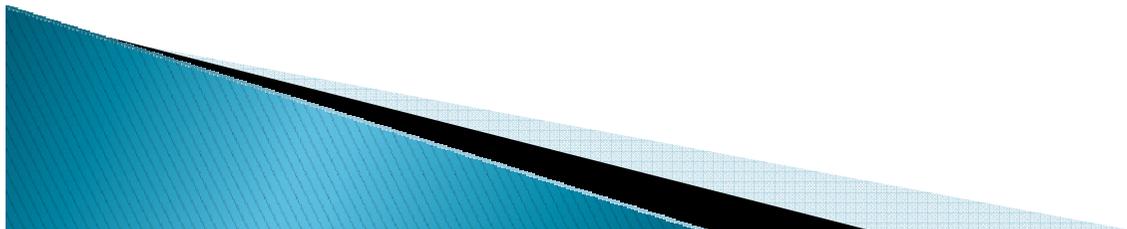
- Bengwenjama Minerals v Genorah Resources
- Community lodges objection against granting of third party prospecting.
- No rights granted.
- Then prospecting rights granted.
- Community had put their own application in.
- Some problems with forms.
- No mention that prospection right was granted by DMR.
- DMR then refuses communities own application



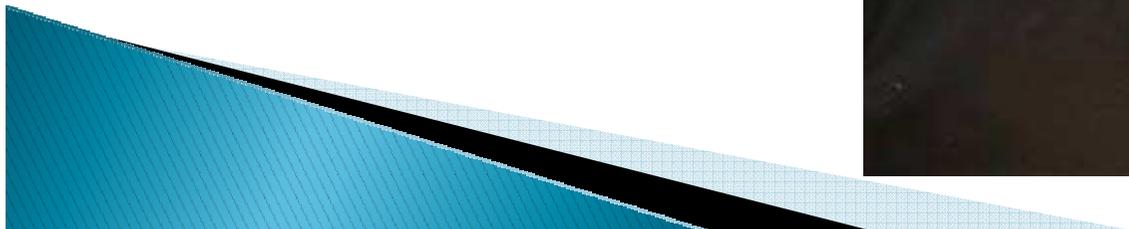
Other issues affecting “mining”

Court Decision

- There are serious consequences to the interests of/and owners and lawful occupations when applications are granted.
- Administrative decisions must be lawful, reasonable & procedurally fair.
- Landowners must be informed in writing.
- Consultation with landowners must take place.
- Consultation process must be processed – 30 days.
- More notification to landowner.
- Consultation when land belongs to community is bigger.
- Prospecting rights must have environmental management plans.
- Court set aside Genorahs right to prospect.



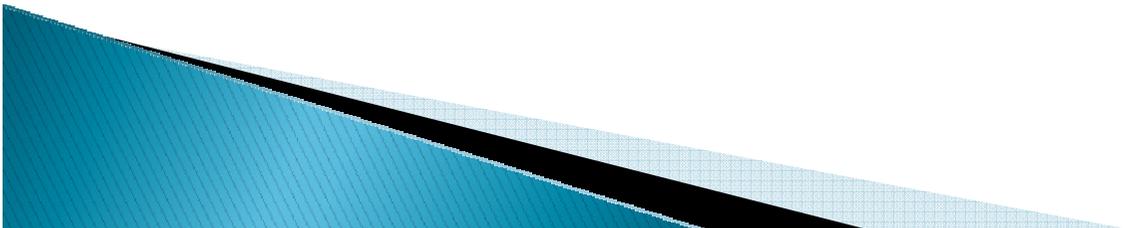
Who needs google?



Royalty Act

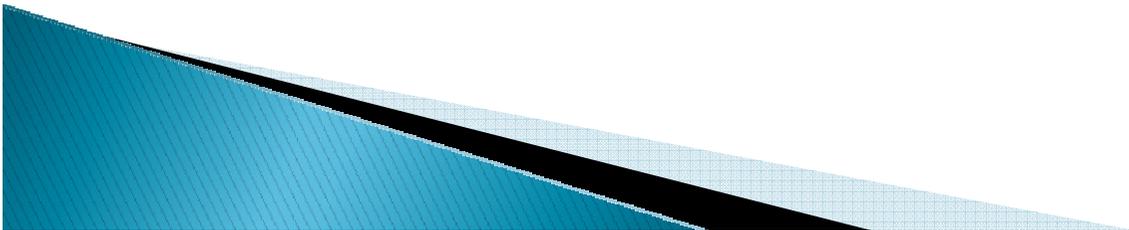
Aspasa has put out Industry Practice Note : see *website* – www.aspasa.co.za

- Covers the typical aggregate & sand extraction process.
- Defines the “Muck Pile” concept.
- After “Muck Pile” material is disposed of.
- Also covers waste rock or tailings stockpiles.
- Aggregates are secondary product to say gold or platinum.
- Sand and Gravel is also extracted and often don’t require drilling or blasting.
- Front-end loaders used.



The Concept Of “Muck Pile”

- When solid rock is fragmented
- When gravel or sand is removed from its natural state.
- “Muck Pile” is considered to be the place where the first saleable point of sale could be established.

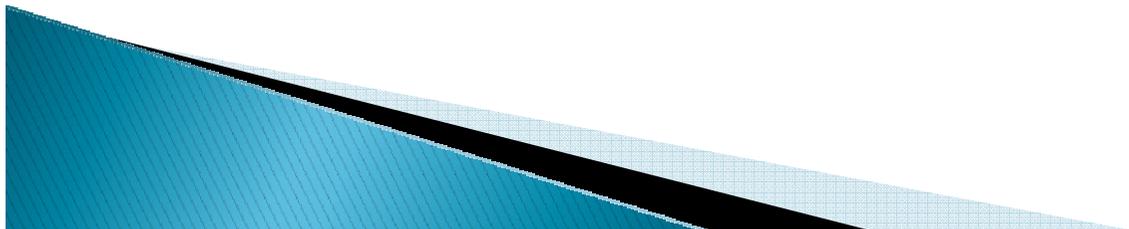


The Royalty Act

The Royalty is imposed once”

- A person
- Must transfer
- A mineral resource
- Which is extracted from within the Republic.

Once above requirements are met – the Royalty is determined. (See Aspasa document for the exact calculation)

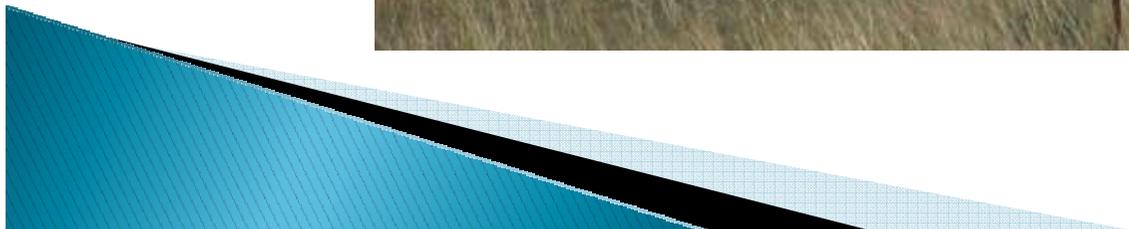


Naas Botha's 3 dogs

Naas Botha se 3 honde..... DROP, SKOP & PLACE....



Wonder why we get lost???





Thanks for listening

Please visit our website on:

www.aspasa.co.za

