

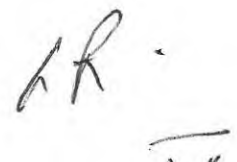
AFFIDAVIT

I, the undersigned,

LUNGILE RIGHT BOMELA

do hereby state under oath and say:

1. I am an adult male practising Advocate with twenty three (23) years of experience in the legal field, ten of which was a Board member of the Bloemwater Water Board and five of which was with Sedibengwater Water Board and am the Chairperson of Empowering Water Solutions.
2. I depose to this affidavit in response to enquiries by journalists in relation to two (2) sets of affidavits which indirectly links Empowering Water Solutions in internal issues within the Department or between the Department and its implementing agents, Amatola Water in East London and Lepelle Northern Water in Limpopo.
3. Our company is the sole company in the country that is providing the Sand Water Extraction method as it is the **patent holder** in that regard. Its appointment is not at issue as the process of appointment was legitimate and legal following a process which is prescribed by the Constitution and legislative imperatives of both entities. Both appointments into the data bases of these entities were done at their sole discretion and after a rigorous process.



4. The appointment of Lepelle followed upon a presentation to its executives and the testing of the technology on various sites. The Amatola appointment was made through the Water research commission.
5. This solution was designed specifically to deal with the two Provinces that have villages with no water next to the Sand Rivers and where no other effective solution for this purpose exists.
6. Our system is a South African Based System which has been designed by a South African engineer for specifically the areas in Limpopo as also in response to a research titled "*Alluvial aquifer characterization and resource assessment of the Molototsi Sand River, Limpopo, South Africa*".¹
7. It is to be noted that the relationship with the entities was largely influenced by the involvement of the water research commission as our solution is a specialised solution and not a borehole.

¹ David Walker et al Journal of Hydrology: Regional Studies: www.elsevier.com/locate/jrh

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LMP Consulting:

8. This company is a precursor to Empowering Water Solutions.
9. In 2016, the Sand Water Extraction (SWE) was implemented at Setsoto Local Municipality in the Free State and in this regard in 2018 we obtained a positive testimonial to the capabilities of the system. We annex hereto a copy of the testimonial from the Municipality as annexure "LRB1".
10. Since 2016 the company looked for opportunities in the public sector particularly in the Province of Limpopo and the Eastern Cape as the system was a direct response to the drought situation of those areas and because of the strength of the solution.
11. At all material times, the doors were shut with no apparent explanation. We are told and we cannot confirm this, that our system is threatening the borehole and tinkering of water. We must emphasise, our system is rather a support to both and not a threat.
12. At the beginning of this administration, one of the high ranking officials of DWS told one of my partners that one of the reasons why we did not get their attention was that they thought that Mr Nkwinti was throwing a javelin hence they ignored him. My partner is prepared to depose a confirmatory affidavit in this regard should it be necessary.

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13. After joining LMP I then followed up on all the presentations made with the stakeholders such as Department of Water & Sanitation and the Mopani District Municipality as well as the research commission.
14. In these discussions one thing that became a sticking point was the structuring of LMP which it was said that it was too white to get Government business, as a result we had to restructure in line with the Broad Based Black Economic Empowerment imperatives of Government and Empowering Water Solutions was born.
15. After Empowering Water Solutions (“EWS”) was born, I then in my capacity as the Chairperson of the company followed-up again with the stakeholders mentioned hereinabove.

Interaction with Lepelle Water:

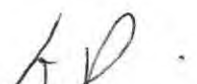
16. I had established that our company was already introduced to Lepelle Water in 2018 already through the Water Research Commission and the then Minister of Water and Sanitation Mr Gugwile Nkwinti and the CEO of Lepelle Water, Mr Legodi was instructed by the then Minister to follow up on the implementation of this solution. In this regard I have forwarded all relevant information and shared correspondence between our company with Lepelle and Mr Legodi specifically in this regard.



17. Between 2018 and early 2019 our company made numerous follow-ups with Mr Legodi regarding the meetings we had with him and Minister Nkwinti.
18. Our company is therefore known to Mr Legodi since the era of Minister Nkwinti.
19. When the new administration came in and the current Minister took over, I again followed-up in pursuit of the programme in both the Eastern Cape and in Limpopo and after having made a presentation to Minister Sisulu in one of the stakeholder engagement meetings where she was present, I was then invited to an introductory meeting at a Government function wherein Mr Mdekazi introduced me to Mr Legodi.
20. Before the presentation to Minister Sisulu, I did not know her neither did I know Mr Mdekazi. I encountered both of them as a result of them being in that office and as stakeholders in the water sector. Mr Mdekazi just introduced me to Mr Legodi at the venue where the Government meeting was taking place and I was left there and I made the presentation to Mr Legodi.
21. Mr Legodi confirmed that he knew of the solution but the company was not an empowered company, I explained the current position and I was invited by Mr Legodi to make a presentation to his team of experts in order to test the capabilities of the system.

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22. In the same month, I saw Mr Legodi on ENCA with Xoli Mngambi where he confirmed that he was implementing the system in Limpopo.
23. In September 2019, we were invited to attend a presentation of the solution to the engineers of the Department and this presentation was a success and we were informed by the engineers that they will recommend us as we were the only company with a viable technology for sand rivers. Mark Bannister, the Chief Engineer of the Department can be contacted in this regard.
24. When we met with Mr Legodi's team, it appeared that one of the officials in Lepelle Water, was part of a presentation we did at a symposium where a panel which adjudicated technologies to select for the **WRC WADER PROGRAM** was also present. We were selected and she then gave feedback to Lepelle and recommended our solution.
25. We were requested by Lepelle to do tests at various sites of which we did and reports were presented and everybody was happy including Mr Legodi.
26. I must state that at all times I had a very good relationship with him and even during my appointment we had agreed that in order for us to move swiftly with the programme and in order not to embarrass the Department or the Minister with the history of procurement in Lepelle, he needed to do the procurement of our company right and in a proper and legal manner of which he did.



27. For that I commend him and I must also state that I still have a very good relationship with him to this day.
28. I must also state that there are two (2) projects that we are currently rolling out in Limpopo at Sekhiming and Ga-Kuranta villages where Mr Legodi is actively involved and he is very supportive of them. He even went out of his way to persuade the Municipality and the local chiefs to accept the project. When the site was handed over to us for both villages in March 2020, Mr Legodi was present and he is the one who introduced us to the local leadership of the Municipality ("the Mopani District Municipality") together with the Local Traditional Leadership.
29. We started with these projects on the 14th April 2020 and in that very week we were already giving the villagers water at the rate of 270 000 litres per day. Both projects are 90 % complete. Both projects have a complete reservoir with a 350 000 litres of purified water. We did all this during the lockdown period as an emergency. The jobs created were over 40 for both villages and subcontractors for non-technical work was sourced locally. The outstanding works is the electrification so that the control room and the purification plant can be connected. We are projecting that we will reach completion by the third week of May. This progress speaks for itself.
30. I must say that when I got the telephone call from the journalist and when I was informed of the affidavit to which Mr Legodi deposed, I was a bit taken aback



and was confused, the first thing I did was to send him a message and enquired in that regard but did not get a response and I assume that because of the things I am picking up from the social media there may be things that are happening internally that I am not privy to.

31. I am therefore not going to speculate on anything and will just confirm the introduction to the meeting as it happened at a Government platform by stakeholders in my sector. This is a normal practice, particularly for unsolicited sole source bidding.

Amatola Water:

32. Equally, our company was contracted to do a test by Amatola via the Water Research Commission. We were introduced to Amatola By Dr Shafik Adams of the Water Research Commission on the 23rd April 2020 hen Dr Nikite Muller of Amatola enquired about our solution after a presentation done by WRC.
33. The same process of appointing our company as a sole service provider was followed and as such our appointment is above board, legitimate and legal. In July 2019, we were commissioned by Amatola Water to evaluate two sites for possible sand water extraction at Kowie River and Bushman's River Mouth.
34. We did the tests and on the 23rd July 2019 we reported back to Amatola in this regard.

35. I annex hereto a copy of the report dated 23rd July 2019 as annexure "LRB2".
On the 20th August 2019, we received an e-mail correspondence from Dr Nikite Muller who is the person responsible for the WRC project at Amatola wherein she was enquiring about the specifics of the system.
36. I attach hereto a copy of the e-mail for ease of reference and mark it as annexure "LRB3".
37. On the 28th August 2019 we were invited to a site visit by Amatola Water in terms of the testing of the site on the 2nd September 2019. I annex hereto a copy of the invitation marked annexure "LRB4".
38. On the 2nd and 3rd September 2019 a meeting facilitated by Dr Nikite Muller of Amatola Water took place between the Amatola Water, Water Research Commission and our company and to this effect I annex hereto a copy of the minutes of that meeting marked "LRB5".
39. This is just but a demonstration that this Albany project started way before October and the CEO was not part of these discussions and we accepted that she was being briefed from time to time by her officials as they were reporting to her.

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40. The discussions the parties had regarding the project being treated as a research was around the intellectual property and the patent and had nothing to do with a demand that EWS be procured directly by Amatola Water. The direct procurement issue arose as an alternative in case there was a deadlock with the WRC.
41. This aspect was resolved successfully and it was never an issue and a contract was then signed between the three (3) parties. I can mention that this project is a success as a result Amatola Water already is requesting that we increase the capacity of the plant.
42. I can further confirm that the calls by myself to the CEO or the CEO to myself were around this disputed issue of the intellectual property or patent.
43. The Mogalakwena report I sent to the CEO of Amatola was as a direct request by her of the progress we are making in Limpopo regarding the tests. This report was requested by her after a telephone call or conversation I had with her regarding what we were doing in Limpopo.
44. As an example, I annex hereto a copy of an e-mail marked "LRB6" which confirms the concerns I raised telephonically with the CEO, which concerns were never about appointment as we were long appointed but rather were project related.

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45. On the 7th November 2019, I received an e-mail correspondence confirming that the CEO had written to the Minister informing the Minister of our appointment at Albany Coast Reverse Osmosis Plant in Bushman's and the fact that they will appoint us to investigate and that investigation will run parallel with the pilots and water extraction installation at Butterworth, Pedi, Adelaide and Bedford, Queenstown and Ndlambe. I annex hereto a copy of the email marked "LRB7".
46. What is clear from this communication is that the Minister was following up on the information given to her by Amatola Board on the 23rd October 2019 regarding request for permission by the Board to consider alternative methods and technology in the process of alleviating the effect of the drought in the Eastern Cape. There is no mention of EWS in the Minister's correspondence.
47. In her response to the Minister, she points out that she has appointed EWS as the **Sole Service Provider for the Sand Water Extraction for the pilot and for the roll-out where the abstraction is considered a feasible option.**
48. The timeline for the commissioning of the system was set to be the 15th December 2019.
49. She further indicated that parallel to this, the following areas, Butterworth, Peddie inland and coastal, Adelaide and Bedford cluster, Queenstown (Whittlesea) and Ndlambe are to be prioritized due to the drought crisis that is

currently prevailing there. The target date for this was set to be the 15th November 2019.

50. It is a misrepresentation therefore to say that we had presented her with a report after we had been commissioned by the Minister to investigate these sites and the true position is that telephonically she insisted that I do these tests on risk because they did not have the money and she further informed me that it would take time for the Chris Hani District Municipality to do it because they do not have money either.
51. In fact, when we visited these Municipalities, she personally arranged with the Mayors of those Municipalities and I obtained the contact persons's telephone numbers and names from her and I provided same to my team because I was not physically on site.
52. On the same day, the 7th November 2019 I wrote an e-mail to her requesting her to send us an engagement letter for us to action her request as discussed telephonically and waited for her to do this, but to no avail. I attach hereto a copy of my e-mail to her dated 7 November 2019 marked "LRB8".
53. The CEO again called me after I sent this e-mail and requested nicely that I do these tests on risk and she indicated to me that her people do not want this system. They are resisting it and in order for me to be able to work there I must assist her and go and do these tests on risk. With the benefit of hindsight, I



understand the pressure she was under because of the Ministerial enquiry and the deadlines she set. She then put us under pressure as well.

54. I discussed this with my team and we agreed that if we are to go, we have to confirm in writing and set out in writing the areas as they were indicated to us as well as the costing for the evaluation. We had no option but to succumb to this pressure because we wanted the business. I annex hereto a copy of the e-mail marked "LRB9".
55. In the week of the 11th November 2019 we went to test these areas as requested and the report was only shared with her on the 19th November 2019 in order for her to share it with the Minister. She even requested permission to share the report with Chris Hani District Municipality and in this e-mail she even acknowledged receipt of the report with appreciation and confirmed **that this is a solution for the current Eastern Cape crisis and the only thing to do was to focus on resource mobilization for the roll out.** I annex hereto a copy of the e-mail dated 19 November 2019 marked annexure "LRB10".
56. I then confirmed by way of an e-mail that she should by all means share it with them to which she confirmed that she did. I annex hereto a copy of that e-mail dated 19 November 2019 marked "LRB11".
57. We had then submitted an invoice of all five (5) of the tested areas to the amount of R550 000.00 excluding VAT. This invoice was never paid as she



indicated that there was no money. That we were paid from the R230M is news to us. We hear for the first time that there is an amount of R230m paid to them. All along we were labouring under the impression that there is no money.

58. We were then requested by the CEO of Amatola to assist with an emergency at Butterworth as there was a community protest action there and I insisted that I needed to be appointed before I go there but she requested again that I go and do the tests as she will see to it that we will be paid.
59. I refused to go and after I had spoken to her I received a call from the Minister who wanted to know why was I not at Butterworth as I was appointed by Amatola to go and assist with the water situation there as I am the sole provider. I informed the Minister that I was not given a purchase order and that I am still awaiting a purchase order in that regard. I assume that she spoke to the Minister before I was called by the Minister.
60. I then telephoned the CEO who insisted that we go and do the site but I insisted this time on the purchase order, as I had a bad experience with the institution in the past regarding payments.
61. After being persuaded by her I then requested my team to give a quote for the emergency system in Butterworth as the situation was getting out of hand and the Department was a little bit in the corner with the protest action from the



community there. I annex hereto a copy of the e-mail we sent on the 4th December 2019 in this regard and mark it as "LRB12".

62. During this period it was suggested that we obtain quotations from service providers locally to which we had indicated that if it is cheaper to do that they can do it and then take it from there. In this regard I annex hereto a copy of the e-mail and that quotation marked "LRB13".
63. On the 2nd January 2020 we then wrote an e-mail correspondence to Asanda who is the technical person at Amatola who was responsible for the Butterworth project wherein we were proposing certain issues and I annex hereto a copy of the e-mail marked "LRB14". The purchase order did not come and we did not go to Butterworth. This project has since been put on hold.
64. On the 8th January 2020 we submitted a progress report and invoice for the Bushman's/Albany Reticulation Plant Water Supply project. I annex hereto marked "LRB15". This was paid by the WRC.
65. On the 23rd January 2020 I then received an e-mail correspondence from one of my partners wherein he was complaining about the goalpost that are forever being shifted and he was advising that we leave this project and look for other projects. I elevated this to her as it is my duty to do so in my company. I annex hereto a copy of that e-mail marked "LRB16".

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66. I called the CEO and informed her of this situation and I do not believe that calling her genuinely registering a concern from a partner is complaining. I have a duty as the Chairperson of the company to inform her of the things our technical guys encounter from time to time.
67. Whilst we were still busy with this issue, another request came in to the effect that before we can commission the test results for the sites that we tested we needed to again go and do a 48-hour test.
68. This really upset my team but after discussions we agreed that we were going to go and do the 48-hour tests and in this regard we again submitted quotations for the 48-hour extraction tests. In this regard I annex hereto a copy of the e-mail marked "LRB17".
69. We were again invited to make a presentation to a committee that supposedly was to advise on the funding needs of the project and we then responded to this request to one Mr Mlamli Mabulu and in this regard I annex hereto a copy of the face of the e-mail as annexure "LRB18".
70. On the 11th February 2020, we again received another request which did not really sit well with my team and we on the same day sought to give information in that regard. I attach hereto a copy of the e-mail marked "LRB19".



71. Again on the 14th February 2020 we were requested to submit a technical report which would be submitted to a structure called ECTAC for funding, water licensing and environmental application for the projects. I annex hereto a copy of the e-mail marked "LRB20".
72. The invoices to the Board of Amatola in respect of the test site were in line with their request and there was no way that we could know whether they are funded or not because we are not privy to internal information. It surprises me why would the CEO be shocked to receive an invoice for which she had duly asked us to attend to for the testing.
73. When I raised this as an issue, the CEO then said to me that I should not worry if the District Municipalities are in no position to pay the invoices because of their financial position, then we should just factor in these invoices in our future payments.
74. I can confirm that I have indeed complained not only to the CEO but also to the Minister about the delays in the matter because I got a telephone call from one of the Minister's advisors indicating that Amatola Water had appointed my company for two (2) sites in the Eastern Cape and paid an advance to the amount of R4 million for the implementation of the projects.
75. This I rejected out of hand because our company had never been appointed and no amount of money was ever paid in this regard and this was the basis of

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the complaint as it would appear that my company was made a scapegoat for projects that are not being implemented.

76. It was our general view in the company, which was confirmed by the CEO in one of the discussions I had with her, that the solution is resisted by her people and her people do not want this solution. It is on that basis that I then felt obligated that I needed to inform the Minister because the CEO had opened that channel of communication. Had she not done so, I would never have complained to her in the same way I never complained to her Board or the acting DG for that matter.
77. The current bone of contention that brought the project to a halt was the insistence by Amatola that we split our system as they want to only procure from us the part of the system that is extracting water and that we allow them to procure other parts of the system from their service providers. See annexure "LRB21".
78. Amatola Water wanted to change the scope of our work and business model by only procuring the extraction machine and not the system to which we had resisted because our service is to sell a system and if there is no compatibility in the system, we cannot take responsibility and guarantee the functionality of the system.



79. We have raised this concern with Amatola and to date we have not received feedback. See annexure "LRB22".
80. Just as we were still discussing the issue, we were visited by the lockdown just before we could reach a settlement on the issue. We even proposed that instead of us testing for 48hrs just for proof of concept, they must give us areas where there is a great need so that we can put in emergency systems for the duration of the lockdown period but we never received a response in this regard.
81. I can confirm that at all material times my discussions with the CEO were frank and open and honest and I could not pick-up at any stage that there was an element of arrogance on my part. When I received enquiries from the journalist, the first thing I did was to write her a message and asking about this and asking for her advice but such message was never responded to.
82. I do not think that this is a complaint against the capabilities of our system or anything that could have been done by us which is untoward and in this regard I would not want to speculate as to what the real reason is.
83. This is all I can state and I categorically deny any relationship with either the Minister or Mr Mdekazi that is beyond that is acceptable within the norm of stakeholders.


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84. I also do not have any relationship with the persons mentioned in any report and am not part of any political campaign for or against anybody.
85. I am a businessperson and will do whatever necessary within the confines of the law to assist the communities with water. The factual demonstration herein seeks to do just that.
86. Please feel free to request any further information that may assist you in your investigation.



L R BOMELA

I **CERTIFY** that this affidavit has been sworn to and signed before me at **BLOEMFONTEIN** this 5th day of **MAY 2020** by the abovementioned deponent who declared that he is acquainted with the contents of this affidavit and understands same, that he has no objection to taking the prescribed oath and further, that he considers the said oath as binding on his conscience, which oath was properly taken by me, as required by law.



COMMISSIONER OF OATHS

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