



Emfuleni washes away Human Rights

**A submission by the Organisation
Undoing Tax Abuse to the South
African Human Rights Commission**

25 September 2018

OUTA

ORGANISATION UNDOING TAX ABUSE

Table of Contents

1. Introduction	2
2. The situation in Emfuleni	2
3. OUTA attempts to engage authorities.....	3
The first letter: to Gauteng provincial government, 28 February 2018	3
The second letter: to Gauteng provincial government, 5 March 2018	4
The third letter: to Gauteng provincial government, 14 March 2018	4
The fourth letter: to Emfuleni, 16 May 2018	5
The fifth letter: to Emfuleni, 16 May 2018	6
The sixth letter: to the Gauteng Premier, 25 July 2018	6
The seventh letter: to Eskom, 30 July 2018	7
The eighth letter: to Emfuleni, 17 August 2018	8
4. Emfuleni's sewerage system	9
5. Water quality.....	14
6. Emfuleni's finances.....	15
7. Nationally funded infrastructure	16
Sedibeng Bulk Regional Sewerage Scheme	16
Sedibeng Bulk Regional Sewerage Scheme: Sebokeng & Meyerton WWTW	18
Sebokeng Waste Treatment Works phase I and phase 2	18
Meyerton Wastewater Treatment Works phase I	19
Sedibeng Water Board	20
What was the result?.....	21
8. OUTA complaint to SAHRC in 2017	21
9. Conclusion.....	22

I. Introduction

The Organisation Undoing Tax Abuse (OUTA) is an apolitical non-profit civil action organisation, funded by tens of thousands of individuals and businesses, whose main aim is to hold government accountable for the abuse of power, corruption and maladministration. We challenge and take action against corrupt activities and wasteful expenditure by Government, aiming to hold those responsible personally accountable and seeking to recover lost funds. We thus aim to ensure that more tax revenues are made available to benefit all in South Africa, especially the poor and vulnerable.

OUTA set up its OUTA Local Government Initiative in February 2018, an initiative to encourage the efficient operation of municipalities on behalf of their residents, businesses and communities. This arose from the collapse, or near collapse, of municipalities around the country, which has left municipal debt out of control, unaffordable service tariffs, collapsing service delivery, overflowing sewers and uncollected rubbish. Quality leaders are now extremely difficult to attract to local government due to the entrenched system of party patronage and systemic nepotism and corruption. OUTA's team includes investigators, researchers and legal specialists. Our team adopts a construction participative approach, coordinating with communities and authorities to find solutions, but also acting against those involved in corruption or maladministration. Our intention is to assist residents to reclaim their participation in local government, analyse municipal budgets, conduct forensic investigations and hold municipal leadership to account.

OUTA was approached by residents and businesses in Emfuleni to assist them to hold Emfuleni Local Municipality to account in the face of the collapse of essential services. OUTA started lobbying authorities on the community's behalf and, on 19 June 2018, formally launched an OUTA Local branch in Emfuleni.

OUTA thus acts in this matter on behalf of its supporters and the community of Emfuleni.

2. The situation in Emfuleni

Emfuleni citizens have been subjected to appalling living conditions for years.

Emfuleni, the former industrial heartland of Gauteng which created employment and wealth for the communities of Sebokeng, Vanderbijlpark, Vereeniging and Sharpeville, has now become a cesspit. Raw sewage flows into the Vaal River, Kliprivier and Rietspruit due to the wastewater treatment plants that have fallen into disrepair. The pump-stations can no longer pump the effluent to the plants due to cable theft, vandalism and irreparable electric motors, causing them to overflow.

As recently as 19 September 2018, OUTA briefly toured parts of Emfuleni, again finding streets turned into rivers of sewage, stinking sewage spills running alongside schools and an old-age home, and flooded and dysfunctional sewerage pump stations which appear to have been abandoned for years. Adding to the problem is the astonishing amount of refuse littering Emfuleni, particularly in Sharpeville and Sebokeng, which blocks sewers.

The health risks caused by e-coli and other bacteria are life-threatening to the communities in Emfuleni and those who use the Vaal River water both in Emfuleni and downstream.

Emfuleni lies along the banks of the Vaal River. The collapse of Emfuleni's sewerage system is contaminating the Vaal, a problem which has been repeatedly highlighted by Save the Vaal Environment. The Vaal River catchment area is of strategic importance to the country and this contamination threatens the farming activities downstream, which could result in declining fruit exports which would have long term economic and social consequences.

The Emfuleni Local Municipality (ELM) is responsible for the sewerage system.

Emfuleni is in financial crisis, a situation which has been allowed to continue for years, and this has been exacerbated by entrenched maladministration and corruption in this municipality. These problems are at the root of the collapse of the Emfuleni sewerage system.

OUTA has attempted to meet with Emfuleni municipality authorities to discuss community-driven solutions to the financial and service delivery crisis, and has lobbied the Gauteng provincial government to intervene and provide a financial recovery plan. Our efforts have been unsuccessful: we have been ignored by all authorities and Emfuleni remains in a state of chaos.

3. OUTA attempts to engage authorities

The first letter: to Gauteng provincial government, 28 February 2018

On 28 February 2018, OUTA's head of legal affairs, Advocate Stefanie Fick, wrote to Gauteng MEC for Cooperative Governance and Traditional Affairs Paul Mashatile about the Emfuleni financial crisis, the threatened interruption of Eskom's electricity service to the municipality on 8 March 2018 and concern over the security of the water supply from Rand Water. This letter was copied to:

- Gauteng MEC for Finance Barbara Creecy;
- Minister of Cooperative Governance and Traditional Affairs Dr Zweli Mkhize;
- Minister of Finance Nhlanhla Nene;
- The Auditor General of South Africa;
- Emfuleni Executive Mayor Jacob Khawe;
- Emfuleni Municipal Manager Dithabe Nkoane; and
- Acting CEO of Eskom Phakamani Hadebe.

When a municipality fails to meet its financial obligations or to provide basic services, the relevant province is under a constitutional obligation to intervene by imposing a recovery plan. This letter outlined the legal responsibilities and called for the introduction of a detailed financial recovery plan for Emfuleni. It also asked MEC Mashatile to outline the steps he would take to prevent the disruption of basic services to Emfuleni. "It would appear that ELM is either reluctant to admit that it has financial problems or is unaware of its financial demise. It would also appear that despite having access to the monthly returns from ELM that no one at provincial level is aware of the serious financial demise of ELM," wrote Fick.

There was no response to this letter. The e-mail addresses used for delivery were confirmed as correct.

OUTA is not aware of any financial recovery plan having been developed for Emfuleni municipality.

This letter is attached as **Annexure A**.

The second letter: to Gauteng provincial government, 5 March 2018

On 5 March 2018, OUTA's Advocate Fick wrote again to the same public office bearers, referring to the letter of 28 February 2018 and asking for a response. This letter notes that Emfuleni had concluded agreements with Eskom and Rand Water, acknowledging debt of R800 million to Eskom and R430 million to Rand Water and setting out payment arrangements. OUTA asked for clarity on what effect those agreements would have on the threatened disconnection of services to Emfuleni and asked for copies of these agreements and of the financial recovery plan for Emfuleni.

There was no response to this letter. The e-mail addresses used for delivery were confirmed as correct.

This letter is attached as **Annexure B**.

The third letter: to Gauteng provincial government, 14 March 2018

In March 2018, Dikgang Moilola took over as the Gauteng MEC for Cooperative Governance and Traditional Affairs and Human Settlements.

On 14 March 2018, OUTA's Advocate Fick wrote to MEC Moilola, in a letter copied to the same public office bearers as the previous two letters to the MEC, and asking for an urgent response to the previous two letters. This letter noted that Emfuleni was reported to have failed to honour its payment agreement with Rand Water, resulting in Rand Water reducing supply to the municipality. Fick again requested copies of the Emfuleni agreements with Eskom and Rand Water and a copy of the financial recovery plan.

There was no response to this letter. The e-mail addresses used for delivery were confirmed as correct.

This letter is attached as **Annexure C**.

The fourth letter: to Emfuleni, 16 May 2018

On 16 May 2018, OUTA's manager for OUTA Local, Michael Holenstein, wrote to Emfuleni Municipal Manager Dithabe Nkoane.

This letter was copied to:

- Emfuleni Executive Mayor Jacob Khawe;
- Emfuleni acting CFO Samuel Mokgethi;
- Gauteng MEC for Cooperative Governance and Traditional Affairs Dikgang Moiloa;
- Gauteng MEC for Finance Barbara Creecy; and
- CEO of Rand Water Percy Sechemane.

This letter was a demand for the preparation, approval, implementation and monitoring of a financial rescue plan for Emfuleni municipality.

This letter outlines the constitutional framework compelling transparency and accountability in the municipal budgeting process and the responsibility of the municipality to, inter alia, provide accountable government, ensure the provision of services, promote a safe and healthy environment, and encourage the involvement of communities and community organisations in matters of local government. It notes the constitutional requirement for provincial and national governments to oversee and intervene in dysfunctional municipalities, including the requirement for a provincial government to intervene and implement a financial recovery scheme in a municipality in financial crisis and, if this plan is not passed by the relevant municipal council, to dissolve that council and appoint an administrator. This letter also outlines the municipality's legal responsibilities on budgeting and financial management.

The letter raises concern over the municipality's failure to pay Eskom and Rand Water accounts, resulting in the rationing of the bulk electricity and water supplies to Emfuleni.

"There should be consequences for municipal political office bearers similar to those imposed by the Executive Members' Ethics Act (Act 82 of 1998) for non-compliance with constitutional and legislative obligations," wrote Holenstein.

The letter requested details of how the municipality would ensure that essential services to communities would not be interrupted and how the amounts owed to Eskom and Rand Water would be paid.

There was no response to this letter. The e-mail addresses used for delivery were confirmed as correct.

This letter is attached as **Annexure D**.

The fifth letter: to Emfuleni, 16 May 2018

On 16 May 2018, OUTA's manager for OUTA Local, Michael Holenstein, wrote to Emfuleni Municipal Manager Dithabe Nkoane.

This letter was copied to:

- Emfuleni Executive Mayor Jacob Khawe;
- Emfuleni acting CFO Samuel Mokgethi;
- Gauteng MEC for Cooperative Governance and Traditional Affairs Dikgang Moiloa; and
- Gauteng MEC for Finance Barbara Creecy.

This letter was a demand for the development of a turn-around strategy package for Emfuleni municipality.

Again, this letter outlined the legislative framework for intervention in dysfunctional municipalities.

The letter noted the statement made on 23 May 2018 by Emfuleni Executive Mayor Khawe regarding "a Turn Around Strategy Package, which includes realistic budgeting, revenue collection methods, water saving methods and the loan with DBSA, prepared for the Premier" and asked for a copy of that package. It also asked for steps to hold municipal office bearers to account and to ensure that Emfuleni's monthly financial reports in terms of Section 71 of the Municipal Financial Management Act reflected the municipality's debt and debt repayment arrangements.

There was no response to this letter. The e-mail addresses used for delivery were confirmed as correct.

This letter is attached as **Annexure E**.

The sixth letter: to the Gauteng Premier, 25 July 2018

On 25 July 2018, OUTA's Michael Holenstein wrote to Gauteng Premier David Makhura about the interruption of water and electricity services in Emfuleni municipality.

Attached to this letter were copies of the four above letters, none of which had received a reply.

Holenstein called for Premier Makhura to ensure urgent intervention by the provincial executive in Emfuleni municipality.

"We have in the interim learned via community members, media reports, and press statements by ESKOM, and Rand Water, that there will be water & electricity disruptions in the towns within the boundaries of ELM due to the non-payment of services by the municipality. The untenable situation in ELM has now reached the point of non-return and demands the inclusion of the community, as per Section 152 (1) (e), to ensure that the community is not only informed, but also involved in the decisions that affect their daily lives," wrote Holenstein.

“We have evidence of raw untreated sewage is flowing freely into the Vaal & Klip rivers and other water courses, causing an environmental catastrophe and a potential health hazard for users. The community (and government) can ill afford an outbreak of a waterborne disease due to the high levels of e-coli and other bacteria in the water.”

Holenstein requested copies of the Emfuleni payment agreements with Eskom and Rand Water, the financial recovery plan and confirmation of the rumoured but unconfirmed provincial intervention in Emfuleni.

There was no response to this letter. The e-mail addresses used for delivery were confirmed as correct.

This letter is attached as **Annexure F**.

The seventh letter: to Eskom, 30 July 2018

On 30 July 2018, OUTA’s Advocate Stefanie Fick wrote to acting CEO of Eskom Phakamani Hadebe, about the interruption of the bulk supply of electricity to Emfuleni municipality planned from 6 August 2018, which might result in an indefinite cut after 15 days. OUTA called on Eskom not to disconnect the bulk supply to Emfuleni.

This letter also pointed out the risk to health and safety of cutting electricity to essential services such as sewer system pump stations.

This letter was based on an Eskom notice to Emfuleni municipality of the intended interruption, which stated that Emfuleni’s debt to Eskom increased by about R200 million per month but Emfuleni was making no or insufficient payments. The cuts would affect Vereeniging, Vanderbijlpark, Sebokeng, Boipatong, Tshepiso, Sharpeville and Evaton.

OUTA noted that Eskom had proposed that seven industries in Emfuleni be permitted to pay Eskom directly to avoid disconnection, but that Emfuleni, the Gauteng provincial government and the National Energy Regulator (NERSA) could not agree on this. OUTA indicated support for such an agreement, or for the ring-fencing of Emfuleni consumers’ electricity and water payments to ensure these were handed over fully to Eskom and Rand Water.

“It is submitted that the disruption of electricity supply, as decided by Eskom, will have a devastating effect on the communities and businesses within the area of jurisdiction of ELM. The effect of disruptions to industries and businesses and other places of employment will force employers to engage in the retrenchment of at least part of their workforce, health and safety will be at risk, as a result of the fact that sewer pumps cannot operate without electricity (taking into consideration the already significant pollution of the Vaal River due to the collapse of the ELM’s ability to render basic services), all of which will have a negative impact on the whole area of jurisdiction of ELM and may even lead to the collapse of an area which was, not long ago, known as the economic heartland of South Africa,” wrote Fick.

There was no response to this letter. The e-mail addresses used for delivery were confirmed as correct.

Eskom ultimately did not interrupt the bulk supply.

This letter is attached as **Annexure G**.

The eighth letter: to Emfuleni, 17 August 2018

On 17 August 2018, OUTA's Michael Holenstein wrote to Emfuleni Executive Mayor Jacob Khawe and Municipal Manager Dithabe Nkoane, asking for a meeting to discuss possible solutions to the municipality's management and service delivery crisis.

"This letter is to request a meeting with you and/or your respective authorities in a positive engagement, to propose a sustainable community assisted solution to the governance and output problems encountered at many municipalities in South Africa," wrote Holenstein.

"Our recent engagements in local municipalities have witnessed several calls by local ratepayer and business associations to embark on municipal tax revolts, seeming as a last resort following many unsuccessful attempts for local authorities to address their concerns. Naturally these 'take-over' efforts by local communities are undesirable but have become a necessary evil born out of desperation by local communities. This can and must be averted, if South Africa is to escape the serious consequences of demise in Local Government.

"Our strategy will introduce a co-operative and sustainable solution to restoring municipalities to their functional state and reintroducing compliance, transparency and financial hygiene to municipal management, whilst also reducing wasteful expenditure and corruption. More importantly, our solution will introduce community oversight and sustainable participation into the running of municipalities."

There was no response to these letters. The e-mail addresses used for delivery were confirmed as correct.

These letters are attached as **Annexures H and I**.

4. Emfuleni's sewerage system

In this submission, we focus on the sewerage infrastructure, as the collapse of Emfuleni's sanitation system is a substantial health and safety risk, both for Emfuleni residents and for those who use the Vaal River and this is the focus of the SAHRC investigation.

The sewerage spill problems are well known. Below are photographs which OUTA's team took on 19 September 2018, which give an indication of the problem.



Above: Sewage running through Mongau Street, Tshepiso, Sharpeville.



Above: Sewage spill in Mongau Street, Tshepiso, Sharpeville.



Above: The wastewater pump station in Golf Street, Three Rivers, Vereeniging is flooded with sewage and abandoned.



Above: The wastewater pump station in Golf Street, Three Rivers, Vereeniging is flooded with sewage and abandoned.



Above: The wastewater pump station in Seeiso Street, Sharpeville, is flooded with sewage, vandalised and abandoned.



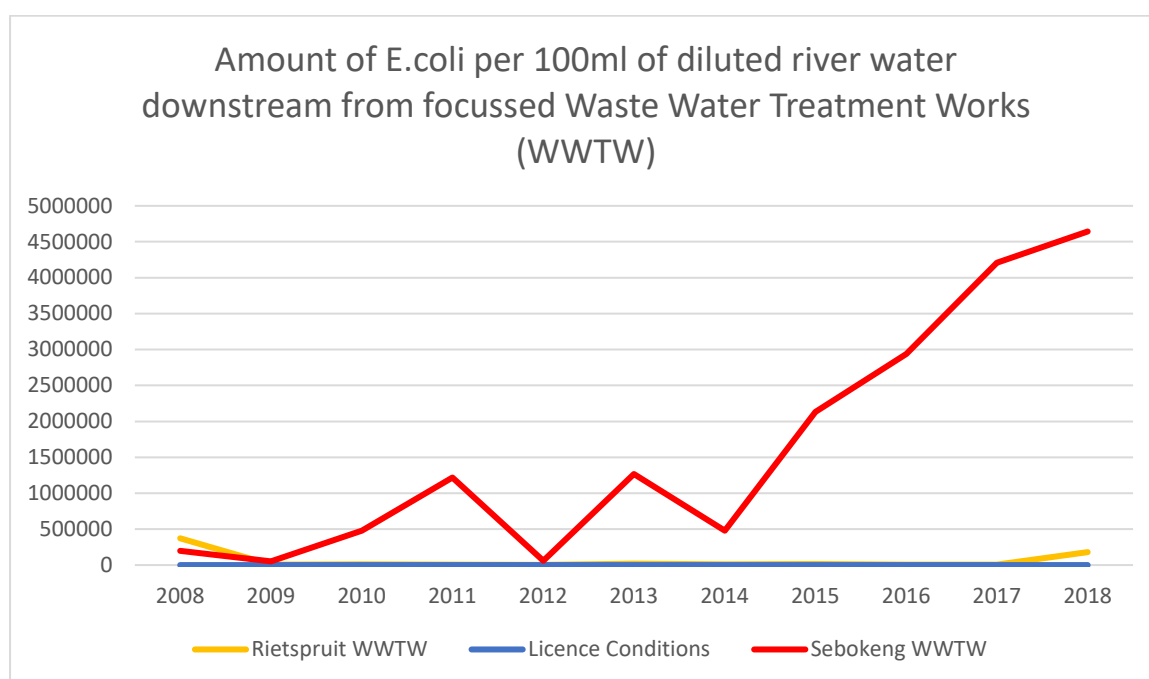
Above: The wastewater pump station in Seeiso Street, Sharpeville, is flooded with sewage, vandalised and abandoned.



Above: The wastewater pump station in Seeiso Street, Sharpeville, is flooded with sewage, vandalised and abandoned.

5. Water quality

The chart below provides an indication of sewage contamination of rivers as a result of partially or untreated sewage from the Rietspruit wastewater treatment works (WWTW) and Sebokeng WWTW. The data used was obtained from the Rietspruit Forum Reports and was sampled downstream from each WWTW. The data of the first E.coli sample and analysis, according to the final Rand Water Quarterly Report for every year varying from 2008 to 2018, was used to compile this chart and is available [here](#). These samples are diluted samples as the samples were taken downstream from the works and are not taken from the works themselves. It is safe to assume that the main sources of contamination are the WWTW. It is also safe to assume that both WWTW water use licences indicate that there should be no E.coli per 100ml of waste water discharged.



The root cause of the problem is the failure of the regulator (the Department of Water and Sanitation) to act as the custodian of our water and to hold polluters accountable. There seems to be no appetite by the regulator to enforce the law and to hold municipal officials personally accountable for these transgressions. This is a countrywide phenomenon which poses severe risks to the economy and basic human rights such as health, a safe environment, clean water and food security.

On 29 August 2018, Minister of Water and Sanitation Gugile Nkwinti told Parliament (in reply RNO77 published on 3 September, see **Annexure J**) the following:

“The Department issues Notices and Directives in terms of the National Water Act to address non-compliance and pollution. These Notices and Directives compel the transgressors to implement

corrective measures to prevent deterioration of water resources. To date, the Emfuleni Municipality has been issued with two (2) Directives and nine (9) Notices to stop pollution into the Vaal River.

“Authorised water uses are regulated through their water authorisation conditions to ensure that the discharge of effluent meets the required standard and these are inspected regularly to ensure compliance. Non compliant water services systems are also monitored against regulatory standards on regular basis. The non-compliances are dealt with through the required administrative enforcement action in terms of the National Water Act, 1998 (Act no. 36 of 1998) (NWA). As a last resort relief may be sought through civil and criminal enforcement action to rectify some non-compliances.”

The decay is clear. The damage has been done. Two directives and nine noncompliance notices have been issued. OUTA believes that the last resort must be sought and criminal enforcement action to rectify these non-compliances is the only way to ensure accountability. A precedent should now be set for all municipalities around the country to ensure that our and future generations’ basic rights are protected.

6. Emfuleni’s finances

OUTA will provide the SAHRC with a fuller picture of Emfuleni’s finances during the hearings, as we are awaiting more accurate documentation from the National Treasury.

7. Nationally funded infrastructure

The national Department of Water and Sanitation funds certain bulk sewerage infrastructure.

Funding is confusing, as the Department does not provide project numbers and sometimes lists different projects with the same names. Some projects appear to start, then stop for several years. The total budgets for projects fluctuate and budgeted spending does not match actual spending; sometimes the historical records of spending also change. This confusion may be a way of manipulating the records to conceal corruption. This may also explain why none of these projects seem to finish.

One scheme is believed to have changed parameters, scaling down from an initially much bigger scheme.

A search through the Department's budgets from 2008 to 2018 lists what appear to be four infrastructure projects for the Emfuleni region:

1. Sedibeng Bulk Regional Sewerage Scheme (this is also referred to as the Sedibeng Bulk Regional Sewerage Scheme Remainder);
2. Sedibeng Bulk Regional Sewerage Scheme: Sebokeng and Meyerton wastewater treatment works;
3. Sebokeng Waste Treatment Works phase 1 and phase 2; and
4. Meyerton Wastewater Treatment Works phase 1.

The budget documents merely list the spending and do not explain which work is involved in each scheme. See **Annexure K** for the relevant extracts from the Department's budgets.

Sedibeng Bulk Regional Sewerage Scheme

This is the first of the four projects to appear in the budgets, starting in Budget 2010.

This is listed in 2010 as "waste water treatment works" at feasibility stage with a total budget of R1 200m but by the following year it was a R3 500m project, a "new sanitation scheme to replace high maintenance, unreliable, old infrastructure, inadequate for planned future development" and had moved to the tender phase.

Budgets 2010 and 2011 show that spending started earlier: R1.1m in 2007/08 and R3.8m in 2008/09, although it is not mentioned in those budgets.

From 2007/08 to 2018/19, a total of R209.485m has been spent on this project. It has gone from the feasibility study stage, to tender, to design and is now back at feasibility. No construction work appears to have taken place, according to the budgets.

This scheme was divided about five years ago, with Sebokeng and Meyerton waste water works removed from it. However, the overall project cost remains high and the following three schemes could indicate some duplication.

Budget 2012 notes that the department received additional allocations for the MTEF period, including “R60 million, R140 million and R200 million for the Sedibeng district municipality wastewater bulk infrastructure”. However, that year’s budget reflects the MTEF spending for this project as R60m (2012/13), R120m (2013/14) and R170m (2014/15). This scheme (Sedibeng Bulk Regional Sewerage Scheme) is the only one of the four projects listed in that budget and there is no explanation for what happened to the rest of the funds; however, the second Sedibeng scheme was listed in the subsequent budgets so funding presumably moved there.

Sedibeng Bulk Regional Sewerage Scheme				
	Spending each year (audited or most recent figures) R million	Project stage	Total project cost R million	
2006/07	R0			
2007/08	R1.106			
2008/09	R3.781			
2009/10	R20.154			
2010/11	R18.800	Feasibility	R1 200	Budget 2010 is the first year this scheme appears in the budgets.
2011/12	R5.244	Tender	R3 500	
2012/13	R0	Tender	R3 500	Budget 2012 says scheme is “divided into Sebokeng and Meyerton waste water treatment works”.
2013/14	R0	Design	R2 400	
2014/15	R0	Design	R2 400	Now named Sedibeng Bulk Regional Sewerage Scheme Remainder.
2015/16	R26.9	Design	R2 400	Budget 2016 lists adjusted appropriation for 2015/16 as R35.0m.
2016/17	R44.1	Feasibility	R1 200	Budget 2017 lists adjusted appropriation for 2016/17 as R50.0m.
2017/18	R21.8	Feasibility	R3 000	
2018/19	R67.6	Feasibility	R3 000	
2019/20	R197.8			
2020/21	R152.0			
Total all years	R559.285			
Total 2006/07 - 2018/19	R209.485			This is the actual spending to date, including this year.

Sedibeng Bulk Regional Sewerage Scheme: Sebokeng and Meyerton Wastewater Treatment Works

This is the second of the four projects to appear in the budgets, starting in Budget 2013, although spending started a year earlier. This appears to be the works split off from the original project.

This is listed as “extension of wastewater treatment works” with a total project budget of R1 456m and moved straight into the tender stage; later it is described as upgrading of the existing works.

This meant a total project budget of the original Sedibeng scheme and this scheme of R3 856m.

During the five years of 2011/12 to 2015/16 a total of R304.291m was spent on this scheme, none of it on construction according to the budgets. No further spending is listed. This scheme appears to have devolved in the next two schemes, which then appeared in the budgets.

Sedibeng Bulk Regional Sewerage Scheme: Sebokeng and Meyerton wastewater treatment works				
	Spending each year (audited or most recent figures) R million	Project stage	Total project cost R million	
2011/12	R31.298			
2012/13	R5.940			Budget 2013 lists adjusted appropriation for 2012/13 as R48m.
2013/14	R32.174	Tender	R1 456	Budget 2013 is the first year this scheme appears in the budget. Budget 2014 lists adjusted appropriation for 2013/14 as R140m.
2014/15	R93.679	Tender	R1 456	Budget 2015 lists adjusted appropriation for 2014/15 as R200m.
2015/16	R141.2	Tender	R1 456	Budget 2016 lists adjusted appropriation for 2015/16 as R110m.
2016/17	R0	Construction	R856	
2017/18	R0			This project is not in Budget 2017.
2018/19	R0	Construction	R856	This project is back in Budget 2018, but no funding is listed.
2019/20	R0			
2020/21	R0			
Total all years	R304.291			

Sebokeng Waste Treatment Works phase 1 and phase 2

This is the third of the four projects to appear in the budgets, starting in Budget 2017, although spending is listed as starting in 2013/14. This appears to be the works split off from the second project.

This is listed as “upgrade of existing wastewater treatment works” with a total project budget of R1 123.6m and moved straight into the construction stage.

In both Budget 2017 and 2018, this is listed as a mega project, which means a total project cost of at least R1 billion.

So far R678.2m has been spent on this and another R350.9m is predicted for the next two years.

Sebokeng Waste Treatment Works phase 1 and phase 2				
	Spending each year (audited or most recent figures) R million	Project stage	Total project cost R million	
2013/14	R32.0			
2014/15	R93.7			
2015/16	R99.8			
2016/17	R166.3			
2017/18	R121.0	Construction	R1 223.6	Budget 2017 is the first year this scheme appears in the budget.
2018/19	R165.4	Construction	R1 123.6	
2019/20	R100.9			
2020/21	R250.0			
Total all years	R1 029.1			
Total 2006/07 - 2018/19	R678.2			

Meyerton Wastewater Treatment Works phase 1

This is the fourth of the four projects to appear in the budgets, starting in Budget 2017, although spending is listed as starting in 2013/14. Again, this appears to be the works split off from the second project.

This is listed as “upgrade of existing wastewater treatment works” with a total project budget of R257.5m and moved straight into the construction stage.

In both Budget 2017 and 2018, this is listed as a mega project, which means a total project cost of at least R1 billion.

So far R160.2m has been spent on this and another R112m is predicted for the next two years.

Meyerton Wastewater Treatment Works phase 1				
	Spending each year (audited or most recent figures) R million	Project stage	Total project cost R million	
2013/14	R0.2			
2014/15	R0			
2015/16	R41.4			
2016/17	R40.9			Budget 2017 lists adjusted appropriation for 2015/16 as R49.5m.
2017/18	R35.8	Construction	R257.5	Budget 2017 lists adjusted appropriation for 2015/16 as R48.4m.
2018/19	R41.9	Construction	R257.5	
2019/20	R7.0			
2020/21	R105.0			
Total all years	R272.2			
Total 2006/07 - 2018/19	R160.2			

Sedibeng Water Board

In addition to the above, the Department transferred funds from 2014/15 onwards to the Sedibeng Water Board for regional bulk infrastructure. The total transferred to date, including 2018/19, is R1 492.907m.

Sedibeng Water Board	
	R million
2014/15	R143.200
2015/16	R203.548
2016/17	R279.000
2017/18	R433.159
2018/19	R434.000
2019/20	R212.518
2020/21	R135.000
Total all years	R1 840.425
Total 2006/07 - 2018/19	R1 492.907

What was the result?

This started as a scheme to build a new Sedibeng Bulk Regional Sewerage Scheme, based on the 2010 explanation of the need for a “new sanitation scheme to replace high maintenance, unreliable, old infrastructure, inadequate for planned future development”. It has collapsed into two smaller schemes to upgrade the existing Sebokeng and Meyerton wastewater works. A new scheme is no longer mentioned.

The first scheme (Sedibeng Bulk Regional Sewerage Scheme) spent R209.485m over 14 years without getting out of the feasibility or tender stage. This scheme still exists, with money spent on it every year, still stuck in the feasibility stage.

The second scheme (Sedibeng Bulk Regional Sewerage Scheme: Sebokeng and Meyerton wastewater treatment works) spent R304.291m over four years without any construction either.

The third scheme (Sebokeng Waste Treatment Works phase 1 and phase 2) spent R678.2m over six years, only the last two on construction.

The fourth scheme (Meyerton Wastewater Treatment Works phase 1) spent R160.2m over eight years, only the last two on construction.

In addition to this, the Department transferred a total of R1 840.425m to the Sedibeng Water Board over five years for the same project.

This is a total spend to date (including 2018/19) of R3 192.601m, apparently resulting in still unfinished upgrades to the existing wastewater treatment works.

8. OUTA complaint to SAHRC in 2017

It is the responsibility of the national Department of Water and Sanitation to ensure water quality standards. However, the Department has repeatedly failed in this. The Blue Drop reports (on water quality) and the Green Drop reports (on wastewater) have not been issued for years. OUTA has been unable to access copies of these from the Department. On 11 January 2017, OUTA sent a Promotion of Access to Information Act application to the then Minister of Water Affairs Nomvula Mokonyane, asking her to publish the outstanding Blue Drop and Green Drop reports, the non-revenue water reports and the regulatory performance monitoring system reports. We're still waiting for these.

During 2017, OUTA submitted a complaint about water quality nationally to the SA Human Rights Commission. OUTA noted that there was widespread violation of the public's right to access to clean and sufficient water as outlined in the Constitution, due to the Department's failure to fulfil its duties as the national water regulator and hold polluters accountable. “Politics are ruining our water quality which poses severe risks to the economy, health, environment, food security and every person in the country,” wrote OUTA in the complaint.

OUTA raised concerns about the current state of disrepair of the municipal waste water treatment works and the harmful effects that this may have on community health and well-being and on surrounding environment as well as the contamination of water resources. “More than 71% of waste water treatment facilities are non-compliant, discharging more than 3 734 million litres of waste water (toxic waste) that is partially treated or untreated raw sewage causing severe pollution to the water resources of the country and placing the health of all our people at risk. The number of manholes discharging raw sewage into storm water drains, streams, rivers and dams increased,” wrote OUTA.

In response, the SAHRC declined to investigate and referred the matter to the Public Protector.

In turn, the Public Protector referred OUTA back to the SAHRC.

This matter is still unresolved.

See **Annexure L** for a copy of the original complaint.

9. Conclusion

OUTA has attempted to meet with Emfuleni municipality authorities to discuss community-driven solutions to the financial and service delivery crisis but was ignored.

OUTA has repeatedly lobbied the Gauteng provincial government to intervene, develop a financial recovery plan for Emfuleni and provide us with a copy of that plan. Again, OUTA was ignored.

OUTA has repeatedly called for a copy of the debt repayment agreements between Emfuleni and Eskom and Rand Water. Again, OUTA was ignored.

OUTA has been unable to establish whether the provincial government has intervened in Emfuleni and, as far as we are aware, there is still no financial recovery plan.

Emfuleni remains in a state of chaos as its own council and management continue to ignore their responsibilities, while the provincial authorities fail to provide legislated oversight and intervention.

The behaviour of both the municipal and the provincial authorities demonstrates contempt for the residents of Emfuleni, as it excludes them from participation in finding solutions to Emfuleni’s crisis and leaves them to deal with the results of their municipality’s collapse, including the health risks of a collapse in the refuse removal and sewerage system, and the threat to industry, businesses and households of electricity and water cuts.

OUTA believes that the Emfuleni council and municipal management should be held personally liable for the damage caused by the collapse of services and that criminal charges should be brought where appropriate.

OUTA believes that there should be a full investigation into Emfuleni’s finances, as there are strong indications of corruption and criminally culpable mismanagement.

This municipality should long ago have been declared a disaster area of national concern.

OUTA welcomes the South African Human Rights Commission's investigation into the Emfuleni situation and hopes that the Commission will find a way forward to the benefit of the Emfuleni community.