INSTRUCTIONS

1. Students are requested, in their own interests, to write legibly.
2. This paper consists of THREE (3) pages. Please ensure that you have all of them.
3. You must answer any THREE (3) questions.
QUESTION 1

Discuss fully the relationship between s 24 of the Constitution, the concept of sustainable development, and the national environmental management principles in s 2 of the National Environmental Management Act 107 of 1998 with a view to the progressive attainment of environmental justice in South Africa.

(25 marks)

QUESTION 2

Prenalan Gupta, the CEO of Pinebay Mining Co Ltd, approaches you for advice in respect of a mining development his company is planning. He is intending to carry out prospecting activities, followed by mining, in certain areas under the jurisdiction of the eMnambithi Municipality (Ladysmith, KwaZulu-Natal). The land which has been earmarked for mining is currently zoned as open space (which is not the appropriate zoning for mining). He tells you that an official in the Department of Mineral Resources informed him that there was no need to make an application for rezoning because the Minerals and Petroleum Resources Development Act 28 of 2002 (MPRDA) takes precedence over town planning laws. He wants you to inform him if this is correct. In the course of your answer, make reference to the applicable legislation, including at least the Constitution and the MPRDA; and at least the Gauteng Development Tribunal (Johannesburg Metropolitan Municipality v Gauteng Development Tribunal 2010 (6) SA 182 (CC)) and Maccsand (Maccsand (Pty) Ltd v City of Cape Town 2012 (4) SA 181 (CC)) cases.

(25 marks)

QUESTION 3

Identify and discuss non-criminal statutory enforcement mechanisms that are provided for in South African environmental legislation and that do not require approaching a court for their use (i.e. they are extra-curial mechanisms).

(25 marks)
QUESTION 4

(a) Describe fully how South African law provides for the conservation of so-called ‘threatened or protected species’.

(10 marks)

(b) You are approached by Siphelihle Shezi, CEO of Chemgro Ltd, a chemicals manufacturing company that is intending to construct a plant in Willowton, within the jurisdiction of the Msundusi Municipality. He informs you that the plant will be emitting about 1000 litres of trade effluent daily, containing significant amounts of oil and other chemical substances. He asks if it will be permissible to flush this effluent down the stormwater drains or whether there is another way of disposing of the effluent. The disposal must be in compliance with the law, as the company’s shareholders have instructed him to ‘make sure that the company complies with all applicable environmental laws’. Advise Mr Shezi in full.

(15 marks)

(25 marks)

(TOTAL FOR PAPER: 75 MARKS)