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Our Ref: CER3.1/MF

19 July 2010

Dear Ministers Shabangu and Sonjica

**TASK TEAM ON MINING IN SENSITIVE AREAS: SUPPORT FROM NON-GOVERNMENT AND CIVIL SOCIETY ORGANISATIONS**

The Centre for Environmental Rights is a non-profit organisation established in October 2009 by eight prominent civil society organisations (CSOs) in South Africa's environmental and environmental justice sector to provide legal and related support to environmental CSOs and communities. The Centre supports and is supported by key environmental non-government organisations (NGOs) and a long list of smaller CSOs across the country, and partners with a number of public interest NGOs and academic institutions.

The Centre's mission is to advance environmental rights in South Africa, and its vision is to facilitate civil society participation in environmental governance that is stronger, more streamlined, and better legally and scientifically equipped.

In this letter, we write to you on behalf of a coalition of NGOs and CSOs in the environment sector (see a full list at the end of this letter) who are partners of the Centre for Environmental Rights.

As you are likely aware, CSOs in the environmental sector have become increasingly concerned about the environmental impact of mining in South Africa, both in relation to the environmental

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threats posed by existing and abandoned mines as well as in relation to the environmental impacts of new prospecting and mining rights applications being granted. In response to these concerns, in May 2010 the Centre – along with its partners Lawyers for Human Rights, the Endangered Wildlife Trust, the Wildlife and Environment Society of South Africa and the Wits Law School – hosted a national workshop to develop a civil society strategy to promote environmental compliance, transparency and accountability in mining. One of the interventions in that strategy relates specifically to mining in sensitive areas.

In recent years we have seen a spate of prospecting and mining right applications accepted and occasionally granted in areas of critical biodiversity and hydrological value. In certain instances, such rights have been granted inappropriately as a result of inaccurate information placed before the Department of Mineral Resources by the applicants and their consultants. We believe that accepting and granting such applications is a waste of resources for the Department of Mineral Resources (who have to spend time and incur costs in considering the applications), for the Department of Environmental Affairs and provincial environment authorities (who have to spend time submitting reports in the public participation process) and for CSOs (who have to spend their limited resources on public participation and, in certain instances, incur legal costs to bring interdict and judicial review applications). In addition, the consequences of prospecting and mining in these areas may have significant adverse implications for the wellbeing of present and future generations, contrary to the requirements of the Constitution, the Minerals and Petroleum Resource Development Act, 2002 and the National Environmental Management Act, 1998. None of this promotes the sustainable development of the nation's mineral resources.

We were therefore encouraged to read in the press on 30 June 2010 that you have jointly established a task team to consider the issue of prospecting and mining applications in "sensitive" areas. We wish to offer our general support to the Task Team and would like to discuss constructive ways in which the NGO sector can assist the Task Team, particularly in relation to the criteria for identifying sensitive areas.

For the past few months, there has been a discussion at a high level amongst NGOs in our sector about approaching the Minister of Mineral Resources with a coordinated request, well-supported by scientific information, to exercise her discretion under s.49(1) of the Minerals and Petroleum Resources Development Act, 2002 to prohibit the granting of prospecting and mining rights on a list of geographical areas that are of critical biodiversity and hydrological value and sensitivity.

You will be aware that extensive scientific research, mapping and other work has been done by provincial conservation authorities, the Departments of Environmental Affairs and Water Affairs, SANBI and the CSIR to produce a range of information products for use in management decision-making. We believe that, out of a particular subset of these products, it is possible to present the Minister with a list of areas of the most critical biodiversity and hydrological value and/or sensitivity in South Africa, consulted and agreed between key civil society stakeholders, for the purpose of public consultation in accordance with s.49(1). We intend to approach the Minister with a formal request in terms of s.49 for her consideration in the near future.

We believe – and will provide comprehensive scientific evidence - that protecting areas of such critical value through a prohibition on prospecting and mining is in the national interest and in compliance with a wide range of legislative imperatives, including the Constitution of the Republic of South Africa. We further believe such a declaration will promote the sustainable development of the nation's mineral resources, and are confident that our proposal will also be supported by the mining industry.

We would also like to engage with the Task Team on ways in which s.49 restrictions could be used to improve decision-making in relation to areas that are less critical, but still require procedural and substantive mechanisms for protection not currently provided for in law.

We would be grateful if the Task Team could take the time to meet with representatives of the NGO sector to discuss our proposal above, as well as constructive ways in which the Centre and the NGOs and CSOs we represent here can provide assistance to the Task Team.  
Yours sincerely

**CENTRE FOR ENVIRONMENTAL RIGHTS**

per:



**Annexure: Coalition of NGOs and CSOs (in no particular order)**

Wilderness Foundation  
WWF South Africa  
BirdLife South Africa  
South Durban Community Environmental Alliance  
Centre for Applied Legal Studies  
Environmental Monitoring Group  
Federation for a Sustainable Environment  
Endangered Wildlife Trust