



Centre for Environmental Rights
Advancing Environmental Rights in South Africa



Ms Skumsa Mancotywa
Acting Deputy Director-General: Biodiversity and Conservation
Department of Environmental Affairs
Pretoria
0001
By email: smancotywa@environment.gov.za

cc: Mr Simon Maléte
Administrative Support
Biodiversity and Conservation
Department of Environmental Affairs
By email: smalete@environment.gov.za

Your ref: Ms Mancotywa
Our ref: MF/CH/MT
Date: 23 February 2015

URGENT

Dear Ms Mancotywa

THE PROPOSED YZERMYN UNDERGROUND COAL MINE IN THE MABOLA PROTECTED ENVIRONMENT

1. The Centre for Environmental Rights is a non-profit organisation and law clinic established to advance environmental rights in South Africa. One of our areas of work, which we regard as central to realisation of section 24 of the Constitution, is the protection and defence of protected areas and areas of critical biodiversity and hydrological value and sensitivity. The Centre also works closely with numerous other civil society organisations concerned with ensuring transparency, accountability and environmental compliance in the mining sector. This includes WWF South Africa and BirdLife South Africa who have worked for the protection of the broader grasslands area in Mpumalanga, KwaZulu-Natal and Free State for many years, as well as the Mining and Environmental Justice Community Network for South Africa.
2. For these reasons, we supported the declaration of the Mabola Protected Environment under the National Environmental Management: Protected Areas Act (NEMPAA) by the Mpumalanga MEC in January 2014.
3. It now appears from media reports and other sources that, since that declaration, the Mpumalanga Regional Manager for the Department of Mineral Resources (DMR) has granted a mining right to Atha-Africa Ventures (Pty) Ltd (AAV) in respect of a mining area that falls within the Mabola Protected Environment. It further appears that AAV intends pursuing the exercise of those rights despite the provisions of section 48 of NEMPAA.
4. We urgently need to confirm the following with you:

4.1. Has the Minister or the Department of Environmental Affairs (DEA) received any request from the Minister of Mineral Resources, DMR or AAV for the Minister of Environmental Affairs' written permission to mine

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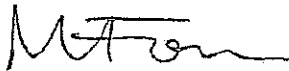
inside the Mabola Protected Environment in terms of NEMPAA's section 48? If so, we urgently need copies of such a request and any response from the Minister or DEA.

- 4.2. If not, has the Minister of Environmental Affairs or DEA received any other request from the Minister of Mineral Resources, the DMR or AAV in relation to AAV's proposed activities inside the Mabola Protected Environment? This includes a request to comment on the environmental management programme attached to the mining right referred to above. If so, we urgently need copies of such correspondence between AAV and/or the Minister of Mineral Resources, the DMR, and the Minister of Environmental Affairs and/or DEA.
- 4.3. If the Minister of Environmental Affairs is considering any request for permission to mine inside the Mabola Protected Environment in terms of NEMPAA, please advise what public participation process has been initiated or is being contemplated to ensure compliance with the requirements of NEMPAA, NEMA and the Promotion of Administrative Justice Act, 2000?
- 4.4. Has the Minister of Environmental Affairs or DEA received any notification from the Mpumalanga MEC or the Mpumalanga Department of Agriculture, Rural Development, Land and Environmental Affairs regarding an intention or any steps taken to withdraw the declaration of the Mabola Protected Environment or to exclude part of the Mabola Protected Environment under section 29 of NEMPAA? If so, we urgently need copies of such correspondence.
5. As there is a short and limited time period for lodging an appeal against the granting of a mining right inside the Mabola Protected Environment, please could you assist us with this information as a matter of great urgency, and no later than 25 February 2015.

Yours sincerely

CENTRE FOR ENVIRONMENTAL RIGHTS

per:



Melissa Fourie

Executive Director

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