



"PMLIG"

Centre for Environmental Rights
Advancing Environmental Rights in South Africa

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The Honourable Minister Ngoako Ramatlhodi
Minister of Mineral Resources
Department of Mineral Resources
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Your ref: MP30/5/1/2/2/10069MR
Our ref: CH/MT
2 April 2015

URGENT

Dear Minister Ramatlhodi

APPEAL AGAINST THE GRANT OF MINING RIGHT TO ATHA-VENTURES (PTY) LTD

APPLICATION FOR SUSPENSION OF THE MINING RIGHT PENDING THE OUTCOME OF THE APPEAL

REQUEST TO NOT CONSIDER, EVALUATE OR DECIDE ANY REQUEST FOR WRITTEN PERMISSION IN TERMS OF SECTION 48(1)(b) OF THE NATIONAL ENVIRONMENT MANAGEMENT PROTECTED AREAS ACT TO CONDUCT COMMERCIAL MINING IN THE MABOLA PROTECTED ENVIRONMENT PENDING FINAL DETERMINATION OF THE APPEAL

1. On 1 April 2015, eight civil society and community organisations, represented by the Centre for Environmental Rights, submitted an appeal against the grant of a mining right to Atha-Africa Ventures (Pty) Ltd (Atha) to conduct underground coal mining in the Mabola Protected Environment declared as such under section 28 of the National Environmental Management: Protected Areas Act, 57 of 2004 (NEMPAA).
2. The eight organisations are: Earthlife Africa, Johannesburg, Birdlife South Africa, the Mining and Environmental Justice Community Network of South Africa, the Endangered Wildlife Trust, Federation for a Sustainable Environment, Bench Marks Foundation, Association for Water and Rural Development (AWARD) and groundWork.
3. One of the primary motivations for the declaration of the Mabola Protected Environment was to protect this unique and irreplaceable area from the detrimental environmental risks and impacts of coal mining.

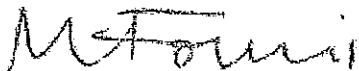
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Centre for Environmental Rights NPC is a non-profit company with registration number 2005/020736/03, HFO Ref 076-td2, BBO No. 930262220 and a Law Firm registered with the Law Society of the Cape of Good Hope. Directors: Carolyn Elizabeth Ah Shone, Joanne Amy Backwood, Mphahlele Samuël Mash, Mafiqza Fawis (Executive), Stephen Mark Linn (Chair), Kouraino Makhosini (Secretary). Attorneys: Li-Fen Chen, Tracey Laurel Davies, Melissa Furtak, Catherine Horsfield, Robyn Elizabeth Hugo, Sylvia Ramanya, Nicole Louise Marner (Team 1), Geraldine Antonieja, Marlene Louwisa Kapa, Ayasha Norman, Fossno Brown Sibongca (Team 2)

4. In the internal appeal under the MPRDA, the appellants seek the setting aside of the grant of the mining right in its entirety, including a number of vague and unlawful conditions pertaining to the environment which were imposed when the mining right was granted.
5. Given the extreme environmental sensitivity of the area, the appellants simultaneously lodged an application for the suspension of the mining right pending the outcome of the appeal.
6. One of the grounds of appeal is that the mining right was granted notwithstanding that, as far as the appellants have been able to establish, the written permission of the Minister of Environmental Affairs and the Minister of Mineral Resources in terms of section 48(1)(b) of NEMPAA to conduct commercial mining in the Mabola Protected Environment has not been obtained, or sought.
7. The appellants have addressed a letter to the Minister of Environmental Affairs requesting that, pending the final determination of whether the grant of the mining right to Atha was lawful, the Minister not take any steps to consider, evaluate or decide any such application as may be made by Atha for that Minister's written permission to conduct commercial mining in the Mabola Protected Environment. A copy of that letter to the Minister of Environmental Affairs is attached.
8. The appellants hereby make the same request to the Minister of Mineral Resources.
9. Furthermore, the appellants expressly request the Minister of Mineral Resources to consider and determine the appellants' application for suspension of the mining right pending the final determination of whether the grant of the mining right to Atha was lawful.
10. The appellants expressly reserve the right to approach the High Court at any stage should it become necessary to take urgent steps to protect this unique, irreplaceable and highly environmentally sensitive area.

Yours faithfully

CENTRE FOR ENVIRONMENTAL RIGHTS



per:

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Executive Director

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