

"PML3"



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5 April 2013

ATTENTION:**BRENT HOLME**

Senior Environmental Consultant
 WSP Environmental (Pty) Ltd
 WSP House, Bryanston Place,
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 Tel: 011 361 1380
 Email: brent.holme@wspgroup.co.za

Dear Brent,

**RE: BirdLife South Africa's objection to the DRAFT SCOPING REPORT
 for the proposed YZERMYN UNDERGROUND COAL MINE**

WSP reference: 24514
 MDETECT reference: 17/2/3 GS 131
 DMR reference: MP 30/5/1/1/2/215 PR

The mining right application by Atha Africa Ventures (Pty) Ltd (hereafter Atha) for the proposed Yzermyrn Underground Coal Mine on Farms Kromhoek 93, Goedgevonden 95, portion of Yzermyrn 96 and Zoetfontein 94, located between the towns of Wakkerstroom and Dirkiesdorp in the PixleyKaSeme Local Municipality, Mpumalanga bears reference.

BirdLife South Africa strongly **objects** to this coal mining right application as outlined in the draft scoping report dated 25 March 2013 for the following reasons:

1. Location within a globally recognised Important Bird Area

- a) This application falls within the Grassland Important Bird Area (IBA). This IBA has been recognised by BirdLife South Africa and BirdLife International as both a national (SA 125) and global (ZA 016) IBA that is critical for the conservation of IUCN Red Data List (i.e. threatened) bird species, grassland endemic bird species and congregatory

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For more information, contact: Mr. Gert van der Merwe, BirdLife South Africa, Mr. Mark Steynhorst

[Handwritten signatures]



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waterbirds. For further IBA information, a bird species list and Google Earth map, visit:
<http://www.birdlife.org.za/conservation/iba/iba-directory/230-grasslandbiosphere>.

- b) The list of Red Data bird species that potentially occur in the project area fails to include (under Appendix 7 on page 401 of the draft scoping report) the regionally Critically Endangered and southern African endemic Rudd's Lark (*Heteromirafraruddi*). Approximately 85% of the global population of Rudd's Lark is confined to the grasslands within a 50 km radius around Wakkerstroom.
- c) While the Yzermyn target area may not directly impact on waterbirds, it potentially will directly negatively impact on bird species that use Heyshope Dam, from which the mine may extract water (refer to page 71). Heyshope Dam is one of the most important waterfowl sites in South Africa and is an important winter- and drought- refuge for waterfowl (Barnes 1998; Tarboton and Tarboton 2004). Heyshope Dam also regularly supports at least 52 species of resident, migratory and nomadic waterbirds, numbering between an estimated 45 000 to an extrapolated 100 000 individuals (Barnes 1998).
- d) Mining activities are often accompanied by environmental impacts that compromise both avifauna and biodiversity in general. BirdLife South Africa is concerned by the environmental impacts of this mining application that cannot be mitigated, including human influx, habitat destruction, erosion, air-, water- and noise- pollution. These impacts will have negative knock-on effects on the local tourism industry, which is largely nature-based.

2. Protected Area conflict

- a) The draft scoping report now acknowledges the location of the proclaimed Kwamandlangampisi Protected Environment (KPE), thereby amending the previously false statement under Section C1.6 of the EMP that "no" protected area would be influenced by this mining project's location. However, this draft scoping report still fails to acknowledge that the KPE is directly adjacent to the target area and therefore the target area falls within the buffer zone of the KPE. This is in spite of this issue being raised by Angus Burns (WWF-SA) during the previous public participation meeting in Wakkerstroom on 27 September 2012. Refer to section j on page 285 of the draft scoping report for his explanation. As such, under Section 28(1) of the National Environmental Management: Protected Areas Act (NEM: PAA, Act 57 of 2003), this

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Honorary Patron: Mrs. Elizabeth Rupert, Dr. Precious Mabasa, Mr. Mark Sibiwe



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mining right can only be granted subject to approval by BOTH the Minister for Mineral Resources AND the Minister for Environmental Affairs.

- b) There is also no cognisance in the draft scoping report of the "KPE Phase 2", which will be known as the Mabela Protected Environment (MPE) and lies directly in conflict with the location of the proposed Yzermyn project area. The proposed MPE was addressed by Angus Burns (see section j, page 285) and by Brian Morris, Mpumalanga Tourism and Parks Agency (MTPA; see section aa, page 287) during the Wakkerstroom public participation meeting.
- c) On page 83 of the draft scoping report: "... a number of proposed farms comprising the mining area are planned to be included in a protected environment". This is stated under "Sense of place", yet there is no mention of the biodiversity significance of the area in question.
- d) An intention to declare a Protected Environment under NEM: PAA has been submitted by the MTPA, signed by the Member of the Executive Council (MEC), and will shortly be gazetted (Brian Morris pers. comm. March 2013). This envisaged Protected Environment declaration should be completed by December 2013. A mining right application within this Protected Environment jeopardises the work and investments made by the MTPA, conservation NGOs and other parties. Once again, this highlights the applicant (Atha) and WSP Environmental's blatant disregard for the environment and for national environmental legislation.

3. Land Use zonation conflict

- a) The Yzermyn project area is currently zoned for agriculture and must be rezoned to undetermined land zoning prior to commencing mining activities. This land rezonation requires extensive public participation, yet this is not accounted for in the draft scoping report. During the previous public participation meeting held in Wakkerstroom, Brian Morris requested that "...the Environmental Impact Assessment process explicitly show how conflicting land uses such as mining and formal conservation can co-exist" (refer to section aa. on page 287 of the draft scoping report). This has simply been glossed over in the draft scoping report.

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Handed over to: Ms. Kaycee Kuper, Director of M&M&A Dept, M&M&A Support Unit



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- b) Where mining is not permitted within a zoning scheme, the holder of a mining right or permit will need to apply for these areas to be rezoned under the Land Use Planning Ordinance (No. 15 of 1985) (LJPO) and the Transvaal Province's Town-Planning and Townships Ordinance (No. 15 of 1986) in order to allow mining to proceed. Please provide BirdLife South Africa with written proof of the rezoning permit (or application therefor) to change the land use from agriculture to undetermined.

4. Listed Threatened Ecosystem conflict

- a) This application is fatally flawed because it falls within a Threatened Ecosystem listed under s52(1)(a) of the National Environmental Management: Biodiversity Act (GG 34809, GN 1002, 9 December 2011). The Wakkerstroom/Luneburg Threatened Grassland Ecosystem (MP 11) is listed as Endangered, and therefore viewed as necessary to ensure protection of biodiversity, environmental stability and human well-being.
- b) In Table 29 on page 78, Adit 1's location is considered positive because it is "Located in the 'grassland threatened ecosystem'". This is absurd, disregards NEM: BA legislation and trivialises the biodiversity significance of the area.

5. Unsigned or undisclosed documentation

- a) In a previous letter from BirdLife South Africa, emailed to WSP Environmental on 19 November 2012, we wrote "The Bunengi EMP (April 2011) that you sent BirdLife South Africa on 3 October 2012 is a submission only and does not have an approval signature from the Regional Manager on the last page. Please provide valid proof of DMR's approval of this EMP." You replied in writing (via email correspondence ending 5 December 2012) that "Response regarding the Section C1.6 of the EMP will be forwarded to WSP before 13 December 2012 following clarification from our client" and "I assure you that WSP will be as transparent as required by the National Environmental Management Act (No. 107 of 1998) and the Minerals and Petroleum Resources Development Act (No. 28 of 2002) and will respond to BirdLife Sa's comments as soon as possible." We are still waiting for your response and for signed proof that the EMP was in fact approved by the Regional Manager.

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- b) Once again, in Appendix C on page 192 of the draft scoping report, a letter of acknowledgement from MDEDECT for the application for environmental authorisation is neither dated nor signed.
- c) In addition to these signed documents, please send BirdLife South Africa a copy of the Mining Right Application and associated Social and Labour Plan submitted by Atha to the DMR on 19 March 2013. On page 44 of the draft scoping report it states that "A copy of the mining right application will be made available following submission." This mining right application should have been included in Appendix C of the draft scoping report, since this report was dated six days after the mining right application was submitted. Additionally, why is the DMR reference number for this mining right application not stated anywhere in the draft scoping report?

In a 2012 [media release](#), BirdLife South Africa urged government to offer equal recognition to food production, water security and the conservation of our cultural and natural heritage, especially when assessing mining applications. BirdLife South Africa is not opposed to all mining, but rather to unsustainable activities in inappropriate areas that potentially negatively impact threatened and endemic bird species and their habitats. BirdLife South Africa does not support prospecting or mining of any resource within the Grassland IBA or adjacent natural areas, and therefore will continue to strongly object to the application for a mining right for coal in this Yzermyn project.

Yours sincerely,

Carolyn Ah Shene – Verdoorn
 Division Manager: Policy & Advocacy Division
 BirdLife South Africa

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