

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

33 Hoofd Street
Braampark– Forum III
Braamfontein
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Private Bag X 2700
Houghton
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Tel: (011) 877 3600
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4 August 2016

Ms Melissa Fourie

Executive Director: Centre for Environmental Rights (CER)

Tel: +27 21 447 1647

Email: mfourie@cer.org.za

Dear Ms Fourie,

RE: NATIONAL INVESTIGATIVE HEARING ON THE UNDERLYING SOCIO-ECONOMIC CHALLENGES IN MINING-AFFECTED COMMUNITIES IN SOUTH AFRICA

1. The Constitution of the Republic of South Africa ("the Constitution") mandates the South African Human Rights Commission ("Commission") to promote respect for human rights as well as the protection, development and attainment of human rights. The Commission must also monitor and assess the observance of human rights in South Africa.
2. Under section 184(2) of the Constitution, the Commission has the power, among others, to investigate and to report on the observance of human rights and to take steps to secure appropriate redress where human rights have been violated. The powers of the Commission are further supplemented by the South African Human Rights Commission Act, 40 of 2013 ("SAHRC Act") allowing information to be requested from any person, body or organ of state in the execution of the Commission's mandate.
3. The Commission would like to thank you for your organisation's participation at the roundtable meeting hosted on 9 May 2016. Following this engagement, in order to promote the participation of those most affected and to gain a deeper understanding of their lived experiences, the Commission conducted consultations with mining-affected communities in KwaZulu-Natal, Limpopo and Mpumalanga. Some of the challenges identified by these communities include:
 - 3.1. Non-compliance by holders of prospecting, mining, exploration or production rights with the legal framework, including regulatory requirements and corporate social and environmental obligations;
 - 3.2. Failures in compliance monitoring and enforcement;
 - 3.3. Insufficient consultation with interested and affected parties, a lack of transparency and limited access to information;
 - 3.4. Limited cooperation and/or collaboration between mining companies, traditional authorities, local government and communities;

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Chairperson: M L Mushwana; **Commissioners (Full-Time):** M S Ameerma, B Malatji, L Mokate;
Commissioners (Part-Time): D Titus;
Chief Executive Officer: L Khumalo

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- 3.5. The creation of tension and division within communities as a result of mining operations; and
 - 3.6. Limited development and social upliftment of communities affected directly and indirectly by mining.
4. In noting the various systemic and complex challenges faced by mining-affected communities, the Commission has resolved to convene a National Hearing to investigate the socio-economic challenges of mining-affected communities in South Africa. The National Hearing provides an opportunity for relevant stakeholders to engage in an open and transparent manner, and will primarily be aimed at information gathering with a view to the development of practical, specific and time-bound recommendations in order to contribute toward sustainable solutions.
 5. The Commission has addressed correspondence to government departments and mining companies informing them of the National Hearing and requesting detailed information in response to identified issues.
 6. The Hearing will be hosted over **Wednesday, 13 September and Thursday, 14 September 2016** at the Commission's Head Office, Braampark Forum III, Braamfontein, Johannesburg.
 7. You are hereby invited to make **written submissions** to the Commission in anticipation of the Hearing by no later than **Friday, 26 August 2016**. You are further invited to attend the Hearing, either in person or by means of a representative from the Centre for Environmental Rights. Kindly let us know by **Tuesday, 16 August 2016** if your organisation will attend the Hearing.
 8. We would appreciate if your submission could particularly speak to South Africa's environmental compliance monitoring and enforcement system, including but not limited to:
 - 8.1 The efficacy of the environmental compliance monitoring and enforcement system, challenges identified in this regard and measures to address these challenges;
 - 8.2 The conducting of Environmental Impact Assessments (EIAs) and the design and implementation of Environmental Management Plans (EMPs);
 - 8.3 The extent to which EIAs and EMPs are incorporated into Social and Labour Plans (SLPs) as well as local government Integrated Development Plans (IDPs);
 - 8.4 The impact of mining on water resources, water quality and threatened ecosystems;
 - 8.5 The extent to which communities are consulted and/or have access to information on environmental management and impacts;
 - 8.6 Measures to ensure that mining activities are conducted in an environmentally sustainable manner; and
 - 8.7 Any other relevant information.

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9. Kindly send written submissions and communicate confirmation of the person/s who shall be attending the Hearing to Eden Esterhuizen (eedesterhuizen@sahrc.org.za), and copy Kathleen Hardy (khardy@sahrc.org.za) and Yonela Diko (ydiko@sahrc.org.za).
10. The Commission trusts that you find the above in order and looks forward to your participation.

Yours faithfully,

A handwritten signature in black ink, appearing to read "Shafie", written over a horizontal line.

Commissioner Mahomed Shafie Ameermia

South African Human Rights Commission

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