

MP30/5/1/1/2/10069MR

MINISTER**MINERAL RESOURCES**

WITHDRAWAL OF THE DECISION BY THE DIRECTOR-GENERAL OF GRANTING A MINING RIGHT WITH CERTAIN CONDITIONS AS PER PARAGRAPH 4.1 OF THE SUBMISSION AND SUBSTITUTE IT WITH THE DECISION TO GRANT WITH NEW CONDITIONS AS OUTLINED HEREUNDER.

1. AIM

To request the Minister to consider withdrawing the decision of the Director-General: Mineral Resources to amend certain conditions of the granting of a mining right to Atha-Africa Ventures (Pty) Ltd [*hereinafter referred to as Atha*] in terms of section 103(4) (b) of the Act by virtue of powers delegated to him in terms of section 103 of the Act and substitute that decision with the decision to grant the mining right with new conditions as outlined hereunder.

2. BACKGROUND AND DELIBERATIONS

- 2.1. **Atha-Africa Ventures (Pty) Ltd** applied for a mining right in terms of section 22(1) of the Act to mine for Coal in respect of the farms Bloemhof 92 HT, Goedgevonden 95 HT, Kromhoek 93 HT, Portion 1 of the farm Nauwgevonden 110 HT, Paardekop 109 HT, Uitzicht 108 HT, Portion 2 and the Remaining extent of the farm Van Der Waltspoor 81 HT, Virginia 91 HT, Waalhoek 87 HT, Portion 1 and the remaining extent of the Yzermyn 96 HT

and Zoetfontein 94 HT, in extent 1147.6789 hectares, Magisterial District of Wakkerstroom.

- 2.2. The applicant in terms of the Mineral and Petroleum Resources Development Act was the holder of the prospecting right at the time of lodging an application for a mining right. In terms of administrative process within the department, the holder of the prospecting right has an exclusive right to apply for and be granted a mining right
- 2.3. The Directorate Mine Environment compiled the report stating the Environmental Management Programme did not meet the requirements of Section 39 (3) (d) of the Act and therefore the application was recommend for refusal. The reason was that, the applicant did not put measures proposed to address the impact in relating to the wetlands and other water bodies within the area applied for. The recommendation for refusal of the application by Mine Environment Management was not upheld and it was substituted by granting. This application is on Wakkerstroom area, which area is characterized by Wetlands and grassland and as a result has been classified as a highly environmental sensitive area. The Department has embarked on a process of prohibiting mining in the area through the provisions of Section 49 of MPRDA. In order not to interfere with the security of tenure of this applicant and others, section 49 prohibitions will not affect the holders of prospecting rights like Atha Africa Ventures (Pty) Ltd in this case.
- 2.4. On the 19th of September 2014, a decision was taken to grant the mining right application subject to the following being addressed prior the execution of the right:

- I. The granting shall exclude any areas that constitute wetlands.
- II. Surface mining or related activity, as well as erection/installation of the surface infrastructure shall be prohibited from taking place in any area that constitute wetlands or is deemed to be a sensitive environment.
- III. The applicant shall formulate proper mitigation relative to the area in consultation with all the other stakeholders/authorities that administer matters affecting the environment at National and Provincial (Mpumalanga) Level
- IV. A proper plan/map shall be submitted with a clear depiction of such exclusion as indicated on paragraph (i) above. The submission and granting letter is attached hereto as **Annexure A.**

2.6 An interaction with the Department and their view that the above conditions amounted to refusal of the right to Atha Africa Ventures (Pty) Ltd. Further consultations were entered into with Legal Services, who supported a proposal to relook at the conditions. This could not be done through a simple correction of a letter by the Director-General as he was the decision maker. Consequently, a new submission with reviewed condition was drafted.

of the abovementioned Act. The Regional Office will prepare the final copies of the right to be signed.

3. Take note that the Regional Manager will approve the relevant Environmental Management Programme and sign the right.
4. Further note that in terms of Section 23(5) of the Act, the mining right comes into effect on the date on which the Environmental Management Programme is approved. In terms of Section 25(2) (b) mining activities must commence within one year of the effective date.
5. In light of the afore-going, you are requested to:
 - 4.1. Ensure that all outstanding matters regarding your application are finalized and that relevant documents are submitted to the Regional Office no later than 30 days prior to the date mentioned in paragraph 2 above, which outstanding matters include the submission of:
 - (a) financial provision be provided before execution
 - (b) the particulars of your authorized representative who will sign the right,
 - (c) the particulars of the public notary, before whom the right must be signed,
 - (d) two (2) copies of the final mining work programme,
 - (e) A diagram prepared by a surveyor **6 (six) originals** in accordance with the requirements of the Mining Titles Registration Act and which shall indicate-
 - (i) the north point;
 - (ii) the scale to which the plan has been drawn;

- (iii) the name, number registration division and portion of the farm or farms on which the relevant area is situated;
- (iv) the shape of the relevant area in relation to the farm boundaries and co-ordinates points;
- (v) the region in which the relevant farm is situated and;
- (vi) be certified, approved signed and dated by the professional land surveyor, unless the Director General otherwise indicates.
- (vii) two (2) copies of the Social and Labour Plan

4.2. Please make arrangements for the public notary, authorized representative(s) of your company and a witness to be present and attend the signing of the mining right once the aforesaid outstanding matters are verified and an execution date has been finalized by this Office.

6. Note further that in terms of Section 25(2)(a), the signed/executed mining right must be lodged for registration at the Mineral and Petroleum Titles Registration Office, Pretoria, within 30 days as from the date of approval of the relevant environmental management program.

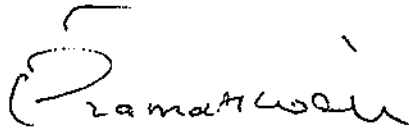
7. Finally, noting the provisions of section 23(6) of the Act, the following shall also be applicable:

- (i) You may not commence with mining operations prior to the obtaining of a Water License from the Department of Water Affairs;
- (ii) You may not commence with mining operations prior to the obtaining an of Environmental Authorization from the Department of Environmental Affairs; and

(iii) You must comply with all other related legislations before the commencement of mining.

8. Failure to comply may result in the withdrawal, suspension or cancellation of the right in question.

Yours faithfully



ADV N A RAMATLHODI
MINISTER
MINERAL RESOURCES
DATE: 14/04/2015

3. RECOMMENDATION

It is recommended that the Minister of Mineral Resources in terms of section 103 of the Act withdraw the decision by the Director-General and substitute it by the decision to grant and that the applicant obtain Water Use License and Environmental Authorizations and comply with all other related legislations before the commencement of mining.

**RECOMMENDATION IN
PARAGRAPH 3 GRANTED**

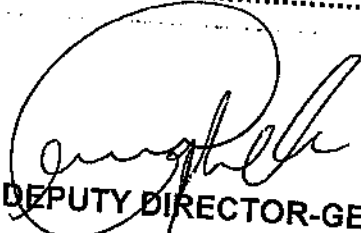
**RECOMMENDATION IN
PARAGRAPH 3 NOT GRANTED**

**DIRECTOR-GENERAL
DEPARTMENT OF MINERAL
RESOURCES**

**DIRECTOR-GENERAL
DEPARTMENT OF MINERAL
RESOURCES**

DATE:

DATE:



**DEPUTY DIRECTOR-GENERAL:
MINERAL REGULATION**

DATE:



CHIEF DIRECTOR: LEGAL SERVICES

DATE: 5/2/2016

CHIEF DIRECTOR: NORTHERN REGIONS

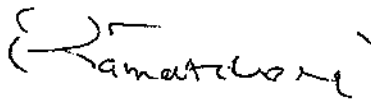
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Recommendation approved

Recommendation not approved



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Comments/amendments -----

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