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20 October 2021

## **CIVIL SOCIETY STATEMENT CALLING ON TENDELE TO RESPECT JUDICIAL PROCESS AND REFRAIN FROM INFLAMMATORY ACTIONS AND STATEMENTS**

1. The undersigned organisations,<sup>1</sup> as concerned members of civil society, are aware of the court case brought by the Mfolozi Community Environmental Justice Organisation (MCEJO), Global Environmental Trust (GET), Mining Affected Communities United in Action (MACUA), the Southern Africa Human Rights Defenders Network (SAHRDN) and ActionAid South Africa in the Gauteng High Court, Pretoria, against the decision of the Minister of Mineral Resources and Energy to grant Tendele Coal Mining (Pty) a mining

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<sup>1</sup> The Asina Loyiko working group members are the [Centre for Applied Legal Studies](#), the [Centre for Environmental Rights](#), the [Benchmarks Foundation](#), [Right to Know](#), and [Southern Africa Resource Watch](#). See <https://asinaloyiko.org.za>

right in Somkhele near Mtubatuba in KwaZulu-Natal in 2016. We are aware that the court case is underway, and that the matter will be heard in court soon.

2. We have seen the letter sent on 4 October 2021 by Tendele's Chief Operating Officer on behalf of the Chief Executive Officer to Minister Gwede Mantashe and senior officials in the Department of Mineral Resources and Energy. A copy of the letter was disseminated widely by Tendele via WhatsApp to those in the Somkhele community, and more broadly. A copy of the letter was filed at court as part of the ongoing court case.
3. In the letter, Tendele pleads with the Minister and the Department for assistance "*to safeguard the future of the mine.*" The phrase "*We plead for your assistance to safeguard the future of the Mine*" is used twice in the letter. In doing so, Tendele appears to request an extra-judicial intervention by the Minister and the Department, regardless of the court proceedings underway.
4. According the letter, Tendele also appears to accuse the applicants in the court case of trying to sabotage the mine's operations. It alleges that "closing the mine has become a personal goal" of the Applicants' attorney. However, the Applicants are exercising their Constitutional rights to approach the court and challenge the authorisation of the mine under various legal provisions, as they are entitled to do. Their attorney is their legal representative and acts on the instructions of her clients.
5. An annexure to the letter lists the names of office bearers (and in some instances personal details) of the applicants, their legal representatives, *amici curiae* (friends of the court admitted by the High Court in the court case), funders of these organisations, and other associated organisations, for reasons that are not disclosed in the letter – but that can be inferred.
6. This matter has a history of intimidation, death threats and attacks on environmental rights defenders, including the brutal assassination of Mam Fikile Ntshangase on 22 October 2020. Mam Ntshangase was a vocal critic of the operations and proposed expansion of the Tendele Coal Mine, and was killed at a time when she expressed unwillingness to sign an agreement with the mine to withdraw the current court cases in relation to future mining operations. Mam Fikile's assassination has been [reported on globally](#). To date, no suspects have been arrested in connection with her murder.
7. With the anniversary of Mam Fikile's murder approaching on 22 October 2021, we call on Tendele to respect the judicial process, and refrain from any action that will inflame tensions surrounding this matter, and increase the risk of further violence.

Per:



Thami Nkosi

Right to Know (R2K) on behalf of the Asina Loyiko Working Group