

14 February 2014

Your Ref: 01053826MR14

The Minister
Department of Minerals and Energy
Mineralia Centre
Cnr Andries and Visagie Streets
PRETORIA, 0001

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Attention : Director: Legal Services
: Ms Cecilia Maroleni

APPEAL FOR THE SUSPENSION AND OR REFUSAL OF THE FOLLOWING AUTHORISATIONS RELATED TO IMPALA'S NO 18 SHAFT, TAILINGS BACKFILL AND SEWAGE TREATMENT PLANTS PROJECT:

Prospecting Right No 497/2007

DMR Reference Numbers: NW30/5/1/2/2/130MR, 131MR, 132MR and 133MR

NW30/5/1/2/3/2/1/130,131,132,133EM

NW 30/5/1/1/2/878PR

DEA Reference Number: 12/9/11/L733/7

DEDECT Reference Number: NWP/EIA/10/2011

1. Kindly accept hereby an appeal by concerned community members from both Mogono and Maile Villages resident respectively on the farms Klein Doornspruit 108JQ and Roodekraalspruit 113JQ near Rustenburg, North West Province.
2. At the meetings held on the 08th and 09th February 2014 respectively at Phokeng and Maile Villages with the said community members, it was resolved that this appeal be lodged with the Minister in terms of Section 96 of the Mineral Petroleum and Resources Development Act of 2002 for the refusal, withdrawal and or suspension of the abovementioned authorizations/applications including:
 - 2.1 **A consolidated Environmental Management Programme submitted to the Department of Mineral Resources (DMR) and approved in 2013.**
 - 2.2 **Prospecting Right 497/2007 held by Impala/Royal Bafokeng Resources Platinum (Pty) Ltd and the Royal Bafokeng Nation.**
 - 2.3 **Section 11 and 102 applications lodged on 6 June 2013 for Ministerial consent to include the relevant Prospecting Right areas into the Impala's converted mining rights areas adjacent thereto (CMR131MR).**

2.4 The ENVIRONMENTAL IMPACT ASSESSMENT AND ENVIRONMENTAL MANAGEMENT PROGRAMME AMENDMENT REPORT (I001-59)

PARTIES:

Project Applicant:

- 3 Impala Platinum Limited (Impala) operates a platinum mining and processing operation near Rustenburg in the North West Province.
- 4 The Applicant lodged an **ENVIRONMENTAL IMPACT ASSESSMENT AND ENVIRONMENTAL MANAGEMENT PROGRAMME AMENDMENT REPORT** submitted for an **AMENDMENT OF A MINING RIGHT IN TERMS OF SECTION 102 OF THE MINERAL AND PETROLEUM RESOURCES DEVELOPMENT ACT, 2002 (ACT NO. 28 OF 2002) (the Act)**, and as required in terms of **REGULATION 385 OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT (ACT NO. 107 OF 1998)**.
- 5 It is critically important here to note that the Royal Bafokeng Nation (RBN), as a joint venture partner on the Project and the majority shareholder in Impala, is highly conflicted, and also hereby cited as Project Applicants.

Members of Mogono Community:

- 6 The Mogono Community are respondents in the Mafikeng High Court Case No 999/08, in which the Royal Bafokeng Nation (RBN) seeks an order declaring that it is the owner of the vast portions of the mineral rich lands in the North West Province and consequently that it is entitled to have the land registered in its name. The land is presently registered in the name of the State on behalf of the RBN. Mogono Community and other communities contend that it is the Communities who are the rightful owners and not the RBN. The case has not been finalized;
- 7 The Mogono Community has been resident on the affected Project area (Klein Doornspruit 108JQ) for over a century and have profound historical connection with the land and affected heritage sites; and
- 8 The Mogono Community is directly affected and resident within a five kilometer radius to the said proposed Shaft 18 Project.

Members of Maile Community:

- 9 Maile Community occupied the affected land (Roodekraalspruit 113JQ) since 1924 as registered titleholders;
- 10 The Community lodged a land claim at the Land Claims Court in Case no 90/2008 where it seeks full transfer and registration of its affected farm in its name as owners. The Royal Bafokeng Nation (RBN) is a respondent party in the case; and
- 11 The Maile Community is further the immediate, directly affected Community residing within a five kilometer radius to Impala's (proposed) mining Project.

ISSUES

The Project Applicant, Impala, submits in its **(I001-59)** application that:

12 'The operation has an approved Environmental Impact Assessment (EIA) and Environmental Management Programme (EMP) report (SRK, August 1997) that has been amended numerous times to incorporate a range of expansion projects. **A consolidated EMP has been compiled by SLR Consulting which consolidates all of the approved EMP documents. This document was submitted to the Department of Mineral Resources (DMR) and approved in 2013.**

13 'Underground mining from the proposed No 18 Shaft will take place in an area where the Impala/Royal Bafokeng Resources Platinum (Pty) Ltd and the Royal Bafokeng Nation currently holds prospecting rights. However, a section 102 application, together with the required section 11 transfer of rights applications, was lodged on 6 June 2013 to obtain Ministerial consent to include the relevant prospecting right areas into the Impala converted mining rights areas adjacent thereto (CMR131MR) in terms of the MPRDA.'

Members of Mogono and Maile Communities submit that:

14 Despite having objected to the proposed mining developments/applications before and during the 2011 Scoping process, and as land owners/claimants/occupiers of their respective affected farms, that they have not been (properly) consulted on and are not privy to the authorizations/applications mentioned above.

15 Despite known objections to the proposed mining developments/applications, neither the Regional Manager/ Minister nor Impala has ever informed the Communities, as required by law, about the above authorizations or applications. The Communities were thus denied their rights, including opportunities to appeal and to challenge the decisions.

16 The application for amendment **(I001-59)** is itself confusing and misleading. It is presented as an amendment of an Environmental Management Programme for shaft 18, when in fact it seeks authorisations for a number of major projects including the amendment and expansion of the existing converted mining rights.

17 Despite requests submitted to Impala, the Communities have been denied access to the full Amendment Report (I001-59) and as such have not had the opportunity to evaluate the Report.

18 The 2011 Scoping exercise, which the current Report mischievously relies on, was flawed and have since lost a significant degree of relevance. Relevant persons/structures within the directly affected communities were not (properly) consulted. The current Project area has changed significantly rendering the inputs in the 2011 Scoping exercise relatively redundant.

19 The Communities were not (properly) notified about this new amendment Report.

20 The **(I001-59) amendment** Report itself is quite voluminous and would inherently include specialists' reports. The Communities are by no means in a position to unpack the Report, in order for them to make informed decisions, without requisite resources and within the prescribed, limited space of time (one month).

- 21** Misrepresentations, false and misleading information were submitted by Impala and Royal Bafokeng Nation in the acquisition of the above authorisations/applications. The RBN has for instance misrepresented itself as having the sole ownership control over the affected properties. The Applicant falsely submits in its application(s) that there are no land claims on affected properties. The Applicant goes further to create false impressions that the authorisations will have no dire impacts on the environment, the heritage resources and the socio economic conditions in the directly affected communities.

CONTINUED DAMAGE AND SUFFERING

- 22** At the time this appeal is lodged, the Communities are concerned and disturbed by ongoing mining activities/prospecting on their land.
- 23** There has been trespassing and movement by unknown persons on Communities' land related to Impala's development activities pursuant to the above authorisations/ applications.
- 24** The Communities are no more at peace as a result of the above activities and are concerned by the unknown extend of displacement they stand to suffer as a result of Impala's mining developments on their land.

RELIEF SOUGHT

On the basis of the above, the members of the Communities respectfully request that:

- 25 All of the above authorizations and or applications related to and including the ENVIRONMENTAL IMPACT ASSESSMENT AND ENVIRONMENTAL MANAGEMENT PROGRAMME AMENDMENT REPORT (1001-59) be summarily refused and or suspended.**
- 26 All prospecting/mining activities related to the above authorizations and or applications be summarily suspended.**
- 27 That all of the above documents/authorisations/applications, including their Social Labour Plans and the Amendment Application, be submitted and made available to the Communities.**
- 28 Impala consult and engage in a meaningful negotiation process with the individual Communities with a view of reaching agreements.**

CONDONATION

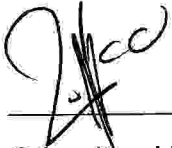
- 29** The Communities hereby request condonation, where appropriate, for the late submission of this appeal.
- 30** The Communities became aware of the information on the above authorization/applications only last month, from Impala's application for amendment Report **(1001-59)**.
- 31** Had it not been for this amendment application, such decisions/authorizations/applications would not have come to the attention of the concerned community members and their respective Communities.
- 32** Further, due to financial constraints members of the Communities could not lodge separate appeals and to conduct proper broader consultations and surveys with affected communities. The Communities found it difficult to find pro bono expert advice and help.

CONCLUSION

This appeal is submitted in the public interest and on behalf of the said community members.

It is requested that the Minister accord this appeal the urgent attention it deserves towards its amicable finalization.

All queries and correspondence related to this appeal must be directed by email to the writer hereof at othusitserapoo@yahoo.co.uk.



Othusitse H. Rapoo (Mr.)
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