

WHY MINING THE WILD COAST IS A VIOLATION OF HUMAN RIGHTS By John GI Clarke.



The Department of Minerals and Energy has announced that it intends awarding a mining licence to Australian mining company MRC on 31 October 2008 to mine the Kwanyana Block of the Amadiba Tribal Administrative Area, on the Pondoland Wild Coast. This announcement has been made before the SA Human Rights Commission has completed its investigation into human rights violations lodged by local residents allegedly perpetrated by agents of MRC.

If the Minister of Minerals and Energy signs the mining licence and Environmental Management Plan on 31 October, we believe it would be in gross violation of the Constitution of South Africa, notably the Environmental Right enshrined in Section 24 which states. *“Everyone has the right to an environment that is not harmful to their health or well-being; and to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that prevent pollution and ecological degradation; promote conservation; and secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development”*.

We believe the Minister will be in breach of the oath of office she made to “uphold the constitution of the Republic of South Africa” upon her swearing as a cabinet minister because the Xolobeni Mineral Sands venture has been shown to fall very far short of “justifiable economic and social development”, for the following reasons.

- Seven of the fundamental human rights enshrined in the South African Constitution have been violated by the mining company and its supporters. The HRC report (published on www.swc.org.za) includes the complaint, and reports on its observations and conclusions. The allegations have not been contested by any party named.

- The report explains that in the process of investigating the allegations, the HRC found that the Departments of Minerals and Energy and the Environmental Affairs and Tourism “were not on the same page with respect to the proposed development”, and that the “overwhelming majority” of the approximately 3000 directly affected local residents “were opposed to the venture”.

- Since the HRC report was published in November 2007, it was further found that the public participation

process for the conduct of the EIA was grossly biased in failing to ensure those residents most affected by the mining proposal were capacitated to participate meaningfully. Besides failing to educate the local residents, meetings were held some distance away from the mining area. In one instance when a local resident Nontle Mbuthuma raised objections to this, she was forcibly evicted from the meeting by an employee of the mining company (see report by East London Daily Dispatch).

- All relevant authorities have not been in full compliance with the relevant statutes: the Mineral and Petroleum Resources’ Development Act (MPDRA), the National Environmental Management Act (NEMA), and the Interim Protection of Indigenous Land Rights Act (IPLRA). The HRC asked for documentation from the relevant Departments (DME, DEAT, and the Department of Land Affairs). The departments only responded after the HRC was forced to issue the respective ministers with a subpoena compelling them to respond. They complied hours before the subpoena hearing was due to start, forcing the Chair Commissioner Leon Wessels to adjourn the hearing to give the HRC time to study the 11th hour submission by DME.

- Shortly before the Ministerial Subpoena hearing, an evaluation report on the EIA by DEAT officials was obtained by SWC, in terms of the Promotion of Access to Information Act, which in fact revealed major contradictions between DEAT and DME interests. The DEAT report has advised that *“The mining is a short-term economic activity with long-term negative impacts whereas the ecotourism in the area has an unlimited life span,”* concluding with a strong recommendation that the mining licence should not be awarded, given available information. It emerged that the DEAT report had not been submitted to DME before the 21 Dec 2007, deadline, and would have been disregarded, had SWC not obtained it.

- The mining venture is in both its parts and its whole a wasting activity in that it entails the use of and impact upon eco-system services provided by nature (water, energy, and soils) for the extraction of non-renewable mineral resources for industrial applications, in such a manner that these eco-systems will be degraded in their capacity to provide for sustainable livelihoods once the minerals have been extracted. It will thus destroy the local resource base upon which community based sustainable development is absolutely dependent.

- The mining is serving the short-term vested interests of a few local elites and a foreign corporation, and the impacts will result in greater poverty and social disintegration in the area due to the very limited benefits it will bring to alleviate material poverty and raise basic living standards.

- The mining venture will not only hamper the viability of long-term sustainable development initiatives, but will also continue to negatively impact upon already existing eco-tourism enterprises, and destroy fledgling community development processes along the Wild Coast.

- The mining venture is in conflict with several of South Africa’s agreed international obligations to sustainably conserve and manage our biodiversity and ensure benefit-sharing from such use, including under the Convention on Biological Diversity (CBD).

- Suggested mitigations of environmental impacts are not viable or possible (given the available data and information on which they are based), which will therefore result in the destruction of a unique, internationally recognised centre of endemism – with the risk that this will push a number of threatened (red data) endemic species to extinction due to their restricted ranges within the centre of endemism.

Mary Robinson, former UN High Commissioner for Human Rights and former President of Ireland, while visiting South Africa last year, advised civil society to heed the words of Eleanor Roosevelt.

“Where, after all, do universal rights begin? In small places, close to home - so close and so small that they cannot be seen on any maps of the world... Unless these rights have meaning there, they have little meaning anywhere. Without concerned citizen action to uphold them close to home, we shall look in vain for progress in the larger world.”

Accordingly we invite concerned citizens to petition the Minister of Minerals and Energy to reject the mining licence application.

Name	Address	Email	Signature.

Instructions.

Print out this statement, and after obtaining signatures, copy the petition and send it to all of the three persons below, using the most convenient means, **BEFORE THE 19th SEPTEMBER 2008.**

Minister Buyelwa Sonjica. The Minister of Minerals and Energy Private Bag x 59 Pretoria 0001 Email. Saul.levin@dme.gov.za . Fax number. 012 322 8291, or 012 461 0859.	Mr Jody Kollapan Chair: SA Human Rights Commission For attention: Ms Sebongile Mutlwane: (Complaints Registration). Email. smutlwane@sahrc.org.za Fax: (011) 484 1360	John GI Clarke (Social Worker). Sustaining the Wild Coast P.O. Box 2408 Pinegowrie, 2123 Email. johnqic@iafrica.com Fax: 0866842405
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