

1309/18/PC Min

MP13/04J

Page 1 of 6

Ayanda Boss - SUBMISSIONS ON THE MINERALS AND PETROLEUM RESOURCES DEVELOPMENT AMENDMENT BILL B15-2013

From: Christopher Rutledge <Christopher.Rutledge@actionaid.org>
To: "aboss@parliament.gov.za" <aboss@parliament.gov.za>
Date: 2013/09/10 09:28 AM
Subject: SUBMISSIONS ON THE MINERALS AND PETROLEUM RESOURCES DEVELOPMENT AMENDMENT BILL B15-2013
CC: "malebo@po.gov.za" <malebo@po.gov.za>, "president@po.gov.za" <president@...

Dear Ms Bikani

We have noted that there are **no community voices** in any of the slots allocated on your program around the hearing on the submissions on the Mineral and Petroleum Resources Development Amendment Bill B15 – 2013 and we also notice that Wednesday the 18th Program only runs to Lunch.

We call on you to include a slot for the Mining Affected Communities United in Action (MACUA) to make a submission to the portfolio committee on this day.

We also call on the Portfolio Committee to consider having hearings closer to the communities who are affected by mining as they are not always able to travel to Cape Town for these hearings and in the process an important stakeholder is excluded from the debate.

I look forward to hearing from you.

Best regards

Christopher Rutledge | Mining Extractives Coordinator | South Africa
Tel: +27 (0) 11 731 4575 | Mob: +27 (0) 82 784 3333
Email: Christopher.Rutledge@actionaid.org Skype: Christopher.Rutledge.aa

act:onaid

ActionAid is a global movement of people working together to further human rights for all and defeat poverty.
www.actionaid.org | www.twitter.com/actionaid | www.facebook.com/actionaid

From: Christopher Rutledge
Sent: Monday, September 09, 2013 9:52 AM
To: 'aboss@parliament.gov.za'
Cc: 'malebo@po.gov.za'; 'president@po.gov.za'; 'Glenda.Moloi@dmr.gov.za'; 'Johnny@po.gov.za'; 'Nolubabalo@po.gov.za'
Subject: RE: Open Letter to the Deputy President of South Africa, The Minister of Mineral Resources and the Chairman of the Portfolio Committee on Mining

6 September 2013

Ms FC Bikani, MP
Acting Chairperson of the Portfolio Committee on Mineral Resources
National Assembly

Parliament

care of
The Committee Secretary,
PO Box 15, Cape Town, 8000,
for attention of Ms Ayanda Boss

Fax: 086 6914093
email: aboss@parliament.gov.za

Dear Madam

**SUBMISSIONS ON THE MINERALS AND PETROLEUM RESOURCES DEVELOPMENT AMENDMENT BILL
B15-2013**

We have noted your request for submissions and we refer to our letter to you dated 02 July 2013. We call on you to provide us with an opportunity to address the committee on the need to include communities in all discussions and deliberations about issues that affect communities directly such as the MPRDA.

We wish to introduce the national group of Mining Affected Communities United in Action and some of the communities they represent.

I look forward to your response.

Best regards

Christopher Rutledge | Mining Extractives Coordinator | South Africa
Tel: +27 (0) 11 731 4575 | Mob: +27 (0) 82 784 3333
Email: Christopher.Rutledge@actionaid.org Skype: Christopher.Rutledge.aa

act:onaid

ActionAid is a global movement of people working together to further human rights for all and defeat poverty.
www.actionaid.org | www.twitter.com/actionaid | www.facebook.com/actionaid

From: Christopher Rutledge
Sent: Tuesday, July 02, 2013 9:51 AM
To: 'malebo@po.gov.za'; 'president@po.gov.za'; 'Glenda.Moloi@dmr.gov.za'; 'aboss@parliament.gov.za'; 'Johnny@po.gov.za'; 'Nolubabalo@po.gov.za'
Cc: 'phillemon@nkuzi.org.za'; 'henk@irc.org.za'; 'constance@lamosa.org.za'; 'claudek@sarwatch.org'; 'Mandla (EJN) Hadebe'; 'Cde Matthews Dif'; 'Cde Toto Nzamo'; 'Cde Mpai Nompfi'; 'gladysndebele@gmail.com'; 'bnthako@gmail.com'; '0713782540@mobileemail.vodafonesa.co.za'; Fatima Shabodien; Emily Craven; Dorothy Brislin; 'Anne Mayher'; 'Brown Motsau'; 'Caroline Ntaopane'; 'Joseph'; 'Michael Clark'; 'Eric Mokoua'; 'othusitserapoo@yahoo.co.uk'; 'hassenlorgat@yahoo.com'; 'jcapel@eject.co.za'; 'Cecilia Russell'; 'dumisane.lubisi@citypress.co.za'; 'ferial.haffajee@citypress.co.za'; 'Janet Parker'
Subject: RE: Open Letter to the Deputy President of South Africa, The Minister of Mineral Resources and the Chairman of the Portfolio Committee on Mining

To Deputy President of South Africa, The Minister of Mineral Resources and the Chairman of the Portfolio Committee on Mining
C/O Nolubabalo Mtyelwa
Office Of the Deputy President

Please find a letter in reply to your letter dated 27 June 2013

We look forward to hearing from you soon.

Best regards

Christopher Rutledge | Mining Extractives Coordinator | South Africa
 Tel: +27 (0) 11 731 4575 | Mob: +27 (0) 82 784 3333
 Email: Christopher.Rutledge@actionaid.org Skype: Christopher.Rutledge.aa

act:onaid

ActionAid is a global movement of people working together to further human rights for all and defeat poverty.
www.actionaid.org | www.twitter.com/actionaid | www.facebook.com/actionaid

From: Christopher Rutledge
Sent: Friday, June 21, 2013 12:11 PM
To: 'malebo@po.gov.za'; 'president@po.gov.za'; 'Glenda.Moloi@dmr.gov.za'; 'aboss@parliament.gov.za'
Cc: phillemon@nkuzi.org.za; henk@lrc.org.za; constance@lamosa.org.za; claudek@sarwatch.org; Mandla (EJN) Hadebe; Cde Matthews Dlf; Cde Toto Nzamo; Cde Mpai Nompfi; gladysndebele@gmail.com; bnthako@gmail.com; 0713782540@mobileemail.vodafonesa.co.za; Fatima Shabodien; Emily Craven; Dorothy Brislin; Anne Mayher; Brown Motsau; Caroline Ntaopane; Joseph; Michael Clark; Eric Mokoua; othusitserapoo@yahoo.co.uk; 'hassenlorgat@yahoo.com'; jcapel@eject.co.za; 'Cecilia Russell'; 'dumisane.lubisi@citypress.co.za'; 'ferial.haffajee@citypress.co.za'; 'Janet Parker'; 'Jeanne Hefez'; 'letters@mg.co.za'; 'Michael Morris'; 'moshoeshoe.monare@inl.co.za'; 'scribe@sunday.independent.co.za'; 'subsdesk@mg.co.za'; 'saturday@star.co.za'; 'wealet@inl.co.za'
Subject: Open Letter to the Deputy President of South Africa, The Minister of Mineral Resources and the Chairman of the Portfolio Committee on Mining

Greetings, Deputy President Kgalema Motlanthe, Minister Shabangu and Chairman Gona

We write this open letter to you in response to the government's intervention in the mining sector and the release of a Draft **Framework Agreement for a Sustainable Mining Industry**.

The Draft agreement has outlined in its preamble the recognition that "the rule of law and stability is a fundamental pillar of our democracy and a necessity to ensure economic and social development", it further recognises the "need to expedite further transformation in the mining sector" and commits all the parties to "work together to put in place processes that will bring about real changes".

While it is apparent that the main protagonists within the conflict, which has seen a growing death toll, are drawn from the ranks of labour, government and business, it is most disturbing that the trend of excluding communities who are affected by mining from the process of dialogue and the attempts to seek a lasting resolution to the conflicts within the mining sector, are ongoing.

The historical and continued exclusion of communities affected by mining from discussion on "economic and social development" which seeks "real change" does not advance stability in the sector and reinforces the alienation of communities which will inevitably lead to further conflict in the sector. Communities have been systematically excluded from the adoption of the Mining Charter, in which only the interests of Business, Government and Labour have been addressed and the continued exclusion of these communities is not only an egregious omission, it also runs contrary to governments own commitment to "economic and social development which would transform the mining sector through real change." *(Please see Post Script for further reference to government, labour and business's commitment to include communities)

Communities have been calling upon government to include their demands and interests into Policy, legislation and negotiations for many years without much success. At a Dialogue of Mining Communities held 2-5 December 2012, at which over 150 delegates from communities across eight provinces in South Africa agreed to form a National Network of Mining affected communities, a coordinating committee was established to further the establishment of a national network to represent the interests of communities affected by mining. This Committee works under the auspices of Mining Affected Communities United in

Action (MACUA). At the very least, this forum should be consulted and included in the discussion currently being held.

The interests and demands of mining affected communities differ substantially from the interests of labour, business and government, while they also share the fundamental goal of *"economic and social development, transformation and real change"*

At the dialogue held in December last year, communities highlighted their individual struggles. Their concerns ranged from the continued dispossession of their land by mining companies, the lack of consultation with communities, the denial of communities to the royalties held by tribal authorities, the high levels of air, water and ground pollution and the loss of subsistence farming land and opportunity, the ongoing fight for treatment and compensation for miners who have contracted silicosis, the lack of compensation for the care and upkeep of these miners by their rural families once they have contracted the illness and are no longer able to work, the lack of rehabilitation of disused mines, the lack of infrastructure, schools roads and sanitation facilities, the growing problems of unemployment in local communities and the continued practise of the migrant labour system, the corresponding growth in social ills such as alcohol and drug abuse as well as the growing problem of prostitution.

These legitimate concerns and demands by the communities will continue to fester and grow into new areas of conflict and strife if they are not dealt with. They cannot be dealt with by proxy, and must include the communities themselves. Business, Labour and Government in its role as facilitator, do not represent the legitimate demands of the communities who remain marginalised and exploited on the periphery of the discussions, consultations and negotiations about a sustainable solution to the problems within the mining sector.

We call on you Mr. Deputy President, to include the communities in the discussions taking place and through your leadership, to lay the foundation for a truly inclusive solution. Failure to do so would be papering over the cracks and laying the groundwork for a renewed struggle in the sector, which will inevitably lead to further destabilisation and conflict.

A lasting solution which leads to *"economic and social development, transformation and real change"* cannot be achieved without the full participation of the communities affected by mining.

Sincerely Yours,

Mining Affected Communities United in Action (MACUA)
BenchMarks Foundation (BMF)
Legal Resource Centre (LRC)
ActionAid South Africa (AASA)
South African Resource Watch (SARW)
Land Access Movement of South Africa (Lamosa)
Economic Justice Network of FOCCISA (EJN)
Nkuzi Development Association
Socio Economic Rights Institute (SERI)
Oxfam
Gold and Uranium Belt Impact Censoring Organisation (GUBICO)
Vaal Environmental Justice Alliance (VEJA)
Ekurhuleni Environmental Organisation (EEO)
BUA Communities of Rustenburg (BUA)

Contact:

Christopher Rutledge – ActionAid : 082 784 33 33

Matthews Hlabane – MACUA: 082 707 98 60

John Capel – BMF: 27 11 832 1742/43

***Post Script:**

Besides the references to the draft agreement quoted above the following clauses in the draft agreement all speak to and reinforce the need and inevitability of including communities in the discussion on the future of mining in South Africa. Within a democratic dispensation it should be unacceptable that while communities

are continually recognised as central stakeholders, role players and casualties in the history and future of mining, that they are excluded from the decisions that will affect them directly. The community insist that there can be NOTHING ABOUT THEM- WITHOUT THEM.

These clauses are:

3. Roles and Commitments

3.2. Government commits to:

3.2.9. Communities will be encouraged to support improved human settlements and social cohesion and solidarity amongst all the stakeholders in the mining industry.

3.3. Business commits to:

3.3.4. Assist with resources and technical support for upgrading human settlements around mining towns.

3.4. Labour commits to:

3.4.6. Work with Government and Business in developing community and residential areas near the mines.

4. Ensuring Security, Law and Order

4.3. Government commits to:

4.3.8. Develop protocols for security and law enforcement in mining areas together with Business and Labour.

4.5. Labour commits to:

4.5.4. Participate in Mine Crime Combating Forum (MCCF) and enable MCCF engagement with mining communities.

6. Roadmap for Future Work

the parties agree to address the following:

6.1.1. Accelerating the implementation of Human settlement interventions.

6.1.4. Long-term policy measures will be put in place to support growth and stability and deal with areas contributing to policy. In addition uncertainty in sector regulations, tax policy, improvements to labour sending areas and re-skilling of workers, among others will be addressed.

6.2. Possible Short-Term and Medium-Term Sector Measures

6.2.2. Government will undertake an assessment of economic and social conditions in surrounding and labour sending areas.

6.3. Possible Long-Term Sector Measures to Support Growth and Stability

6.3.1. The process for the annual assessment of the implementation of the Mining Charter must take place, with regular and inclusive communications.

6.3.2. All stakeholders must participate in the development of the long term strategy and support initiatives for necessary restructuring and re-skilling of workers to achieve competitiveness, sustainable growth and transformation of the mining industry.

6.3.4. Stakeholders to review the culture introduced to mining communities by the migrant labour system.

6.3.5. Improvement of socio-economic conditions in labour sending areas.

6.4. Implementation Structures

6.4.2.2. The Mining Industry Growth and Development Task Team (MIGDETT) will be charged with on-going support for implementation of the commitments made here, as well as supporting communication of progress and requirements to the constituencies. This will require expansion of the current composition of MIGDETT, especially at sub-committee level.

It is abundantly clear that none of these interventions and commitments can hold any long term sustainability if they do not include the communities as a relevant and necessary stakeholder, rather than an appendage to an agreement reached above their heads and without their free prior and informed consent.

Any discussions on the future of mining will not reach its intended goal of sustainability if it does not include on the agenda the following policy reform instruments which touch on our concerns listed above:

a) The draft Mineral and Petroleum Resources Amendment Act Bill of 2012 which will be considered by Parliament this year, and the 2008 MPRDA Amendment Act which was brought into operation last month.

These laws do not address or go far enough to effect development and real change for mining communities.

The draft bill of 2012 reverses important legal principles including protection and promotion of the interests of women. The new laws ignore the damage done by discriminatory and parallel mining and land laws, such as the 1913 Land Act, and the social causes of the Marikana disaster.

b) The shortcomings of social and labour plans, their formulation, the lack of substantive benefits for communities and deficient monitoring of implementation of such plans.

c) The principle in customary law and the African Charter under the African Commission that

community consent be sought for mining development on communal land, and that communities are entitled to reparation and restitution for damage, dislocation and hardship caused by mining.”

Christopher Rutledge | Mining Extractives Coordinator | South Africa

Tel: +27 (0) 11 731 4575 | Mob: +27 (0) 82 784 3333

Email: Christopher.Rutledge@actionaid.org Skype: Christopher.Rutledge.aa

actionaid

ActionAid is a global movement of people working together to further human rights for all and defeat poverty.
www.actionaid.org | www.twitter.com/actionaid | www.facebook.com/actionaid