**Department of Environmental Affairs rejects speculation that the granting of permission to mine within the Mabola Protected Environment in Mpumalanga Province could ‘set a dangerous precedent’**

**23 May 2017**

The Department of Environmental Affairs has once again clarified the circumstances surrounding the awarding of a license to conduct mining activity within the Mabola protected environment in Mpumalanga.

The Portfolio Committee on Environmental Affairs was briefed on the issue earlier this month, where MP’s raised a number of concerns regarding why the license was awarded ‘given the sensitivity of the area.’

The Department notes with regret sentiment expressed in the Portfolio Committee briefing that the name of the mining license applicant was being wilfully withheld by the Department of Environmental Affairs. The issuing of mining licenses is the preserve of the Department of Mineral Resources: the Department of Environmental Affairs reports on the number of Environmental Impact Assessment applications that have been processed by all Competent Authorities and issued within the regulated timeframe, as per NEMA: EIA of  2014  Regulation, as amended.

In February this year, the Department issued a media statement on the issue clarifying that the Environmental Assessment Record of Decision was awarded to Atha-Africa Ventures. This application, the Department further noted, was essentially an application for renewal of mining rights, as the prospecting rights for the area were previously held by BHP Billiton until 2011.

South Africa has a comprehensive and progressive suite of laws that guide our actions in the natural resource governance space, among them the National Environmental Management Act (NEMA), the National Environmental Management: Biodiversity Act (NEMBA) and the National Environmental Management: Protected Areas Act (NEMPAA).

In addition, a number of legislative instruments exist, such as the Environmental Impact Assessments (EIAs) and Strategic Environmental Assessments (SEAs) to guide ways in which a number of activities, including mining, should be conducted in a sustainable manner.

They are complemented by parallel legal instruments that guide activities in the respective natural resource extraction sectors, such as the National Water Act (NWA) and the Mineral and Petroleum Resources Development Act (MPRDA), which fall under the purview of the Department of Water and Sanitation and the Department of Mineral Resources respectively. As such, no decisions on development applications are granted without consideration of the said activity’s long-term impacts on water quality and water security.

No permission for mining-related activity may be granted until the applicant has received authorizations from relevant organs of state that have jurisdiction in respect of the activity, including a Water Use License, Mining Right and approved Environmental Management Plan, as well as the Environmental Authorization.

To address the associated environmental impacts of mining, the Department of Environmental Affairs has also developed a Mining and Biodiversity Guideline, in collaboration with the Department of Mineral Resources, the Chamber of Mines, the South African Mining and Biodiversity Forum and the South African National Biodiversity Institute (SANBI).

The Mining and Biodiversity Guideline identifies four categories of biodiversity priority areas in terms of their importance and the risk as well as implications for mining therein.

The areas in which mining is prohibited are; in the Legally Protected Areas such as nature reserves, national parks, special nature reserves and core areas of the biosphere reserve and World Heritage Sites. It is incorrect to allege, as some in the Portfolio Committee have done, that the Department has granted authorization to mine in an area where it is prohibited.

Mabola is a Protected Environment, which is the only category of Legally Protected Area where mining may be allowed- with written permission from the two Ministers and under strict conditions.

As it is a prerequisite of the legislative requirements, stated above, authorizations have been granted by the two Ministers based on both the EIA and the licensing procedures under strict conditions that include, inter alia:

* That the permit holder must submit a Plant Rescue and Protection plan (with a specific focus on conservation important species from areas to be transformed) to the Department prior to the commencement of any construction activities.
* That no activities will be allowed to encroach into a water resource without a water use authorization being in place from the DWS and no storm-water generated as a result of the development may be channelled directly to any wetland or watercourse. A storm-water and groundwater management system must be designed.
* That all mechanisms for dissipating water energy must be implemented with approval from the DWS.
* That an alien plant control programme must be implemented from the inception date of the site clearing phase in accordance with relevant legislation.
* That the applicant must mitigate and manage acid mine drainage where applicable according to the requirements of the DWS.
* That stringent and appropriate dust suppression measures must be applied
* That storage of construction materials or hazardous substances must be in accordance with relevant legal requirements
* That should any material of cultural or archaeological significance be encountered during construction, operations in the vicinity should be stopped immediately and relevant heritage resources authorities informed.
* That an Environmental Management Committee (EMC) must be established
* That a suitable wetland specialist must be appointed to carry out a comprehensive baseline audit of the wetlands in the area

The Department is satisfied that subject to compliance with the permit conditions issued to Atha-Africa Ventures, the decision to grant permission to mine in the Mabola Protected Environment in terms of Section 48 of NEMPAA will not conflict with the principles of the National Environment Management Act, 1998 (NEMA) and that any potentially detrimental environmental impacts resulting from the mining activity, can be mitigated to acceptable levels.

It was alleged in the Portfolio Committee briefing that allowing mining in Mabola would open the door to unregulated mining activities in other protected areas and that the Department may have ‘shot ourselves in the foot’. This view is regrettable.

The Department of Environmental Affairs does not use a one size fits all approach with regards to environmental authorosations, and every case is considered on its own merits.

It is illogical to suggest that if mining is allowed in an area such as Mabola, where it is legally permissible under strict conditions that mining will be allowed in other areas where it is legally prohibited. In granting approval for mining in the Mabola region the Department of Environmental Affairs applied both the law and scientific considerations.

It should further be noted that the Mining Right, the Water Use License application and the Environmental Authorisation, all have inherent public participation processes spelt out in terms of their respective legislative provisions.

Before the proclamation of Mabola as a protected environment was undertaken, a full public participation process was followed led by the Department of Economic Development, Environment and Tourism in Mpumalanga.

The Department of Environmental Affairs reiterates that no decisions on development applications are granted without consideration of the said activity’s long-term impacts on the environment, and encourages those who seek clarity on this issue to approach the Department.

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