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WWF Statement on Mining and the Environment

WWF concerned about the granting of mining rights in sensitive areas

WWF is significantly concerned about the increasing trend by the Department of Mineral Resources (DMR) to grant prospecting and mining rights in environmentally sensitive and threatened areas in South Africa. WWF would like to draw particular attention to the following:

1. Administrative justice in mining regulation is failing both the South African public and responsible mining houses.
2. Our constitutional rights demand that restrictions will have to be applied to mining in critical areas for water production, heritage and biodiversity.
3. Decisions regarding any prospecting or mining rights should consider the long term impacts from inception to closure. Full cost accounting, which takes into consideration all costs such as pollution of water resources, air pollution and rehabilitation, need to be internalized into the cost of the mine.

WWF calls for a commission of enquiry into the competence of the departments involved in the regulation of mining activities, i.e. Department of Mineral Resources and the Department of Water and Environmental Affairs.

1. Administrative justice in mining regulation is failing both the South African public and responsible mining houses

Administrative justice on the part of DMR means:

- *Effective use of the provisions of the law*
- *Rejecting poor and incomplete applications and prosecuting applicants who deliberately provide misinformation or omit key informants for effective decision making*
- *State mining houses should not be exempt from EIA & consultation requirements*
- *Ensuring effective notification and public consultation*

It appears that procedural irregularities and injudicious decisions pertaining to mining and prospecting are becoming ever more common. This is cause for significant concern. The administration of prospecting and mining rights is opaque and often doesn't meet basic public participation requirements. In addition, the drive to streamline approvals provides for very poor environmental decision making.

Prospecting, mining applications and Environmental Management Plans (EMPs) need to demonstrate effective notification and meaningful consultation (as required by the Mineral and Petroleum Resources Development Act), especially with land owners and rights holders. In addition, such applications should demonstrate that available biodiversity and water information has been taken into account. If not, such an application should immediately be rejected by the DMR.

It is entirely inappropriate to exempt a state-owned mining company from the same fundamental compliance requirements, such as environmental and social assessment, to which all other players are legally bound.



Not only is the South African public being failed by poor processes which impact on the public's right to a healthy environment, but responsible mining houses that do comply with the requirements of the MPRDA are prejudiced as they are put on an equal footing with irresponsible companies.

WWF urges Cabinet to consider a more streamlined and informed approach in which environmental and water authorizations and licenses are first acquired from the competent authorities, Department Water and Environment Affairs, before application can be made for mining rights.

WWF also calls on the Ministers of Mineral Resources and Water and Environment Affairs to provide clear guidance on where environmental, water and heritage priorities should preclude mining as a land use and to amend legislation accordingly.

We further call on the Minister of Mineral Resources to use the powers available to her to review the process for determining the financial provisions for rehabilitation and review the practice of their implementation to ensure the safeguarding of biodiversity assets and the protection of water resources.

2. Restrictions must be applied to mining in critical areas for water production, heritage and biodiversity

Priority areas are:

- *Areas which are key water catchments, of groundwater recharge importance, or identified as sensitive by the Department of Water Affairs*
- *Ecosystems listed as threatened or protected in the Biodiversity Act, or as critical biodiversity areas in promulgated provincial conservation plans*
- *Cultural heritage sites identified by national or provincial heritage resource agencies.*

While mining is important, it cannot override other economic, social or environmental land uses or considerations. Restriction of rights is required in agreed areas of biodiversity, hydrological and cultural/heritage priority, and these areas need to be mapped and communicated widely. Significant information is easily accessible (most notably via the South African National Biodiversity Institute's Biodiversity GIS available on their website <http://biodiversityadvisor.sanbi.org/index.asp>). Public consultation is also an important aspect of establishing locally important areas.

In all cases, the relevant provincial environmental departments and conservation agencies need to be consulted.

3. Full Cost Accounting must be incorporated into decisions around mining and prospecting

Full cost accounting should include:

- *Costs of rehabilitating the area in the long term*
- *Impacts on water resources and the costs of mitigating these (including the long term impacts of acid mine drainage)*
- *Impacts on threatened ecosystems and other components of biodiversity that need to be offset*
- *Climate impacts of coal mining*



Full cost accounting needs to be factored into Mineral decision making, to ensure that the true costs of exploration, extraction, processing and recycling are internalised in the companies that profit at the expense of our national heritage.

Any mining house seeking the extraction of mineral resources must factor in the substantial economic implications of long term rehabilitation of the post-mined area to some productive land use, and not only mitigate the direct or immediate impacts of mining. With regard to direct impacts, the economic implications of rehabilitation and mitigation need to be of paramount consideration as ongoing funding will be required in certain cases and such funding may exceed any economic return realized by the initial mining operation.

With reference to coal and oil-shale in particular, WWF remains concerned that the climate commitments made by the South African government will be entirely negated by the significant expansion of coal extraction. While this might be lucrative for a few private companies and shareholders in the short term, it will trap future generations in carbon-intensive operations and cost the economy in the long term. Before any new coal mining rights are issued, we need to assume our share of responsibility for reducing carbon emissions, translate this into a coal quota for the next 50 years, and issue rights accordingly.

While we understand the need for broad based empowerment in the mining sector, we also recognise that new, small and inexperienced companies often do not have the environmental track record, systems, resources and financial provisions necessary to cover mitigation and rehabilitation. This leads to the public taking on an increasing burden of the costs of cleaning up, as well as significantly increased risk of massive environmental damage (such as acid mine drainage) with significant social and environmental costs.

Current focus areas of national concern:

Mapungubwe: Mining next to a World Heritage Site and in the flood zone of an international river border.

WWF has joined a range of applicants seeking a review of the granting of mining rights near Mapungubwe to Limpopo Coal. The charge is being led by the Endangered Wildlife Trust and the Peace Parks Foundation, but several other environmental and archaeological organizations are similarly concerned. There is a strong case for review on procedural and substantive grounds:

- A lack of any formal response to the objections raised by any of the numerous Interested & Affected Parties, including the Minister of Environment.
- Mining without the relevant water use licences.
- The EIA resulted in a negative Record of Decision precluding the mine from pursuing certain listed activities.
- Completely inadequate mitigation proposed for the expected environmental damage as well as destruction of cultural heritage sites.

WWF considers mining in the Mapungubwe region possible only if the following conditions are met:

- If the mine can guarantee no Acid Mine Drainage (AMD) or similar toxic or water pollution events will occur into the Limpopo or associated drainage systems. The proposed mitigation does not appear to sufficiently address this and assurances regarding the prevention of AMD are lacking.



- All significant mining to be underground with minimal open pit and access areas. Opencast mining will cause significant environmental damage as well as significant visual impact in a World Heritage Area.
- Haulage by rail to the nearest existing siding or lines. Moving millions of tonnes of coal by trucks on local roads is completely incompatible with maintaining the heritage, tourism and other values of the region. Temporary rail would be far less damaging and easier to rehabilitate than the destruction of tar tourist roads.
- Mitigation and offset commitments to be significantly increased, informed by biodiversity and hydrological experts, and the associated financial provisions to be based on an independent estimate of the costs of effective rehabilitation and offset, and lodged with a third party to guarantee rehabilitation. The current proposals are not acceptable and the financial provisions are very inadequate.
- No large dumps of overburden or stockpiled thermal coal to be permitted. The visual impact, pollution and legacy issues created by a 145ha and 30m high spoil and coal dump would not be acceptable. An underground mining plan that simultaneously fills in extracted seams must be developed, and the economic implications for mine feasibility to be presented for expert scrutiny.
- No mining, and especially no open pit development should be allowed in the 1 in 100 year floodline, notwithstanding the current suggestion of building a berm. Aside from the significant risk of failure posed since the likelihood of above average storm events is increased with climate change, this is completely incompatible with sensible ecosystem management.

Mining in the Grasslands:

WWF, together with local landowners, the Botanical Society of South Africa and Birdlife South Africa has challenged prospecting rights issued over portions of sensitive, high altitude grasslands, including statutory Nature Reserves, in Mpumalanga and KwaZulu-Natal, The proposed area has some of the greatest biodiversity in Mpumalanga and is crucial for water production. Allowing prospecting or mining in this area will cause irreparable damage to the region and affect the many natural resources on which local communities depend.

The matter is currently before the High Court to seek a judicial review of the prospecting rights granted to the mining concern. In 2009, the mining company abandoned their prospecting rights. However, the DMR has not withdrawn their opposition to the case.

The long term impacts of mining in priority areas of biodiversity and water catchments will have devastating impacts on future water security for South Africa. Such impacts would displace thousands of existing and future jobs that rely on rangeland agricultural practices and tourism. In addition, downstream users will suffer the effects of pollution from coal mining at the headwaters of key river systems. The promises of short-term job creation to impoverished communities through proposed mining are seldom calibrated with reality, and often don't consider the number of sustainable jobs lost in the same area.



State corporations exempted from essential consultation and assessment requirements: The African Exploration Mining and Finance Corporation prospecting in the Cape Winelands:

Another recent case highlighting these concerns is the fact that state-owned mining company African Exploration Mining and Finance Corporation (Pty) Ltd (AEMFC) applied for a prospecting right in terms of Section 16 of the Mineral and Petroleum Resources Development Act (Act No.28 of 2002) (MPDRA) to the Department of Mineral Resources (DMR) in several winegrowing and environmentally important areas of the Western Cape.

Many of the farms in question are members of WWF's Biodiversity and Wine Initiative which engages with the wine industry to improve environmental practices and conserve key areas of the threatened Cape Floristic Region.

AEMFC is a wholly owned subsidiary of the Central Energy Fund (CEF) of South Africa. The company is mandated by DMR to acquire and hold exploration and mineral rights in respect of all energy related and other minerals on behalf of the state and engage in the mining thereof.

After some confusion, AEMFC have apparently withdrawn all their prospecting applications in the winelands. While WWF applauds this move, we still query the rigour and integrity of the company's decision making processes and continue to question the state's role in prospecting areas of priority conservation importance, as well as the obvious lack of strategic or economic vision in even considering prospecting these areas.