

**OBJECTION TO THE MINING RIGHT GRANTED TO WATERBERG JOINT
VENTURE (PTY)LTD**

PREPARED BY:

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FOR THE ATTENTION OF:

LIMPOPO DMRE REGIONAL MANAGER

DEPARTMENT OF MINERAL RESOURCES AND ENERGY

WATERBERG JOINT VENTURE RESOURCES (PTY) LTD

BATELEUR ENVIRONMENTAL AND MONITORING SERVICES (PTY) LTD

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1. INTRODUCTION

This document gives the written submissions of the author as a member of the 366LR Goedetrouw (AKA, Kgatlu) community on the objection of the granting of the mining right to Waterberg JV Co. Some words like PTM and Waterberg JV Co, Kgatlu and Goedetrouw, in this document will be used interchangeably. PTM's introduction to Kgatlu happened as the "Kgoro" minutes would have it, officially on Sunday 15 July 2012 under the announcements slot. The period under review starts in earnest on Tuesday 22 January 2013 with Discovery, a PTM sub-contractor as it had become known in the area, commencing its operations in the Goedetrouw Camp area. The area in question is approximately 813 hectares. The area is used primarily for livestock grazing. There are however other activities that the community use the area in question for. The activities include and are not limited to community members collecting wood for households, funerals, weddings, etc, consumption of pure natural herbs as is customary with black communities across the mother continent that is Africa.

Goedetrouw, (AKA, Kgatlu) is a farm in Blouberg Local Municipality, Limpopo Province bought by our forefathers some years back. Through Lawyers for Human Rights (LHR) the community objected certain things from Scoping Report to EIA. All along the community was told by LHR that things that were in the Scoping Report would be dealt with during the EIA. Came the EIA stage, the community objected again but the objections were not taking into account. The community was amazed when the Environmental Authorisation (EA) and Record of Decisions (RoD) were approved for Waterberg JVCo. The community instructed LHR to appeal within the specified duration, but this was not done and the latter submitted the condonation letter together with the appeal. However, the appeal was rejected by the Minister on 10 November 2020 based on the late submission and not on the substance of the appeal. The rejection letter gave the community 180 days from the rejection date to take the matter to court. While the community was still digesting the EA approval, they received notification PTM has been granted the mining right in our area. The community was not engaged on this matter and the objection is hereby submitted

Like many black villagers right across the length and breadth of South Africa, the idea of mine at Kgatlu sounded farfetched, to say the least. The discussions were casual at times and no one really understood how our entire way of life would one day be altered in ways unimaginable.

PTM came with their machinery on Tuesday 22 January 2013 to start the operations on the farm. That was at a time when the community expected to welcome the mining company delegation with spades or tools that would be used to dig holes the depth of a spade, as indicated by the mining company on their first contact with the community.

What the community of Kgatlu held onto for dear life was that it is endowed by certain unalienable rights, that those rights are enshrined in the South African constitution. Chapter two of the constitution "The Bill

of Rights” sets out a number of basic rights. Amongst them are “Access to information”, “Human Dignity”, “Property” and “Environment”.

2. GROUNDS FOR OBJECTION

2.1 Refusal to Access to Information

As a member of the community of 366 LR Goedetrouw I would like to register dissatisfaction in relation to the treatment of PTM, which has since now been referred to as Waterberg JV Co, since the beginning of the prospecting phase. PTM started prospecting on our farm without consent and when the community requested the prospecting permit, they were informed that the permit had sensitive information and it will never be issued to us. The community was directed to request it from the Department of Minerals Resource and Energy (DMRE), Limpopo Region. The community still could not obtain the prospecting permit from DMRE. Only confirmation letter that prospecting permit was issued to PTM, was received, on two different occasions (DMRE letters dated 08 October 2013 and 15 December 2015). The community believe that the prospecting permit documents that must be made available to the community whose property will be affected by the process.

The community had to request the prospecting permit together with other documents from DMRE through our legal representatives using the PAIA application process. It must be noted that PTM started prospecting on our farm in January 2013. Upon receipt of documents through the PAIA process, the original prospecting permit dated 15 June 2012 did not include our farm, Kgatlu. The section 102 application to include our farm was approved on 22 May 2013 by DMRE, months after prospecting commenced on the farm. In essence, the prospecting on our farm was executed **without a permit!**

The community is of the strongest opinion that for the community to be able to make informed decisions about the activities that will change their lives forever, there should be transparency and information sharing. Something which the community still has a problem with the now known as Waterberg JV Co. The does not believe that plans should be made on how our farm is going to be utilised without our **consent and approval**.

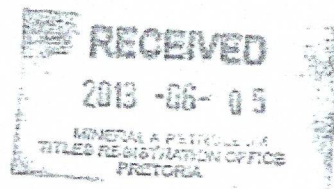
For all of the latter half of 2012, the issue of a mining company was raised in several “Kgoro” meetings. October 2012 witnessed the most meetings with one meeting classified as urgent – Sunday 7th October 2012. Overall, the community of Kgatlu became aware of an imminent introduction of a mining company to its shores. What the community did not know was the processes involved in engaging with a mining company.

For the period Sunday 15 July 2012 to Sunday 20 January 2013, a total of 12 official meetings were held by the community where the issue of a mining company was raised, either as an announcement or a

matter for discussion. That culminated into a PTM subcontractor entering the camp area on Tuesday 22 January 2013. However, the community of Kgatlu did not know anything about a prospecting license. The application for a prospecting right amendment (DME 434) to include Kgatlu that was stamped on 05 June 2013 is presented hereunder – part of page 1 (DME 434 Page 1.), 2 (DME 434 Page 2.) and 4 (DME 434 Page 4.) of a five paged document.

AMENDMENT/VARIATION OF A PROSPECTING RIGHT

Granted in terms of section 102 of the Mineral and Petroleum Resources Development Act,
2002
(Act No. 28 of 2002)



DME 434 Page 1.

NOTARIAL DEED OF AMENDMENT/VARIATION OF PROSPECTING RIGHT

BE IT HEREBY MADE KNOWN:

That on this the 22ND day of MAY in the year 2013 before me, HENDRIK LUKAS MATHEE, Notary Public, duly sworn and admitted, residing and practising at POLOKWANE, in the LIMPOPO Province of South Africa, and in the presence of the undersigned witnesses personally came and appeared;

KHATHUTHSELO AARON KHARIVHE Regional Manager, LIMPOPO REGION of the Department of Minerals and Energy, and as such in his/her capacity as the duly representative of:

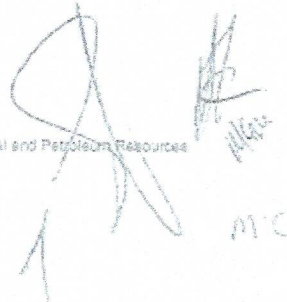
THE MINISTER OF MINERALS AND ENERGY

The said Regional Manager, being duly authorised thereto under and by virtue of a Power of Attorney granted by the Deputy Director-General: Mineral Regulation of the Department of Minerals and Energy on the 16TH day of the JANUARY in the year 2013 in terms of the powers delegated by the Minister in terms of section 103 (1) of the Mineral and Petroleum Resources Development Act, No 28 of 2002 ("the Act").

And

Amendment/Variation Prospecting Right. Granted in terms of section 102 of the Mineral and Petroleum Resources Development Act, No 28 of 2002

Hendrik Lukas Martinus Cincota Mathee
Notaris
Notary



Handwritten signatures and initials, including a large signature and the initials 'M.C.' and 'M.C.'.

The Minister hereby grants the variation/ amendment of the prospecting right executed on 02ND day of SEPTEMBER in the 2009, under Protocol 585/2009, registered of the Mineral and Petroleum Titles Registration Office under 376/2009, in respect of:

Carlein: Farms Kirstenspruit 351 LR, Niet Mogenyk 375 LR, Bayswater 370 LR, Disseldorp 368 LR and Carlstruik 390 LR
Sited: Polokwane Magisterial/ Administrative District of Polokwane
Measuring: 11853,5954 hectares

In case of various farms involved, a list must be attached and referred to as ANNEXURE 1.

It is hereby varied/ amended by adding the farm Goedetrouw 366 LR

Now therefore the Minister grants the variation/ amendment of the principal right.

Now the right is comprised of the following
Farms Kirstenspruit 351 LR, Niet Mogenyk 371 LR
Bayswater 370 LR, Disseldorp 369 LR, Carlstruik
390 LR, Ketting 368 LR and Goedetrouw 366 LR
situated in Polokwane Magisterial / administrative
district of Polokwane
Now measuring: 15058,96 in total as per new
sketch plan attached hereto as Annexure A

This done and signed at Polokwane on the 22ND day of MAY in the year 2013 in the presence of the undersigned witnesses.

Witnessed by me, the undersigned, in the presence of the undersigned witnesses and the undersigned witnesses.

Hendrik Lubus Moshinus Oloets Moshob
Notaris

DME 434 Page 4.

2.2 Commercially Sensitive Information

The community of Kgatlu feels very underprivileged to be expected to make informed decisions with so called "Commercially Sensitive Information" rule book thrown at them at every turn. First, it was the prospecting permit, a really protracted discussion that felt like passing time to get to the end of the permissible prospecting period.

Once that was done, a redacted version of the Mining Works Program was received by the community courtesy of Lawyers for Human Rights. The community of Kgatlu wouldn't like to take decisions based on incomplete information for decisions taken at Mining Right application stage will have a long-lasting impact on the environment, a way of life and future generations. This is not a matter that the community takes lightly, rather it views this as a game changer in determining the manner its future will be shaped.

2.3 EIA Public Participation

The community of Goedetrouw, affectionately known as Kgatlu has held two public meetings involving the EAP and PTM since the Draft Scoping Report went out in the Spring of 2018. The first attempt to meet Kgatlu residents happened on Saturday 29 September 2018. The delegation was told by the community that we were having our scheduled monthly meeting and that the decision to not engage in the process was relayed to PTM in the week.

The community was not happy with PTM's behaviour during prospecting and wanted to have all grievances attended to. As it happened, PTM's prospecting permit expired on the Saturday in question, 29 September 2018. In the intervening period, the community embarked on a mission to gather information from the prospected sites in preparation for PP sessions. Saturday November 10 of the same year was set aside for our first engagements with the EAP and PTM. The date came at a time when the Final Scoping Report was already out. There was never sufficient public participation to deal with the issues that the community had. The community was always worried that PTM was intending to "tick" the boxes for compliance sake rather than addressing the issues that the community had. It must be noted that the community has never had a meeting with DMRE in Kgatlu to discuss any potential of a mine on the farm.

In the meeting held on November 10 2018, the community of Kgatlu cut to the chase first up and laid bare its dissatisfaction with PTM's overall conduct during the prospecting period. In the end, PTM acceded to the fact they had done wrong by the community and that they will accept a fine for their misdeeds, with leverage to negotiate (LHR letter attached for ease of reference). Two main topics were up for discussions on the day and the community was never impressed with both PTM and the EAP in the manner they conducted themselves.

2.4 Infrastructure Positioning on the Farm

The community of Kgatlu did not agree to having the infrastructure on their property. This issue has been raised previously and the community was advised that the infrastructure will not be located on the farm until there is an agreement in place. It is therefore the submission of the member of the community of Kgatlu that even though the comments are based on the infrastructure being located on the property during the draft scoping report stage, the final scoping report stage and the EIA stage, the decision has not been taken and the Waterberg JV co has not engaged the community in that respect. It is also the submission of the member of the community of Kgatlu that there is continuous planning about the property with respect to the location of the mining infrastructure, without being engaged and sort agreement. Waterberg JV Co proceeded with the application of the mining right and has never engaged the community and as such the community will not agree to ex post facto arrangements.

The member of the community of Kgatlu would also like to put to DMRE that the FSR and the Final EIA reports are based on the mining infrastructure on the property of Kgatlu without the agreement by the community. The community indicated during the FSR and the EIA stages that the fact that Waterberg JVCo proceeded with planning the infrastructure of their farm without their consent the found it to be a *very serious issue that has let the community to not support the mining licence application until the issues have been resolved*. The problem is that if the licence is issue on the information submitted by Waterberg JV Co as indicated in the Final EIA report, the community will not have any latitude to start negotiating with the mining company. The community believed that the issues should have been sorted out before the mining right was issued and all the issues were communicated during the draft scoping report, final scoping report and the EIA stage but were ignored. The community indicate that if the issues were not resolved then, the community does not support the application of the mining licence as is. Hence the member of the community is objecting for the granting of the mining right.

2.5 Ground Water Impact

The community has concerns with the impact that the mine will have on the existing water supplies which are currently scarce. The community of Kgatlu has been experiencing water shortage of water since the commencement of prospecting because water was being pumped 24 hours continuously. At the moment, some boreholes in some family yards have run dry due to this operation. The community of Kgatlu does not support the usage of pumping water from any of the boreholes that the company identified. The kilometres of pipe network transporting water to the MIC will require servitudes and will all over the area and the areas will not be useful to the community and thereby disturbing the way of life.

3. CONCLUSION

There are still a number of issues which have not been adequately dealt with in the final EIA. As it has been previously mentioned the community is still sceptical about whether the project will be to its benefit. The mining right should therefore not be approved until all outstanding issues have been sorted.

The community of Kgatlu did not agree to having the infrastructure on their property. This issue has been raised previously and the community was advised that the infrastructure will not be located on the farm until there is an agreement in place. It is therefore the submission of the community of Kgatlu that even though the comments are based on the infrastructure being located on the property, the decision has not been made and the Waterberg JV co has not engaged the community in that respect. It is also the submission of the community of Kgatlu that there is continuous planning about the property with respect to the location of the mining infrastructure, without being engaged and sort agreement. The comments are therefore based on the documents prepared by Waterberg JV Co without engaging the community and as such the community will not agree to ex post facto arrangements.

The community of Kgatlu would also like to put to DMRE that the FSR and the Final EIA reports are based on the mining infrastructure on the property of Kgatlu without the agreement by the community. This is a very serious issue that has let the community to not support the mining licence application until the issues have been resolved. The problem is that if the licence is issue on the information submitted by Waterberg JV Co as indicated in the Final EIA report, the community will not have any latitude to start negotiating with the mining company.

It is therefore the request of the author that the decision for the granting of the mining right to Waterberg Joint Venture Resources (Pty) Ltd be suspended until the issues with the community are resolved.

Prepared By:



Joseph Manamela (*Member of Goedetrouw Community*)