

The Australian High Commissioner

Mr Adam McCarthy

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14 April 2016

Dear Mr McCarthy

RE: Australian Mineral Resource Commodities proposed mining in Xolobeni- Wild Coast Eastern Cape

Memorandum

We stand in solidarity with the Umgungundlovu Community and their organization, the Amadiba Crisis Committee, and commit to do so until justice has been done.

On 03 March 2015, Mineral Resource Commodities (MRC) along with its black economic empowerment company, Transworld Energy (TEM), applied for mining rights over a portion of land some 22 km long and 1,5 km wide along the Eastern Cape coastline in the Bizana Municipal area.

The proposed mining area will affect at least 2,867 hectares. The environmental degradation that will occur through mining will negatively affect the community in this area. As a result, the community fear losses to their livelihoods, culture, and communal way of life.

Since 2006 the community has resisted mining in their area and in 2008, managed to overturn a decision by the South African government to mine this area. Yet MRC and TEM are persistent and continue to push their agenda.

The Umgungundlovu Inkosana's Council, the Amadiba Crisis Committee, and 300 households and residents living in this area have asked their lawyers to challenge the corporation's decision to mine in various courts of law. The community, as can be seen from the attached background section (Annexure A), are certain about their rights as proud and independent Africans with a long lineage of opposition of resistance to colonial, imperialist as well as Apartheid attempts to dispossess them of their land.

They value their land for its connections to their ancestors, and the continued nurturing it provides them through fruit and vegetables and grazing land for their cattle. At the moment this is a self-contained sustainable community. They are fighting for a development path that will not enrich some foreign or local corporation at the cost of the community, but to keep their land and their heritage for all their people now and in the future. It is worth noting that MRC will only employ between 42 to 600 people (it is not likely that as many as 600 people will be employed as it is an open cast mine relying on very few workers and mostly machinery) but the impact of mining will affect several hundred people's livelihoods.

The community and its leadership are guided by the fundamental principles of FREE PRIOR AND INFORMED CONSENT (FPIC), which they believe permits them to refuse mining on their land. This is endorsed by the World Bank and United Nations on business and human rights. We ask that you endorse this and use your influence to ensure that the community's right to say "No" is upheld.

Far from the assertions of their detractors, the community is committed to sustainable use of their natural resources and the cultivation of their land for the benefit of their people. Of importance is that only a few executives and shareholders will gain from the destruction of the land, yet the community will lose what they treasure. The community is keen to continue forming and developing the tourism potential of this area. This is a more sustainable approach for the area.

The Bench Marks Foundation has conducted numerous studies on mining investment. In all of these studies our findings are that communities do not benefit from mining but instead suffer the consequences of this invasive sector. This includes damage to their livelihoods, health and all the social problems brought on by the addition of outside labour.

All the community wants is that their right to choose their own development path be respected by all the local and foreign mining corporations, the government of the day inclusive of all its agencies, and in particular the SAPS.

One of our greatest concerns is how MRC and TEM have blatantly gone about trying to gain this right and have ignored the impacted community's opposition to mining.

On 22 March 2016 Sikhosiphi 'Bazooka' Rhadebe, Chairperson of the Amadiba Crisis Committee (ACC), was assassinated. The ACC is the affected community's committee spearheading the resistance against the mining project in the Amadiba area.

The community and their allies believe that this death, and those of other leaders (in particular three others who died under mysterious circumstances), did not happen out of the blue, and that the corporation as well as the authorities, have a case to answer to in the court of international public opinion.

The government (in particular the Department of Mineral Resources and the criminal justice system) must answer why unlawful and blatant violations of the constitution continue on a daily basis. The community does not believe that the government acts in the interests of the weakest members of society, but rather in the interest of its strongest: the corporations.

We believe the corporation and its leaders - in particular the Caruso brothers - have used inflammatory language or even hate speech in this regard. This is not in keeping with the letter and spirit of our democracy.

According to the Amadiba Crisis Community in 2007¹, after the killing of community activist Scorpion Dimane, the community met Patrick Caruso (Mark Caruso's younger brother) in Mdatya.

This encounter in 2007 lives in all our memories.

The community members asked Mr Patrick Caruso: "Don't you understand that this project leads to bloodshed in our community?"

Patrick Caruso replied: "Well, there is always blood where there are these types of projects."

Community: "So you mean that you want to get rich by spilling our blood?"

Patrick Caruso: "In my experience you cannot have development without blood."

The community recalls that it was then that the murdered chairman of the ACC Mr Bazooka Rhadebe, stood up marking the end of the meeting.

He also added: "OK, we can now close our books on this one."

Furthermore, the Sunday Times reported that the Executive Chairman, Mark Caruso of Minerals Commodities, threatened the community via an email about three months ago. Caruso threatened to "rain down vengeance" on anybody who opposed him.

The following lines were taken from the email: "From time to time I have sought the Bible for understanding and perhaps I can direct you to Ezekiel 25.17, "And I will strike down upon thee with great vengeance and furious anger, those who attempt to poison and destroy my brothers. And you will know my name is the Lord when I lay my vengeance upon thee."

Furthermore, the newspaper article quotes his e-mail where he invites his detractors to continue their "campaign" against the mine:

¹ Amadiba Crisis Committee : Press statement 2016-03-30

"I am enlivened by [the] opportunity to grind all resistance to my presence and the presence of MRC and [the South African subsidiary of TEM] into the animals [sic] of history as a failed campaign²."

Not satisfied with these insults, during the Redi Thlabi Show on Radio 702 which began before 11 am on 7 April 2016, where impacted community members, affected parties from the Department of Mineral Resources, the MRC and the Amadiba Crisis Committee were invited to talk about what is happening in the area, Mark Caruso continued with his insensitive stance on the topic.

The DMR refused to participate, whilst Mark Caruso represented MRC and TEM, and Mzamo Dlamini, deputy chairperson of Amadiba Crisis Committee represented the affected community.

Despite the inaccuracies of his version, Caruso appears to lose control when asked by Dlamini if he would continue supporting the killings of leaders opposed to mining. Caruso replied in a manner which we find totally insensitive and disrespectful to South Africans.

Kindly refer to the podcast link inserted below. From about 22:44, Mark Caruso's response can be heard. This has been transcribed below for your convenience.

"...It is important to note that I am not being disrespectful to South Africans. "Depending on which statistics you want to point to, that South Africans experience about 30 000 to 80 000 deaths of murders and shootings per year..- and that we should be singled out is libelous and defamatory"

<http://omnyapp.com/shows/the-best-of-redi-tlhabi/xolobeni-mining-violence>

With this context and the conflict explained, we humbly request:

1. That your government join the affected Amadiba community and those who have joined their cause internationally to ask your countrymen to leave the community alone and desist in mining, especially since the community has so strongly stated and shown their opposition to it;
2. That your government provide all support to the police to investigate who is behind the killings of activists opposed to mining in the area;
3. That you will ensure that all Australian corporations doing business in South Africa commit to respect human rights and the principles of FPIC including the right of communities to choose other development paths instead of mining; and

² For more see <http://www.timeslive.co.za/sundaytimes/stnews/2015/11/29/Aussie-company-threatens-biblical-smiting-in-ongoing-Cape-row>

4. That your embassy will join us in keeping a watchful brief on human rights violations in the affected community referred to in this document.

Yours sincerely,

Rt Rev Dr Jo Seoka

John Capel

Chairperson

Executive Director

Bench Marks Foundation

Copies of this memorandum will also be sent to:

1. **Minister of Mineral Resources: Mr Mosebenzi Zwane**
2. **Deputy Minister of Mineral Resources: Mr Godfrey Oliphant**
3. **Acting Director-General: Department of Mineral Resources: Mr David Msiza**