



Media statement by the Bench Marks Foundation

MPRDA Amendment Bill must be referred back to Parliament

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FOR IMMEDIATE RELEASE

Serious repercussions regarding an addition of the term 'where necessary' under the water use licences for mining in the Mineral and Petroleum Resources Development Act (MPRDA) Amendment must be removed, says the Bench Marks Foundation in a research report released today in Johannesburg.

According to the report, the addition of this term will open the door for abuse by the applicant or the regional manager by awarding them, in terms of the new Bill, with unwarranted decision-making powers to choose when applications for Water Use Licences (WUL) are necessary and when they are not

The report, Policy Gap 9 on *South African Coal Mining: Corporate Grievance Mechanisms, Community Engagement Concerns and Mining Impacts*, focuses on communities near mines in the Nkangala District including Witbank (eMalahleni) and Middelburg (Steve Tshwete) in South Africa and on two mining corporations, Anglo American Corporation and BHP Billiton.

"We have already seen, since its implementation, that the original MPRDA does not adequately deal with the rights of those who are affected by mining," says John Capel, Executive Director for the Bench Marks Foundation.

"The Amendment Bill was cleared by the National Council of Provinces in March this year, and awaits President Jacob Zuma to sign it into law, if this happens he will be opening up a 'can of worms'.

"Our research report clearly shows the Amendment Bill has many flaws. We have found that mines in the eMalahleni area are obtaining mining licences in advance of WULs and are using the change in regulations to do so".

The report shows that Anglo coal may have conducted numerous public and interest group consultations during 2006, in 2010 and then in 2011 as part of its Environmental Impact Assessment (EIA) process towards obtaining its mining licence for its new Largo Mine, but there is a huge discrepancy between this first process toward completing its EIA requirements, and its public meetings towards its application for a water licence.

"Anglo Coal's consultation process towards obtaining a water use licence for its Largo mine, only took place in 2011, a full five years after its Environment Impact Assessment consultation process.

"In addition, the Act doesn't place sufficient responsibilities with the mining companies. The MPRDA has regularly been criticised for not setting sufficient regulations with regard to consultations with communities before, during and after mining activities," says Capel.

"The new Bill hasn't improved on these shortcomings, despite significant input by civil society and legal groups to convince the government to add specific clauses so that the rights of communities and the environment are protected.

“Even the consultation process with regard to the development of the new Amendment Bill was flawed. It was rushed and resulted in insufficient time for the provincial legislature and the NCOP to organise and hold public hearings on the Bill”.

Says Capel: “The report shows us the consequences of ignoring communities’ concerns and the health and environmental devastation caused by government’s casual attitude toward mining operations before, during and after operations.

“All of this indicates that as far as mines and the government are concerned, legislation, industry initiatives and international frameworks, are merely symbolic.

“The only way for this perception to be reversed, is for tighter controls to be enforced, and for the President to listen to civil society, political and legal groups’ request to refer the Bill back to Parliament so that proper consultation with the public occurs.

All concerns, big or small, by ALL stakeholders should be taken into consideration and used to properly regulate the industry.

“Civil society, political and legal groups are also planning to challenge the MPRDA in the Constitutional Court as they know that their views are largely ignored”.

To download the report and to view Bench Marks Foundation’s other research reports, go to www.benchmarks.org.za.

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Bench Marks Foundation is an independent non-governmental organisation mandated by churches to monitor the practices of multi-national corporations to

- ensure they respect human rights;
- protect the environment;
- ensure that profit-making is not done at the expense of other interest groups; and
- ensure that those most negatively impacted upon are heard, protected and accommodated within the business plans of the corporations.

The foundation was launched in 2001 and the Rt Rev Dr Jo Seoka chairs the organisation.

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