



## KNOW YOUR RIGHTS!

### What I can do if there is a proposed development that will impact you or your community?

This document serves to answer some important questions which communities may have with regards to proposed developments such as mining. It can be used in conjunction with the community pamphlets EWT has produced and can guide community engagement.

#### Q1) What are your rights?

The Constitution gives every person in South Africa the right to a healthy environment that does not harm their health or wellbeing. This term, 'environment', includes land, water, air, plants and animals - as well as buildings, houses and homesteads.

To ensure that any development does not infringe on this right, and is only undertaken if it can be done in a sustainable manner which benefits current and future generations, the company proposing the development **MUST** acquire **Environmental Authorisation** from the government.

#### Q2) What are the steps of the Environmental Authorisation process?

Developers must employ an independent, SACNASP\* registered Environmental Assessment Practitioner (EAP) to conduct an in-depth study to look at how the proposed development may impact your environment and community. The exact format of this report will differ according to the type of development being proposed; however, regardless of the type of document, affected communities **MUST** be consulted. This consultation process includes both alerting potentially affected communities to the proposed development, as well as listening to and addressing any concerns/objections raised by community members.

To reiterate: It is the EAP's job to conduct an independent and accurate assessment on behalf of the developer. Not only must this assessment contain comprehensive information on potential environmental impacts but, by law, it must also describe the public participation process – detailing what concerns were raised and how they will be addressed. If the public participation process is not conducted properly, the government authority tasked with deciding on the outcome should not allow the development to take place.

#### Q3) Why do I need to participate in public participation process?

Simply put, the public participation process is an opportunity for you to express your concerns as follows:

- i) For you to receive all relevant information regarding the impact which the proposed development may have on you, your community, and your environment.
- ii) For you to express any concerns, submit any questions or objections, and provide any opinion you may have surrounding the proposed development.

---

\*\*South African Council for Natural Scientific Professionals



iii) For you to receive feedback on your questions and concerns and answers as to how they will be addressed.

It is therefore *essential* to register as an Interested and Affected Party (I&AP) to be part of this process and to ensure full transparency. If you are not registered as an I&AP you will not have a legal standing to oppose the development if undesirable impacts become apparent further down the line.

**Q4) What are things to look out for when a developer arrives in your area?**

- **Correct public participation procedure:**

The EAP must put up a notice at the site where the development is proposed, alerting the community to the application. Furthermore, the EAP must provide a notice letter to the land owner, anyone living or working on the land, and people who own, work or live on neighbouring land, informing them of the application and inviting them to register as an I&AP within 30 days of being published. The EAP must make every effort to ensure that all relevant stakeholders get a say in the process and must assist you by making any information you request easily available, consulting you on the time and date of public participation sessions, and explaining the Environmental Impact Assessment process. ALL I&AP comments and concerns must be recorded, along with responses, and attached as part of the submission process. Finally, in the case of illiteracy, language barriers, disability or other disadvantages, the EAP must provide reasonable alternate methods for individuals to partake in the process.

- **False or exaggerated promises**

Big developments such as mines often arrive promising jobs for members of the community but, once the development starts, those promised jobs are found to be either temporary or non-existent. At other times communities may be offered one set of compensations verbally but in writing and implementation these promises are reduced or left out. It is important not to be seduced by empty promises and ensure that everything is in writing. This is also true for any compensation packages which may be offered by developers. It is critical for you to weigh up the short-term benefits of what a developer is offering you against the permanent impacts of the proposed development on your cultural landscape, your future livelihoods, and personal well-being. Think about how this will impact your children and grandchildren rather than just how it will affect you now. For legal advice please see organizations listed under **Q6**.

- **Disagreements within a community**

It is not uncommon for opinions on proposed developments to be split within a community. These situations can be delicate but remember the law is on your side! Organizations listed under **Q6** can assist if you suspect members of the community are being unduly influenced. It is important to note that traditional authorities are not authorised to take a decision that will affect the environment without a majority vote by individual holders of informal rights to the communal land.

- **Impacts on food, land and water resources**

You should consider the impact the proposed development may have both spatially and temporally. Many types of developments have footprints that far exceed just their location. For instance, mining can poison water sources and pollute the air which will impact lives in the surrounding landscape. Similarly, although the promise of temporary jobs may be appealing, think about the long-term future of your community and your ancestral land. Many



of the environmental impacts caused by the development will persist long after the mine has closed.

**Q5) What can I do if I am not happy with the outcome or have concerns with the process?**

If a development is approved despite your legitimate concerns, the EAP must inform you of your ability to appeal the decision and the appropriate steps to follow to lodge the appeal. The appeal will be heard by the Minister of Environmental Affairs (or MEC) who will make a final decision. If the appeal is not granted, and you still feel strongly that the development should not go ahead, you can contact one of the organisations listed below who can assist you in taking the correct steps to take the matter to court for a legal review. Indeed, if at any time you feel your rights are being infringed upon and the authorities are either unwilling to listen to your concerns, you should contact one of the organizations below who are equipped to assist you free of charge.

**Q6) Who can help me?**

- **South African Human Rights Commission**  
Website: [www.sahrc.org.za](http://www.sahrc.org.za)  
Email: [info@sahrc.org.za](mailto:info@sahrc.org.za)  
Tel: 011 877 3600
  
- **Centre for Environmental Rights**  
Website: [www.cer.org.za](http://www.cer.org.za)  
Email: [info@cer.org.za](mailto:info@cer.org.za)  
Tel: 021 4471647
  
- **Lawyers for Human Rights**  
Website: [www.lhr.org.za](http://www.lhr.org.za)  
Email: [durban@lhr.org.za](mailto:durban@lhr.org.za)  
Tel: 011 339 1960
  
- **Legal Resources Centre**  
Website: [www.lrc.org.za](http://www.lrc.org.za)  
Email: [info@lrc.org.za](mailto:info@lrc.org.za)  
Tel: 011 836 9831
  
- **Action Aid**  
Website: [south-africa.actionaid.org](http://south-africa.actionaid.org)  
Email: [info.za@actionaid.org](mailto:info.za@actionaid.org)  
Tel: 011 731 4560
  
- **Centre for Applied Legal Studies**  
Website: [www.wits.ac.za/cals/](http://www.wits.ac.za/cals/)  
Email: [Dudzile.Mlambo@wits.ac.za](mailto:Dudzile.Mlambo@wits.ac.za)  
Tel: 011 717 8600



- **GroundWork-Environmental Justice Action**  
Website: [www.groundwork.org.za](http://www.groundwork.org.za)  
Email: [team@groundwork.org.za](mailto:team@groundwork.org.za)  
Tel: 033 342 5662
  
- **Department of Environment, Forestry & Fisheries**  
Email: [callcentre@environment.gov.za](mailto:callcentre@environment.gov.za)  
Tel: 086 111 2468  
Violations Hotline: 0800 205 005