

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE NO:

Application for intervention of as parties:

MINING AFFECTED COMMUNITIES

UNITED IN ACTION

First Applicant

MINING AND ENVIRONMENTAL JUSTICE

COMMUNITY NETWORK OF SOUTH AFRICA

Second Applicant

In the matter between:

CHAMBER OF MINES

First applicant

and

MINISTER OF MINERAL RESOURCES

First Respondent

SUPPORTING AFFIDAVIT

INTRODUCTION

I, the undersigned

THELMA THANDEKILE NKOSI

hereby state under oath:

1. I am an adult person with full legal capacity, residing at Madadeni, Newcastle, KwaZulu-Natal, South Africa.
2. I am the Chairperson of Mining and Environmental Justice Community Network of South Africa (MEJCON), cited herein as the first applicant and I am duly authorised to depose to this affidavit and to bring this application on its behalf. I attach, marked “**TTN1**”, a copy of the resolution signed by the members of the committee.
3. Save where I state otherwise, or where the contrary appears from the context, the facts herein stated fall within my personal knowledge and I believe them to be true and correct. Where I make legal submissions, I do so on the advice of the applicants’ legal representatives, which advice I accept as correct.

4. The purpose of this affidavit is two-fold. Firstly, it confirms those aspects of **Mesheck Mandlenkosi Mbangula's** affidavit that pertain to me. This affidavit also provides information relating to the activities undertaken by Mining and Environmental Justice Community Network of South Africa (MEJCON) and the effects it has had on MEJCON's constituents.

BACKGROUND

5. MEJCON is a network of communities, community based organisations and community members whose environmental and human rights are affected, directly or indirectly, by mining and mining-related activities.
6. MEJCON was established in 2011. We decided to establish MEJCON to mitigate the distance between communities affected by mining. The purpose was to ensure that as mining affected communities and environmental degradation we had to link our struggles. The core of MEJCON'S objective are to:
 - 6.1 promote and defend the environmental and human rights of communities both directly and indirectly affected by mining; and to ensure the sustainable use of mineral resources;
 - 6.2 train, develop and capacitate community members;

- 6.3 access information including information about mining, law, rights, processes and impacts and to share and distribute that information amongst affected communities;
 - 6.4 support and assist community champions, community organisations and the members of both directly and indirectly affected communities; and
 - 6.5 engage all relevant role players including government at local, provincial and national level, industry, civil society organisations, non-governmental organisations, traditional authorities and the institutions created in terms of chapter 9 of the Constitution of the Republic of South Africa Act 108 of 1996.
7. Since our establishment we have been involved with the capacitation of communities on the impact of mining. We have been workshopping communities where prospective mining would take place with information of mining in order for them to decide whether they want mining.
 8. MEJCON has also been part of the Alternative Mining Indaba, where we would picket outside the Mining Indaba to raise our issues. Together with MACUA, MEJCON was part of forming the Peoples Mining Charter which was adopted in June 2016.

9. MEJCON was not invited to attend the meeting on the Mining Charter in Pretoria in July 2016. MEJCON was informed of the meeting by the Centre for Environmental Rights.

10. At the meeting, MEJCON presented and was given approximately 20 minutes to present. MEJCON raised the lack of consultation with communities on the basis that communication is done through the medium of traditional leadership. Traditional leaders are the body consulted with on issues affecting communities. Traditional authorities have proved to be acting only in their interest and building relationships with mining companies and government. Traditional authorities have been custodians of mining on behalf of communities when the benefits of mining have only been for themselves.

11. Our presentation further emphasised the importance of consultation with communities in prospecting processes. We informed DMR that communities are interested parties that needed to be consulted. Finally, we reiterated that consultation must be conducted in languages that are understood by the people.

12. On 23 June 2017, a meeting was held in Middelburg. The meeting was disrupted by community members when they insisted that the Premier of Mpumalanga should address the gathering. The Minister was therefore unable to address the community on the Mining Charter.

EFFECTS OF EXCLUSION

13. The lack of consultation amounts to unfair administrative practices. Communities are an important stakeholder in the process yet their voices are not included in the Mining Charter.

14. The lack of consultation is further an infringement to rights of the community, and in particular our rights to equality.

15. The environment in which communities reside would not be protected. Mining further impacts people socially and the lack of meaningful engagement would adversely impact the social issues in our communities.

THELMA THANDEKILE NKOSI

Thus signed and sworn to at _____ on this _____ day of _____ 2017, the deponent having acknowledged that he knows and understands the contents of this affidavit, that he has no objection to taking the prescribed oath and that he considers the oath to be binding on his conscience.

COMMISSIONER OF OATHS

