



Mining/Prospecting Right and Environmental Authorisation Applications TIPS FOR PUBLIC PARTICIPATION

Notices of new applications

- Keep your eyes open for notices:
 - on fences and public buildings
 - in the local Magistrates' Court and Regional DMRE office
 - advertisements in local newspapers
 - if you have access to it, the provincial gazette
- If some people in your community are unable to read or are disabled, let the mine's environmental assessment practitioner (EAP) (i.e. the person appointed by the mining company to run the environmental assessment and public participation processes for the mining company) know that they would need to notify potential interested and affected parties (I&APs) in an alternative manner

Registration as an I&AP

- When you hear about / see notice of the new and proposed mining/prospecting, immediately register as an I&AP and ask the EAP/mining company for:
 - The "background information document" about the proposed mining/prospecting
 - The draft basic assessment report and scoping report and environmental impact assessment report (if the reports are not available yet, ask the EAP/mining company to send them to you as soon as they are available)
 - The date, time and venue of the next public consultation meeting about the proposed mining/prospecting – if the date, time and venue are not appropriate (e.g. the venue is too far away, or the date is over the Christmas holidays), tell the EAP/mining company this as soon as possible. Request/demand that the EAP/mining company provide transport to enable people to attend the public meeting!

The public consultation meeting

- Mobilise as many people as possible to attend the meeting
- When signing the attendance register, specify that you do not consent to or support the proposed mining/prospecting
- Come prepared:
 - Think of questions you want to ask the EAP and the mining company (for instance: What impact will the proposed mining/prospecting have on the local community? What does the proposed mining/prospecting mean for climate change? Will the proposed project result in re-locations of people's homes? Will grave sites be affected? Will the community's grazing land be affected? Will the community's water be affected? What mitigation measures does the mining company propose be implemented to prevent/minimise/remedy all of these impacts?)
 - Think of all the reasons why the project should not go ahead – i.e. think of all the ways it could negatively impact your community
 - Object to the public participation process (including the public consultation meeting) if-
 - The EAP/mining company has not provided you with sufficient information about the proposed mining/prospecting
 - The EAP/mining company did not give proper notification of the meeting to potential I&APs
 - The EAP/mining company has provided you with misleading or incorrect information
 - You think that the EAP is not independent (i.e. is biased towards the proposed mining/prospecting going ahead) – the EAP is legally required to be independent
- Take detailed notes of everything that is said during the meeting (if you have access to a smart phone or any other recording device, record the meeting)
- Ask the EAP/mining company to provide you with detailed minutes of the meeting



- Try to find out if there are any other people at the meeting objecting to the proposed mining/prospecting and exchange contact details

Submitting written Objections and Comments on the Basic Assessment Report, Scoping Report and Environmental Impact Assessment Report

- Carefully read through the reports (Basic Assessment Report, Scoping Report, Environmental Impact Assessment Report, Environmental Management Programme)
- Contact the EAP if anything in the reports is not clear and ask him/her to clarify it for you (keep a record of all correspondence between you and the EAP)
- If you know any scientists or engineers, ask them to help you understand the reports
- In your written objections and comments:
 - Make sure that your letter contains your name, your organisation's name and your contact information (phone number, email address, residential address)
 - Be as specific as possible about the project: put the name of the project, the affected properties, the name of the relevant municipality and the correct reference number (which will be on all of the mine's notices and reports) in the subject line
 - Give a short description of your organisation: your mission / strategy
 - Make it clear that you are **objecting** to the grant of the mining/prospecting right and the environmental authorisation (use the word "**object**")
 - Give reasons why you are objecting to the grant of the mining/prospecting right and the environmental authorisation: make sub-headings for each reason in your letter and be as detailed as possible
- If possible, refer to specific pages in the mine's reports (Basic Assessment Report, Scoping Report, Environmental Impact Assessment Report, Environmental Management Programme)
- If at all possible, get an expert report from a scientist or engineer to strengthen your case against the proposed development
- In the letter, ask the EAP to reply to you acknowledging receipt of your letter

The Flying Eagles Environmental Association

Tel: 123 4567 8910

Email: tawny@eagle.co.za

Dear Ms EAP

Objection to and comments on the proposed Anti-Eagle Development in Soaring Mountain

DEA Ref: 12345DEA

We refer to your clients' proposed Anti-Eagle Mine on portion 2 of the farm Eyrie in the Soaring Mountain Municipality (the property). The Flying Eagles Environmental Association (FEEA) is a community-based organisation based in Soaring Mountain with the object of protecting the wild eagles found in the area.

FEEA hereby objects to your clients' application for environmental authorisation for its proposed Anti-Eagle Development on the property. We object for the following reasons:

- A. The Anti-Eagle Development will result in the poisoning of thousands of Eagles in the Soaring Mountain area**
[details]
- B. The Anti-Eagle Development will result in unacceptable pollution of water resources**
[details]
- C. The EAP did not follow the correct procedure**
[details]
- D. The Anti-Eagle Development will result in the loss of jobs in tourism**
[details]
- E. The Soaring Mountain community has a different vision for its future development**
[details]

Yours sincerely

MARTIAL EAGLE

Chairperson of FEEA

General tips



- Check whether the EAP is independent – if she/he is not independent, write a letter to the DMRE alerting it of the EAP's non-independence or conflict of interest. If the EAP isn't independent, he/she should be disqualified and a new independent EAP should be appointed
- Keep a "paper trail" of all correspondence between you and the EAP/mining company – all of that information may be important if you decide to submit an appeal or go to court
- Keep a calendar to keep track of what happens when, and remember the rules for the counting of days:
 - Exclude the last day and include the last day
 - Do not count public holidays
 - Do not count the period between 15 December and 5 January
 - If the last day falls on a Saturday, Sunday or a public holiday, the period must be extended to the next day that is not a Saturday, Sunday or public holiday
- Public participation may not be conducted in the period between 15 December and 5 January
- Ask the EAP to provide you with the **final basic assessment report or the final environmental impact assessment report**
- If you live in a rural community, find out if the Traditional Leader has consented to the proposed mining/prospecting
- Ask the relevant municipality for a copy of its integrated development plan, spatial development framework and environmental management framework. These are the documents which set out the government's vision for the sustainable development of the municipal area, the upliftment of the people and the conservation/protection of environmental resources.
- Notify the relevant conservation agency of the application and ask them to tell you the significance/status of the area's biodiversity and water resources

Appealing an environmental authorisation that has been granted

- Make sure that you have all of the relevant information – the most important of which are –
 - the environmental authorisation, which is a document containing the conditions subject to which the environmental authorisation was granted; and
 - the reasons for the DMRE's decision to grant the environmental authorisation
- Carefully read through the environmental authorisation (the conditions) and the reasons
- If the reasons are not satisfactory, ask the DMRE to provide you with more detailed reasons
- Arrange a meeting of the steering committee (or directors) of your organisation and sign a resolution authorising one member to submit an appeal
- Your appeal
 - Make sure that the name of your organisation and contact details are on the appeal
 - Set out clear **grounds of appeal** (the reasons why you think the decision to grant environmental authorisation was wrong)
 - Attach any relevant documents, e.g. your own scientific findings (e.g. water quality results) or expert reports, correspondence between you and the EAP, the minutes of the public consultation meetings, etc.
 - Put the following declaration at the end of your appeal:
"The appellant confirms that the provisions of Regulation 4(1) of the National Appeal Regulations, 2014 have been complied with."
 - Go through the conditions of the environmental authorisation – if you are not satisfied with one or more of the conditions, or if you want more conditions to be added, say so in your appeal
 - If the reasons given by the DMRE for its decision to grant the mining company environmental authorisation are not satisfactory, state that
 - Ask the appeal administrator to acknowledge receipt of your appeal
- Send a copy of your appeal to the EAP and the mining company
- Request the appeal administrator to notify you of the outcome of the appeal as soon as possible after the appeal authority has decided the appeal



The skeleton of an appeal statement...

Appeal statement

Appeal statement: the decision to grant environmental authorisation for the proposed Ant-Eagle Development on portion 2 of the Farm Eyrie in Soaring Mountain

Introduction

[insert your introduction]

Grounds of appeal:

- A. The Ant-Eagle Development will result in the poisoning of thousands of Eagles in the Soaring Mountain area
- B. The Anti-Eagle Development will result in unacceptable pollution of water resources
- C. The EAP did not follow the correct procedure
- D. The Anti-Eagle Development will result in the loss of jobs in tourism
- E. The Soaring Mountain community has a different vision for its future development

We therefore request that the decision to grant environmental authorisation for the proposed Anti-Eagle Development is set aside on appeal.

The appellant confirms that the provisions of Regulation 4(1) of the National Appeal Regulations, 2014 have been complied with.

Signed at Soaring Mountain on 25 January 2017

MARTIAL EAGLE

Chairperson of FEEA

Tel: 123 4567 8910

Email: tawny@eagle.co.za

If your appeal is unsuccessful?

- Approach a law clinic as soon as possible to advise you on the possibility of submitting a review application in court