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The Head of Department,

Community Safety & Liaison KZN

Per email

Good Day,

RE: REPORTED IRREGULAR AND POTENTIALLY INFLAMMATORY INTERFERENCE
IN OPHONDWENI AREA, MTUBATUBA, BY A MEMBER OF YOUR STAFF

1.I write to express my grave concern about what appears to be grossly irregular interference in matters relating to the refusal of community members in Ophondweni, Mtubatuba, to move from their homes for the expansion of the Tendele coal mine in terms of a 2016 mining licence which is being legally contested..

2.Briefly, the current position is as follows : There have been ongoing attempts by the mine to persuade some long-standing residents of the area to relocate to make way for the expansion of the mine which, for very good reason, they do not wish to do. Nor does the wider community wish there to be any expansion of mining activities, as they are already suffering greatly from the noise and pollution of existing mining, with their water – which is in very short supply – already polluted, and many residents suffering severe respiratory ailments from the pollution by the mining. Thousands of subsistence farmers in the area support their local organisation the Mfolozi Community Environmental Justice Organisation (MCEJO) which opposes the mining. There is currently one high court case in progress, challenging the awarding of the 2016 mining right to Tendele, and a matter before the supreme court of appeal to appeal a judgment in which an application for an Order to halt the

mining pending environmental authorisation (among other licences) was refused.

Ever since affected community members indicated their unwillingness to move, a campaign of terror has been directed against them, especially in recent months, with threats of death made against them, and shots fired at their homes at night (see the recent media article which follows). Community members, especially women and children and the elderly are extremely traumatised, and they are reliant on SAPS patrols for their security at night. As often happens in such situations, the traditional leadership in the area is apparently acting on behalf of the mining interests, and putting pressure on people to move, including through intimidation and threat.

3. Reportedly, a Ms Makhaye advised community representatives last week that it is necessary to have a meeting with the local *Inkosi* and *izinduna* and representatives of the mine, to:

1. Check on what offers are being made to residents,
2. Check if the offer makes sense to the community and addresses the needs of the community, and
3. Confirm if relocation sites have been identified where people can reside under circumstances similar to those in which they are currently residing.

Ms Makhaye then advised the community representatives that the station commander would arrange the meeting with the parties and thereafter a community report back would be held to let the community know what the mine and leadership had told them. The community representatives understand that Ms Makhaye has also involved police in the planning of this meeting.

4. Given the opposition to relocation by community members, and the fact *that two court cases are currently in progress about the status of the mining rights, this interference by the Department of Community Safety and Liaison is grossly irregular, and could well fuel existing tensions in the area.* I should also point out that the community is represented by Youens Attorneys, who, irregularly, appear not to have been consulted by Ms Makhaye. Nor is it the job of the

SAPS to involve themselves in planning irregular meetings, which is not part of their legislative mandate which requires them to act in a completely impartial manner and in the interests of the safety and security of community members.

4.1. This conduct by Ms Makhaye, who was presumably acting on instructions from your Department, suggests that your Department is acting in a partisan manner in planning a meeting which is about conditions for relocation of families. *This conduct is reminiscent of the way in which the apartheid government went about forcing people to relocate from land they had long been living on – for even the apartheid government claimed that people were compensated for being moved.*

5. Kindly

5.1. Advise who instructed Ms Makhaye to proceed in the manner I have detailed above, and for what reason;

5.2. Confirm that these meeting plans will be cancelled forthwith.

6. I shall also be engaging with CoGTA about the unacceptable conduct of the traditional leadership in the area which is openly taking the part of the mine, and, in the case of one of the headmen, allegedly intimidating and threatening people who refuse to move from their homes.

6. I look forward to receiving your response soonest.

Regards,

MARY DE HAAS

HON RESEARCH FELLOW SCHOOL OF LAW UKZN

Cc MEC for Community Safety and Liaison and Transport

KZN Portfolio Committee Community Safety and Liaison

Youens Attorneys