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Xolobeni: for attention Adv Nogxina

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To: njamikho@gmail.com, Ayanda Shezi <Ayanda.Shezi@dmr.gov.za>

Cc: Sam Sole <sams@amabhungane.org>, Stefaans Brümmer <stefaansb@amabhungane.org>

Dear Nathi,

herewith as discussed, the consolidated and updated list of questions for Minister Mantashe.

It is unfortunate that he had to cancel today.

If he's is unable to see me in Pretoria tomorrow after court or on Wednesday before lunchtime court, then he should provide written answers to the questions below by no later than CoB Wednesday 5 June.

Sam

1) Adv Nogxina indicated he spoke to you in relation to Xolobeni mining issue and his concern not to be involved because of perceptions that he might have conflict. Please indicate when this happened and what he said to you and what you told him this regard?

2) The chaotic meetings held by minister Mantashe have been characterized by a heavy-handed approach, both by the police and by the minister. Former minister Zokwana was able to hold meetings without a heavy police escort. Why did you adopt this kragdadig approach, which appears to have boomeranged, if the elction results in the area are anything to go by.
Please comment

3) That approach seems to have included efforts to set up puppet representatives purporting to speak in support of mining on behalf of the 'silent majority' of the community, like Mr Anita Dineka (who is said to be from the inland Dangeni village), who appeared under the assumed name "Simlindile Matsheleza" on 16 January 2016 ministerial imbizo to say that ACC supports mining but is "fooled by whites". We also note that your September 2018 visit to the area included consultation with stakeholders such as Mdatya Trust and the Bekela Trust, which according to an later interview with Zamide Qunya were "new" and not yet registered. Yet other structures, such as the Amadiba Coastal Community Development Trust (ACCODA), through which the coastal community owns the Mtentu lodge, were not invited.
Please comment

4) Did you or any of your representatives meet Anita Dineka aka Simlindile Matsheleza on 15 January, or any other day prior to or after the imbizo? If so, when and what was the purpose of that meeting/s?

5) Minister Mantashe, and his wife Nolwandle, have a connection with the Ntlemeza family. Nolwandle and Amanda Ntlemeza, were co-directors of a Limpopo company, MKP Minerals, between January 2016 and April 2016. Amanda Ntlemeza is the daughter of then DPCI commander Gen Berning Ntlemeza. The potential significance of this is that it is claimed by trustworthy sources that Gen Ntlemeza sent a head-office squad from the Hawks to 'manage' the investigation into the murder of Bazooka Radebe, which took place in March 2016. Amanda is also a director of a company registered in October 2017, MUOPIHA INVESTMENTS, which Minister Mantashe has declared an interest in via his parliamentary disclosures.
Does this not represent at least a reasonable perception of conflict, given that no progress has been made in solving the Radebe murder and the understandable suspicion that this arouses.

6) Mantashe has also appeared to display bias in succession disputes and spoils which appear to play a role in the Xolobeni matter.

For instance, in May 2016, while still ANC SG, Mantashe stated publicly the view that the rightful heir to the AmaMpondo throne was King Zanozuko Tyelovuyo Sigcau. He made this statement while a court was still seized with the matter.

Mr Mantashe also appears to know Zanozuko's previous spokesman/proxy Ntsizakalo Ngalo, who is also the N2 Wild Coast Toll Road consultant for SANRAL up till now. Zanozuko has been an outspoken and documented supporter of both the N2 Toll Road and the mine – and appears to have been used by Mr Mantashe to create legitimacy for mining. He was brought forward by DMR to speak in favour of the mining project on both 23 September and 16 January ministerial imbizos in Xolobeni.

This is significant because Zanozuko's present spokesperson, Prince Mzwandile Maraqana, is the sole director of KEYSHA INVESTMENTS 178, the company touted as empowerment partner for Transworld Energy and Minerals Resources (SA), the owner of the rights to the Xolobeni mineral sands project. He is also a director of the mining applicant TEM and Xolco, which is supposed to hold the community interest in the mine. It appears likely that Maraqana is a proxy for the private interests of this branch of the royal family and this raises questions about the way King Sigcau has been used to promote support for the mining project.

Please comment.

7) There appears to have been further cynical manipulation of contestation within traditional structures on behalf of mining interests. We attach a copy of a 2014 affidavit by Chief Lunga Baleni.

He notes:

"In 2010 my late father's third wife instituted legal action against me to have the Chieftaincy removed from me with the financial assistance of Mr Zamble Qunya and other members of the chieftaincy...

In 2012, before I knew that I was successful in defending my Chieftaincy, I was approached by Mr Qunya and other members of the Kwa-Madiba clan. They offered to withdraw the legal action against me in return for persuading the community to support the mining of titanium in Xolobeni by Transworld Mineral and Energy Resources SA (PTY) Ltd.

In particular, they asked me to appeal to those in the community who strongly opposed the mining to agree to it.

I was also informed by Mr Qunya that a "Royal Family Trust" bank account would be created and that the chieftaincy would be entitled to 4% of the profits obtained by the titanium mining. I later discovered that they had been aware of my successful defence of the Chieftaincy and had therefore created the above proposal with this knowledge and with the hopes of securing my support for the abovementioned mining ventures.

In order to avoid conflict within the chieftaincy I agreed to the proposal. Furthermore, the chance of retaining my chieftaincy as well as the additional profit to be gained by the titanium mining appealed to me. However, I did have reservations about persuading the community to support the mining as it involved putting the needs of the chieftaincy above those of the community."

Is it appropriate for the representative of a mining company to behave in this way?

Please comment.

8) We put to the Minister the following proposition:

Whatever the true details of Adv Nogxina's interaction with Mr Radebe in 2010, the fact of the allegations of 2011 coupled with the fact of his emotional response thereto as evidenced in the communications of July 13, coupled with his deep connections in the area, should have led you to conclude that he were too closely invested in the issue of Xolobeni to be involved at all in the matter as an official, even as a ministerial advisor. This sense of a conflict of interest should only have been re-enforced by the murder of Radebe in 2016, which common sense suggests was directly connected to his opposition to mining.

Please comment

9) Finally, we put it to the Minister that the actions of the department in relation to Xolobeni betray an entrenched executive-minded approach that is dismissive of the interests of the affected communities. This is especially worrying given the evidence that has accrued about the damage to community cohesion and sustainable resources flowing from 'development' based on mining – not only at Xolobeni, but elsewhere. As the recent court judgement in *Baleni and Others v Minister of Mineral Resources and Others* has shown, this approach is out of step with our constitutional order – and with the global crisis of environmental breakdown.
Please comment

ENDS

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