

Cape Town Office

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LRC

Legal Resources Centre

13 January 2022

TO: Searcher Seismic
Per email: orangebasin@searcherseismic.com

AND TO: Honourable Minister of Mineral Resources and Energy
Mr Gwede Mantashe
Per email: Ms Vuyelwa Siyeka Vuyelwa.Siyeka@dmr.gov.za

AND TO: Director-General: Department of Mineral Resources and Energy
Adv Thabo Mokoena
Per email: Thabo.mokoena@dmr.gov.za /
mamabefu.modipa@dmr.gov.za

AND TO: The Petroleum Agency of South Africa
Mr A Thovakale
Per email: plu@petroleumagencyrsa.com

AND TO: Honourable Minister of Forestry, Fisheries and Environment
Ms Barbara Creecy
Per email: fshaik@environment.gov.za

Re: Demand to Suspend Commencement of Seismic Blasting on West Coast

1. We are instructed by a number of West Coast fishing communities who have an interest in preserving the natural environment of the West Coast, which is the source of their livelihoods.
2. Richard Spoor Inc, Attorneys are also instructed by *We Are South Africans*, a civil society movement of South Africans that aims to connect and rebuild communities and to defend constitutional rights.
3. It has been brought to our clients' attention that in a letter dated 15 December 2021, available on SLR's website, Searcher Seismic UK

Limited (“Searcher”) gave notice that the Department of Mineral Resources and Energy (“DMRE”) had granted Searcher a Reconnaissance Permit pursuant to an application in terms of section 74 of the Mineral and Petroleum Resources Development Act. The Permit was effective from 6 December 2021. The permit itself has not been provided.

4. The letter announced that Searcher is permitted to undertake a seismic survey programme off the West Coast of South Africa from 15 January 2022.
5. We note that the letter is dated 15 December 2021, but it is not known to us who this letter was sent to and/or whether and where any other notification was published. We note further that the letter is dated the day before a public holiday in South Africa, the Day of Reconciliation, a day which marks the end of the working year and the beginning of the festive season for many members of the public. Consequently, this notice would have gone unnoticed by most interested and affected persons.
6. In terms of the Mineral and Petroleum Resources Development Act 28 of 2002, National Environmental Management Act 107 of 1998 (“NEMA”) and their regulations, an environmental authorisation is a prerequisite for a Reconnaissance Permit.
7. In terms of Item 21B of the Environmental Impact Assessment Regulations (“EIA Regulations”) Listing Notice 1 of 2014, Searcher’s seismic survey programme is a listed activity and requires environmental authorisation prior to commencement. We understand that as at 11 June 2021, when the amendments to the Listing Notices took effect, Searcher did not have any pending application in terms of the EIA Regulations, and consequently, the transitional arrangements provided for in regulation 30 of the 2021 Amendment Regulations do not apply.
8. As a necessary part of both the permit application and the environmental authorisation process, Searcher was required to properly consult with interested and affected parties, including our clients. Searcher failed to do so when applying for the permit and has not yet consulted with such parties prior to commencement of its seismic survey programme.
9. In the recent judgment of the Makhanda High Court in *Sustaining The Wild Coast NPC and Others v Minister of Mineral Resources and Energy and Others*, the Court confirmed the right of interested and affected communities to be consulted meaningfully, which includes the opportunity

to voice their concerns about the proposed project and to have those concerns adequately addressed. We are instructed that no meaningful consultation process took place.

10. In the absence of a valid environmental authorisation and Permit, Searcher's activities and operations pursuant to the Permit are unlawful.
11. Our clients intend to institute the necessary legal proceedings to challenge the decision to grant the Permit.
12. Our clients hereby demand that Searcher undertakes not to commence with the seismic survey programme unless and until an environmental authorisation has been granted under NEMA and until the proceedings brought by our clients are finalised.
13. Kindly furnish our clients with this undertaking by no later than 18h00 on 14 January 2022.
14. If Searcher fails or refuses to provide such an undertaking, we are instructed to bring an urgent application in the High Court to interdict Searcher from conducting any activities pursuant to and in terms of the unlawful Permit.
15. Our clients further reserve their rights to pursue any other avenue of recourse.
16. We note that the notice promises to "update key stakeholders 7 days prior to actual commencement." Kindly confirm that you will send any such notice to us at the following email addresses: wilmien@lrc.org.za and khanya@rsinc.co.za, as the legal representatives of our clients who are affected parties.
17. In order to facilitate communications, we require email addresses for the relevant contact persons of Searcher or its legal team.

Yours faithfully

LEGAL RESOURCES CENTRE
Per: Wilmien Wicomb

(Signed electronically)

