

Group goes to court again over coal mine

A coalition of eight civil society and community organisations resisting the proposed coalmine inside a protected area and strategic water source area in Mpumalanga have launched further proceedings in the Pretoria High Court.



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These new proceedings are a judicial review application to set aside the decisions of the Minister of Mineral Resources and the Minister of Environmental Affairs to allow a coal mine to be built inside a declared protected environment, coupled with an interdict preventing the start of any activities at the proposed mining site pending the outcome of that review.

The two ministers gave their approval for the 15-year underground coal mine proposed by Indian owned mining company Atha-Africa Ventures inside the Mabola Protected Environment, outside Wakkerstroom in Mpumalanga. They did so despite a series of court challenges and appeals pending against each of the licences given for this mine, and without any public participation.

In terms of the National Environmental Management: Protected Areas Act, commercial mining is prohibited in declared protected environments unless both the Ministers of Mineral Resources and Environmental Affairs give their permission.

Coalition fighting to preserve strategic Gauteng water source

The coalition consists of the Mining and Environmental Justice Community Network of South Africa, Earthlife Africa Johannesburg, Birdlife South Africa, the Endangered Wildlife Trust, Federation for a Sustainable Environment, groundWork, Association for Water and Rural Development (AWARD) and the Bench Marks Foundation, and is represented by the Centre for Environmental Rights.

The Mabola Protected Environment also falls within a strategic water source area that has been identified as important and strategic to protect in the interests of all South Africans. The proposed mine area is located in that part of the Enkangala Drakensberg strategic water source area, which constitutes the headwaters of the Usutu River System, via the Assegai River. The Assegai River flows into the Heyshope Dam, from which water is inserted into the Vaal River System via inter-basin transfer.

Accordingly, the mine area is a water source of the Vaal River System, which supports Gauteng's water needs. The Usutu River flows through Swaziland and, after joining the Pongola River, flows into Mozambique, where it is known as the Maputo River. Accordingly, the health of the Usutu River System is also relevant to South Africa's international obligations to Swaziland and Mozambique. All of these users will all be affected if the sources of those rivers are compromised.

Will fight to Constitutional Court

Atha was granted a mining right by the Minister of Mineral Resources in 2015, shortly after the declaration of the Mabola Protected Environment by the Mpumalanga MEC. Since then, Atha has received licences and approvals from the Mpumalanga environment department, the Department of Water & Sanitation, and the Department of Mineral Resources. All these approvals have been challenged by the coalition through internal appeals, and a High Court judicial review of the mining right.

The coalition believes it has good prospects of success in all these proceedings, and that the approvals will be set aside by the courts in due course. If necessary, the coalition will take this matter to the Constitutional Court. Court papers are available [here](#).

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