



PENHALONGA

COMMUNITY ENVIRONMENTAL AUDIT REPORT

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“Every person shall have the right to....participate in the implementation of the promulgation of reasonable legislative, policy and other measures that prevent pollution and environmental degradation and secure ecologically sustainable management and use of natural resources while promoting justifiable economic and social development.”

Section 4(1)(b), The Environmental Management Act

INTRODUCTION

Zimbabwe is endowed with vast mineral wealth with over 40 extractable economic minerals. Its unexploited mineral wealth is estimated to be over \$30 trillion¹. Mining remains a fundamental pillar to Zimbabwe's planned economic recovery and various schemes and policy developments have been created to incentivize investment in the sector. Unfortunately, there have not been commensurate legislative and administrative developments to protect the public and environment from the impacts of mining. This has led to significant burdens being placed upon those living closest to mining areas, with little to no benefit.

Penhalonga

Penhalonga is in the Manicaland Province of the Eastern Highlands of Zimbabwe. It falls under the Mutasa Chieftainship whose people belong to the Samanyika Tribe. Surrounded by a mountain range, Penhalonga is situated in a valley where the Sambu and Imbeza Rivers meet the Mutare River. The population of approximately 15 000 has diverse livelihoods, mainly in the non-formal sector, and these include carpentry, basket and mat weaving, building and selling vegetables. Some are formally employed and work in the mines and with other institutions. There are also a few local businesses that have emerged over recent years. Penhalonga area consists of the following area; Tsvingwe High Density, Tsvingwe Medium Density and Penhalonga residential area. Other area under Penhalonga but are owned by Redwing Mine are Old West, Liverpool. Redwing and Rezende.

Gold mining is one of the oldest livelihood activities in Penhalonga. However, it was during last century that mining in Penhalonga became formalized, led by big business. This has altered the community's landscape and environment due to environmental laws and regulations not evolving at the same pace that mining was developing. For instance, the environmental impact assessment (EIA) laws were only enacted in 2003 through the Environment Management Act (Chapter 20:27) and the EIA and Ecosystems Protection Regulation Statutory Instrument 7 of 2007. Riverbed mining was only prohibited in 2014 through the Environmental Management (Control of Alluvial Mining) Regulations Statutory Instrument 92 of 2014.

A Community Audit Explained

The community environmental audit, also known as a ground-truthing report, is a process of examining the compliance of companies with laws, regulations and project certificate conditions. An EIA is an evaluation of a project to determine its impact on the environment and human health and to set out the required environmental monitoring and management procedures and plans². It aims to identify, predict and evaluate impacts of a proposed project and, from this, develop an environment management plan (EMP) to ensure the adverse impacts of the construction, operation and decommissioning of a project are prevented or reduced and that the positive impacts are enhanced. The Environment Management Agency (Agency) has the right to approve or reject an EIA study and, on approval, to issue an EIA certificate with fixed conditions. The project proponent has an obligation to comply with the

¹<https://www.miningindex.co.zw/2018/09/19/mining-sector-key-to-economic-recovery-mnangagwa/>
² Environment Management Act Chapter 20:27

imposed conditions and with the environment management plans set out in the EIA report. Projects listed in the First Schedule of EMA that commenced operations prior to its enactment are not obligated to carry out an EIA but must develop an EMP, which they are obligated to comply with. The EIA certificate is valid for 2 years and a transfer of certificates is prohibited. The Director General may amend, suspend or cancel an EIA certificate on the basis that the project proponent failed to comply with any condition imposed on the issue of the certificate or that the certificate was obtained fraudulently. EIA certificates, EIA reports and EMPs are open for public inspection and the public is allowed to view these at a fee imposed by the Agency.



Figure 2: One of the first legal empowerment trainings in 2016

The environmental audit process in Penhalonga commenced in December 2016 with a group of mining affected community members being trained on relevant laws, including the EIA Regulations and other laws governing the mining sector. Though 45 Penhalonga community members took part in the legal training, a group of seven members volunteered to carry out the environmental audit during 2017 and 2018. Over this period, the community audit team were trained and supported to use all relevant laws available, monitor project legal compliance, document evidence of project impacts, draft and file access to information requests, identify the relevant government institutions mandated to deal with non-compliance, draft letters of complaint citing relevant legal provisions and attaching evidence of non-compliance, and finally, requesting specific remedies to address the impacts.

The audit team monitored and filed complaints of non-compliance against two main gold mining companies operating in Penhalonga, Redwing Mine and DTZ-OZGEO. The collection of evidence of the mining companies' legal violations is now documented in this environmental audit.



Figure 3: Part of the environment auditing team during a field visit

““ The participation of all interested and affected parties in environmental governance must be promoted and all people must be given an opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation. ””

COMMUNITY FINDINGS

Redwing Mine

Redwing's gold mine is situated approximately 20km from Mutare City in Manicaland Province. It is a subsidiary of King's Daughter Mining Company Limited, which is a subsidiary of Metallon Corporation. The company has been known by several names - King's Daughter Mine, Rezende Mine, Redwing Mine and the Lonhro Mine. The company has worked in the Penhalonga area for over a century. Its Rezende Mine commenced operations from 1899. The company's production between 1966 and 2004 exceeded 1.1 million ounces of gold. The mine uses a combination of underground mining and slime retreatment operations. The mines resources, as estimated by the Mineral Reserve Statement in December 2016, are approximately 2.5 million ounces of gold with a lifespan of 20 years.

Assessment of Legal Compliance

Accessing Information

“Every Zimbabwean citizen or permanent resident has the right to access any information held by the State or by any institution or agency of government at every level, in so far as the information is required in the interests of public accountability.”

Section 62, The Constitution

“every person shall have a right to access to environmental information.”

Section 4 (1)(b) Environmental Management Act

“An environmental impact assessment report shall be open for public inspection at all reasonable times at the Director-General's office, on payment of the prescribed fee...”

Section 108 Environmental Management Act

“Heads of public bodies within thirty days should assist each request for access to a record. Where applicant is denied access to information the head of the public body should inform the applicant of their reasons for denial and the applicant may approach the responsible commission.”

Section 8, Access to Information and Protection of Privacy Act

From March 2017 to October 2018 the Penhalonga audit team made a number of efforts to access environmental information on Redwing Mine's EIA, Certificate and EMP. The audit team submitted three access to information letters to the Agency requesting to view the environmental certificate and EMP. It also made 8 visits to follow up on the access to information letters, view the EMPs and environmental certificates. The Agency responded in writing to the community providing project information on Redwing' certificate status and agreeing to the request to view the environmental information. It was previously ascertained that EIA report was not developed for the mine, given its operations predated the enactment

Air Pollution

“every person shall have a right to a clean environment that is not harmful to health”
(1)(a), Environmental Management Act

“any person who emits any substances which cause air pollution (that is, by the emission of substances in excess of a prescribed amount for a particular source) in contravention of emission standards established under this Part shall be guilty of an offence and liable to a fine not exceeding level fourteen or \$5000, whichever is the greater, or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment”

Section 63, Environmental Management Act

Redwing's mine operations have resulted in the formation of large mine dumps. These hill-like dumps have accumulated over a number of years from the residue of gold mining. The residue, called tailings, is a very fine and thin sand-like material, which is a mixture of crushed rock, metals and other materials used to process the gold.

These dumps have been a continuing source of air pollution, especially to those households in close proximity to the dumps. Some households are as close as 500 metres. During windy conditions the levels of dust pollution become unbearable for approximately 700 families in the community.



Figure 4: A response to the audit team from the Environment Management Agency.



Figure 5: Dust rising from one of the mine dumps

The audit team was able to collect evidence of the air pollution and submit letters of complaint to the Agency. After following up on the complaints on multiple occasions, the Agency ordered the mine to use dust suppression measures to prevent the dust pollution. Details of the order are shown in the remedies section of this Audit.



Figure 6: An unrehabilitated mine dump just near

Water Pollution

“Every person has the right to safe, clean and potable water....”

Section 77, The Constitution

“Any person, who discharges or applies any poison or toxic, noxious or obstructing matter, radioactive waste or other pollutants or permits any person to dump or discharge such matter into the aquatic environment in contravention of water pollution control standards shall be guilty of an offence and liable for imprisonment for a period not exceeding five years, or to a fine not exceeding (\$5 000), or to both such fine and such imprisonment.”

Section 57(1), Environmental Management Act

“No person shall dispose of waste or effluent into a public stream or into any other surface water or ground water, whether directly or through drainage or seepage, except under a licence.”

Section 5, Effluent and Solid waste Disposal (SI 6 of 2007)

The Mutare River flows through Penhalonga and is a source of water for many households in the town and nearby farms. The River is also used for fishing, both personal consumption and sale, and for weaving mats from reeds. Those that don't have access to land, often utilize land close to the River to grow maize and yams. During the rainy season, large amounts of water run off the

mine dumps and disperse into the soil, and into Mutare River. Similar incidences in other countries have demonstrated that water systems close to gold mine dumps have toxic levels of heavy metals.³



Figure 7: Redwing mine toilets flowing raw sewage

Further, the mine is failing to contain its waste system resulting in sewage running off into the river. The sewage spills into the Mutare River and Nyahuku River, which is connected to the Mutare River.



Figure 8: Raw sewage from Redwing Mine toilets flowing in the river

The audit team noted various water points where water used by the mine is discharged directly into the Mutare River. Some of these discharge points have been marked by signs warning the public not to drink the water in the River.

³<https://www.researchgate.net/publication/257909458> The environmental impact of gold mines pollution by heavy metals [accessed Nov 29 2018].



Figure 9: A sign warning the community not to drink any underground water

Workers' Rights

“No person shall enter or remain in or be caused or permitted to enter or remain in the workings of a mine or at any place at a mine where there is danger from falling objects unless he wears a hard hat in good condition and of an approved type.”

Section 47, Mining (Management and Safety) Regulations

“Every person shall wear footwear designed to provide adequate protection for the type of work or activity being performed.”

Section 48, Mining and Management and Safety Regulations

The Audit team spoke with a number of mine workers from the community. The workers cited a number of concerns which include a poor supply of protective clothing for workers such as gumboots and overalls when health and safety laws state that these are supposed to be given after three and 6 months respectively. Mine workers complained that

they were not consistently paid and, in some cases, went for months without remuneration. Some workers have been unable to cater for their families, including reports that mine workers have been unable to pay school fees for their children.⁴ In an effort to settle the outstanding wages bills, the mine has proposed to set these amounts off with company houses. However, it appeared that many workers were quite skeptical about this proposal considering the dilapidated state of the staff houses and not being provided paper work to demonstrate that the transfer of ownership to the workers.

DTZ-OZGEO

DTZ-OZGEO was a partnership between the Development Trust of Zimbabwe (DTZ) and a Russian registered company Econedra OZGEO. Apparently, this collaboration was the brainchild of the late Vice President Joshua Nkomo, who aimed to ensure that Zimbabweans become involved in development projects an in management of their natural resources.⁵ DTZ-OZGEO commenced operations in 1995, prior to the prohibition on alluvial mining. The resultant impacts have been far reaching in and around the Mutare River. The mine was finally shut down in 2014.

Assessment of Legal Compliance

Water Resources Degradation

“No person shall be entitled to ownership of any water in Zimbabwe and no water shall be stored, abstracted, apportioned, controlled, diverted, used or in any way dealt with except in accordance with this Act.”

Section 4, The Water Act

“No person shall.....introduce any exotic animal or plant species, cultivate, or licence the cultivation of, or destroy any

⁴<http://manicapost.co.zw/tsvingwe-high-school-sues-redwing-mine/>

⁵<https://www.africaportal.org/publications/will-zimbabwe-lift-the-ban-on-dtz-ozgeo-mining-activities-along-mutare-river-in-penhalonga/>

natural vegetation on, or dig up, break up, remove or alter in any way the surface or soil ofland within 30 meters of the naturally defined banks of a public stream or bed, banks or course of any river or stream.”

Section 20 (1), EIA and Ecosystems Protection Regulations

“Water resource management must be consistent with environmental approaches....in considering, formulating and implementing any proposal for the use, management or exploitation of water resources, due consideration shall be given to the protection, conservation and sustenance of the environment and the right of access by members of the public to places of leisure or natural beauty related to water or water bodies”

Section 67, The Water Act

To carry out its mining activities, DTZ-OZGEO restricted the flow of the Mutare River at a number of points. These impoundments created artificial dams and badly affected the flow of water along the River. These are clearly visible in Figure 10.



Figure 10: Google image showing water impoundment by DTZ OZGEO in Mutare River



Figure 11: Impoundments by DTZOZGEO still affect the water flow in Mutare River

Mining by the company changed Mutare River's water course more than ten times. While there have been no scientific assessments carried out to determine the damage done to the ecosystem as a result of these actions the geophysical impacts of this remain evident. A number of sections of the Mutare River remain unrehabilitated.



Figure 12: Unrehabilitated water impoundments by DTZ OZGEO

The community previously sold vegetables from gardens watered by the Mutare River. However, the process of impoundment caused significant stress on the river and local environment and diminished the community's ability to utilize the river as they had previously done. The deep excavations and heavy mining operations carried out by the mine also affected the water quality, depleted flora and fauna sustained by the river. The community noted a decline in the Kingfisher or “*jezenga*” as a result of the disturbance of the Mutare River.

Land Degradation

“Rehabilitation of the environment at closure of the mining operation.....shall be the sole responsibility of the proponent and in the case of operations conducted under an EIA certificate, rehabilitation shall be carried out in accordance with the guidelines set out in the EMP...”

Section 7, Environmental Management (Control of Alluvial Mining) Regulations

“Anticipated negative impact on the environment and on people's environmental rights shall be prevented, and where they cannot be altogether prevented, be minimized and remedied”

Section 4 (2)(f), Environmental Management Act



Figure 13 and 14: Unrehabilitated land abandoned by DTZ OZGEO

In 2016, one community member drowned after falling in one of the pits. The open trenches are now the target of artisanal gold miners who flocked to the area after DTZ OZGEO's departure. This is a significant safety risk, as there are reports of miners dying after falling in the pits, and also the cause of further environmental degradation to the area.



Figure 15: Unrehabilitated gullies abandoned by DTZOZGEO prone to artisanal miners

Degradation of Community Road Networks

“Anticipated negative impacts on the environment and on people's environmental rights shall be prevented, and where they cannot be altogether prevented, be minimized and remedied”

Section 4 (2)(f), Environmental Management Act

DTZ-OZGEO used heavy duty vehicles that had a negative toll on the community roads networks. The heavy mine trucks and heavy machinery caused various road deformities such as formation of holes and trenches as well as causing corrugations which created bumpy roads. Rehabilitation works carried out by DTZ OZGEO were not adequate to remedy the effects of their mine trucks.

Lack of Community Development

“The State and all institutions and agencies of government at every level must endeavor to facilitate rapid and equitable development, and in particular must take measures to bring about balanced development of the different areas of Zimbabwe, in particular a proper balance in the development of rural and urban areas.... The State must ensure that local communities benefit from the resources in their areas.”

Section 13, The Constitution

“Every person shall have a right to secure ecologically sustainable management and use of natural resources while promoting justifiable economic and social development.”

Section 4(1)(ii) Environmental Management Act

Despite the fact that the mine was established with the intention of facilitating community development, the heavy impacts of mining on the community have outweighed the benefits. Some of the few activities embarked on by DTZ OZGEO included, painting of Tsvingwe Secondary School, clearing a football pitch for school children, tree planting and the construction of footbridges (though these are now destroyed). There were approximately 300 people employed at the mine, however, employer - employee relations soured as a result of non-payment of salaries and inadequate retrenchment benefits.

Disregard of Community Culture

“The state and all institutions and agencies of government at every level must promote and preserve cultural values and practices which enhance the dignity, well-being and equality of Zimbabweans.”

Section 16, The Constitution

“Every person has the right to participate in the cultural life of their choice.”

Section 63, The Constitution

A longstanding belief of the community is to bury premature babies or infants who die less than a month old on the river banks as it will ensure that the mothers will be able to have more children. During land clearing for the mine, DTZ OZGEO excavated bodies of babies buried by the community along the river bed. The bodies were not reburied at another river bank site in accordance with community cultural norms. This remains a significant concern for the community.

A threat of more mining: the discovery of diamonds in Penhalonga

“Every person has a right to administrative conduct that is lawful, prompt, efficient, reasonable, proportionate, impartial and both substantively and procedurally fair.”

Section 68, The Constitution

“The participation of all interested and affected parties in environmental governance must be promoted and all people must be given an opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation.”

Section 4(2)(c), Environmental Management Act

“An administrative authority which has the responsibility or power to take any administrative action which may affect the rights, interests or legitimate expectations of any person shall—

(a) act lawfully, reasonably and in a fair manner; and

(b) act within the relevant period specified by law or, if there is no such specified period, within a reasonable period after being requested to take the action by the person concerned.”

Section 3, The Administrative Justice Act

On Tuesday the 28th of March 2017, Zimbabwe Consolidated Diamond Company (ZCDC) gathered the community of Penhalonga to inform them about the discovery of diamonds in their area. The community was not given sufficient information on the project nor the process of assessing possible impacts. Community members, with the support of community audit team, wrote numerous letters seeking information from the Agency. To date, these have not been responded to.

REMEDIES

“The Director-General, inspectors and other officers shall exercise their functions under this Act to ensure, through monitoring, that the following actions, situations and circumstances are avoided, minimized, managed or regulated, so far as is practicable and permissible to do so under any law—

(i) the disturbance of ecosystems and loss of biological diversity;

(ii) pollution and degradation of land, air and water;

(iii) the disturbance of landscapes and sites that constitute the nation's cultural heritage”

Section 36, The Environmental Management Act

A component of the environmental audit is to discuss how the affected community members believe the impacts of the projects should be remedied. They outline the remedies sought below.

Redwing Mine

Air Pollution

- The continued clearing of the mine dumps so they are not permitted to reach over 3 meters height. A wall or enclosure should be erected to prevent dust escaping from the area.
- Use a dust suppressant on the surface of the dumps. Any suppressant should stop the dust from rising but not end up flowing and damaging the soil and water sources.
- The soil on the mine dumps has to be reclaimed in-order to remove any chemicals from the soil so as to allow the soil to sustain any vegetation as it did prior to mining.

During the Audit process, affected community members filed complaints with the Agency regarding the dust pollution. A section of the letter is included in Annex 1. As a result, the Agency ordered the mine to deal with the complaint. The company now sprays the mine dumps with water. However, spraying the mine dumps with a suppressant is not an effective long-term remedy for stopping the dust. The community members also remain concerned about the water run-off causing further pollution.



Figure 16: Water pump bought by Redwing Mine to remedy the dust pollution after the community lodged dust complaints with the Agency

Water Pollution

- Redwing should maintain a closed system of their mine operations to prevent any spillage of chemicals into the community's river.
- The mine should repair its sewage system so that it does not drain into the river.
- The Agency to ensure that the company has all necessary licenses to operate.

Workers' Rights

- All mine workers must be supplied with adequate protective equipment and clothing
- All mine workers must be remunerated in a timely manner and as per their employment contracts.

DTZ-OZGEO

Mutare River Diversion

- The Mutare River should be rehabilitated by removing the artificial soil barricades placed in the river to make artificial dams. Should the Agency be unable to force the company to undertake rehabilitation activities, the Environmental Fund should be utilized to restore the degraded environment.

“The objects of the Environmental Fund shall be torehabilitate degraded environments and to clean up polluted environments”

Section 52(e)-(f), The Environmental Management Act

Land Degradation

- The land area impacted by mining activities should be rehabilitated to allow vegetation to grow. The gullies and pits should be filled.

ZCDC

- To provide the community with timely and adequate information on proposed diamond mining operations, including areas of mining and time-frame.
- To explain to the community the possible impacts on their environment, lands and livelihood, including any envisaged relocation processes.

Annex 1

**Environment Management Agency
Provincial Office
New Government Complex
Robert Mugabe/ 4th Street, Box 585
Mutare kchitotombe@ema.co.zw**

30 October 2017

COMPLAINT ON DUST POLLUTION BY REDWING MINE

Dear Sir

1. The letter is a follow up on the letter submitted to your office in May 2017. The letter raised concerns over dust pollution by Redwing amongst other environmental concerns. You advised that you would visit Penhalonga and inspect the dust pollution by Redwing. There have been no change observed on the dust pollution. We managed to collect some evidence on air pollution and we continue to monitor and collect further evidence on the other concerns we raised with the Agency.
2. The Constitution Zimbabwe Section 73 affirms that every person has the right to an environment that is not harmful to their health or well-being and to have the environment protected for the benefit of present and future generations, through reasonable legislative and other measures that prevent pollution and ecological degradation, promote conservation and;
 - 2.1 The Environment Management Act states that every person shall have a right to a clean environment that is not harmful to health.
 - 2.2 The dust from the dumps may be hazardous to the health of the community because it is being blown directly from the tailings that contain chemicals from the gold processing. The dust is being inhaled by the community and it is also covering the surrounding vegetation. Below are pictures of the dust pollution from the dumps.
 - 2.3 We recommend that Redwing use dust suppressants to mitigate the dust pollution. e look forward to receiving your substantive reply by the 25th of November 2017





