

8th July 2017

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Your Ref: **Special Licence No. 173**

Dear Sir,

RE: Official Request for the Environmental Impact Assessment (EIA) Submitted by Base Titanium Limited for its Present Mining Operations in Kwale County

Thank you for your timely response. We refer to our previous letter, also referenced as above.

The *Access to Information Act* is indeed applicable in the case of a “private body”, where according to the Act:

“private body” means any private entity or non-state actor that—

(b) is in possession of information which is of significant public interest due to its relation to the protection of human rights, the environment or public health and safety, or to exposure of corruption or illegal actions or where the release of the information may assist in exercising or protecting any right...

Pursuant to the above, the *Access to Information Act* states that:

4. (1) Subject to this Act and other written law, every citizen has the right of access to information held by—

(a) the State; and

(b) another person and where that information is required for the exercise or protection of any right or fundamental freedom.

(2) Subject to this Act, every citizen’s right to access information is not affected by—

(a) any reason the person gives for seeking access; or

(b) the public entity's belief as to what are the person's reasons for seeking access.

(3) Access to information held by a public entity or a private body shall be provided expeditiously at a reasonable cost.

(4) This Act shall be interpreted and applied on the basis of a duty to disclose and non-disclosure shall be permitted only in circumstances exempted under section 6.

(5) Nothing in this Act shall limit the requirement imposed under this Act or any other written law on a public entity or a private body to disclose information.

10. (1) An information access officer may, not later than five days from the date of receipt of an application, transfer the application or any relevant part of it, to another public entity, if the information requested is held by that other public entity.

(2) Where an application is transferred under subsection (1), an information access officer shall inform the applicant immediately but in any event not later than seven days from the date of receipt of the application, about such transfer.

(3) A public entity to which an application is referred by an information access officer under subsection (1) shall make a decision on the application within twenty-one days from the date that the application was first made.

(4) The provisions of this section shall apply with the necessary modification to an application for access to information that is made to a private body to which this Act applies.

11. (1) Where a decision is taken to provide the information applied for, an information access officer shall send to the applicant a written response within fifteen working days of receipt of the application, advising—

(a) that the application has been granted;

(b) that the information will be contained in an edited copy, where applicable;

(c) the details of any fees or further fees to be paid for access, together with the calculations made to arrive at the amount of the fee;

(d) the method of payment of such fees, if any;

(e) the proposed process of accessing the information once the payment if any is made; and

(f) that an appeal may be made to the Commission in respect of the amount of fees required or the form of access proposed to be provided.

(2) Subject to subsection (3), upon receipt of the fee payable, an information access officer shall provide the information to the applicant or permit the relevant inspection immediately but in any event not later than two working days from the date of receipt of the payment.

(3) Any information to be made accessible to an applicant shall be produced forthwith at the place where it is kept, for inspection in the form in which it is held unless the applicant requests that it be made available in another form and, if it is practicable to do so, such information may be copied, reproduced or used for conversion to a sound transmission at the expense of the applicant.

(4) Where a request for information is to a private body, subsections (1), (2), and (3) shall apply with necessary changes made.

12. (1) No fee may be levied in relation to the submission of an application.

(2) A public entity or private body from which an application for access to information has been made may charge a prescribed fee for the provision of the information and the fee shall not exceed the actual costs of making copies of such information and if applicable, supplying them to the applicant.

Pursuant to the above, we make this request in light of your company's guidelines on "Stakeholder Engagement...prior to commencing any further exploratory drilling", by "fully inform(ing) the Kwale County Government, the local administration, the political leadership and affected communities" – and particularly, by providing "...full details of the planned programme in order to eliminate misunderstandings and misconceptions around exploration and to seek support and informed consent."¹

We therefore look forward to your co-operation in this important matter, particularly as a sign of good faith on the part of your company.

Thank you.

Sincerely,

The communities of *Gazi, Vumbu, Maumba, Magaoni, Fihoni, Majikuko, Mwaloya, Bumamani, Madongoni, Masindeni, Mwandimu, and Zigira.*

Represented by:

Omari Shee Mbega (Chairman)
Swalehe Ramadhan Mwinyi (Speaker)
Athuman Ali Shee (Secretary)
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¹www.basetitanium.com